



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

SCOTLAND BILL COMMITTEE

Thursday 17 November 2011

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SCOTLAND BILL COMMITTEE

11th 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)
Michael Moore MP (Secretary of State for Scotland)
David Mundell MP (Parliamentary Under-Secretary of State for Scotland)
John Swinney (Cabinet Secretary for Finance, Employment and Sustainable Growth)

CLERK TO THE COMMITTEE

Stephen Imrie

LOCATION

Committee Room 1

Scottish Parliament

Scotland Bill Committee

Thursday 17 November 2011

[The Convener *opened the meeting at 13:01*]

Decision on Taking Business in Private

The Convener (Linda Fabiani): Good afternoon, everyone. Welcome to the 11th and final public meeting of the Scotland Bill Committee in the fourth session of the Scottish Parliament. I ask all those who are present, including members, to turn off their mobile phones and BlackBerrys completely, as they interfere with the sound system even when they are switched to silent. As the meeting is taking place on a day of chamber business, we must be finished by 16:50 at the latest. I ask all members to bear that in mind and keep their questions succinct and relevant, with the minimum of preamble.

Because we are meeting while the Parliament is meeting, some members of the committee will have to leave in order to ask parliamentary questions, after which they will come back. Our witnesses should not take offence if members get up and leave in the middle of the meeting—they will be back as soon as possible. I have not received any apologies for absence.

Agenda item 1 is a decision on taking business in private. I seek members' agreement that all future consideration of our draft report will be taken in private. Is that agreed?

Members *indicated agreement.*

Scotland Bill

13:02

The Convener: Item 2 is evidence from Scottish Government ministers and United Kingdom Government ministers. First, I welcome Mr Swinney, Mr Crawford and their associated colleagues. Thank you very much for attending today. I invite opening statements from you before we move to questions.

The Cabinet Secretary for Parliamentary Business and Government Strategy (Bruce Crawford): Thank you, convener. I will try not to be too sensitive if members have to leave to ask parliamentary questions.

Thank you for this opportunity to give evidence and set out some thoughts. Much has been said about the Scotland Bill, some of it less than complimentary. I share the view that the bill is a pale shadow of what the Scottish Parliament and the Westminster Parliament could have come up with. I confess to being a bit puzzled, as an overwhelming majority of Scots would want much better than the current bill. That said, my view and the view of the Scottish Government has never wavered. If the bill can be made to work in the interests of Scotland, every effort should be made to get it into shape. That is why we have approached it responsibly, seeking to be reasonable. The voters will have little truck with politicians who do not work hard to make the best of the challenges with which they are faced.

Following our previous evidence session on 28 June, I wrote to the convener on 7 September setting out the Government's position on the bill as matters then stood. In that letter, I set out the Government's proposals for changes to the bill to provide a meaningful development of the Scottish Parliament's responsibilities, its financial accountability and its job-creating powers. I emphasised the Government's proposals on enhanced borrowing, the devolution of corporation tax and the management and revenues of the Crown Estate. I also explained that the Government remained concerned about the risk posed to Scotland's finances by the financial provisions in the bill. It is the responsibility of the Government—indeed, of any Government—to ensure that measures that have not been fully thrashed out are actively challenged. I also pointed to the Government's previous proposals, such as the removal of the proposed reservations.

Since I wrote that letter, the Government has published the remaining two papers—the paper on corporation tax, on 8 September, and the paper on excise duty, on 6 October. At each step, we are trying to do the responsible thing and get

legislation that matches the people's ambitions. Last May, an astonishing thing happened: we won an outright majority in a proportional system. Given the choice, people chose ambition over business as usual. As a result, we think it only reasonable to seek a Scotland Bill that matches the people's wishes.

There comes a time when voters want politicians to sit down and negotiate face to face. We have been putting on pressure for such negotiations and will continue to do so. The Scottish Government's view is that both Governments should get down to substantive negotiations on the bill and try to reach some agreement. That will help the legislative consent motion process as the bill nears the end of its parliamentary consideration without affecting in any way the ability of the committee and the Parliament to give their views.

We are fast running out of time to reach a consensus that allows both Governments to recommend to their respective Parliaments that the final shape of the bill on offer is acceptable. For instance, given continuing uncertainties about how Scottish funding will be calculated under the bill, our proposal for joint commencement is a non-prejudicial and reasonable compromise that will allow both Parliaments to behave in the way that they believe best suits the people's interests. No responsible representative would ever say to the people, "I've signed a blank cheque, so keep your fingers crossed" but that is exactly what the current bill is asking us to do. Joint commencement would provide an incentive to both Governments to negotiate a mutually acceptable position. We also want to improve the financial responsibilities in the bill in order to provide proper economic levers and to balance the risks to the Scottish public finances from reliance on a single tax. Mr Swinney will have more to say on that issue and on joint commencement.

Finally, we want to ensure that the bill does not harm the Parliament. In that light, we are firmly against the principles and detail of the proposed reservations. After all, Scotland did not set out on its journey towards responsible self-government only to shed its clothes along the way. It is only reasonable that, for instance, we oppose the proposal that UK ministers should be able to implement international obligations in areas that, for good reason, were devolved. Moreover, we cannot understand the push to reserve health professionals, given that it is not the UK Department of Health's wish.

As I said earlier, we believe that there should be negotiations between the Scottish and UK Governments to ensure that both are able to recommend the bill to our respective Parliaments. The bill as it stands is not there yet. Although the

timetable for reaching agreement is now challenging, it is not beyond reason. The Lords committee stage is scheduled for January and the bill must complete its remaining Westminster stages and gain this Parliament's support by next April. However, there is still time for the Government and Parliament to work responsibly and produce a reasonable advance in Scotland's job-creating powers.

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): The Government's well established aim for Scotland is to make it an independent country, because we believe that to be the best way for our nation to flourish. However, we also support the furtherance and development of all Scottish interests. For example, we support greater responsibility and autonomy for Scotland and this Parliament and see the Scotland Bill as an opportunity both to develop Scotland's interests and to take more responsibility.

The bill provides the framework for greater financial responsibility and already points to certain important principles: that the Parliament should be financially accountable; that we should have the opportunity for more flexibility to support capital investment; and that we should have policy levers through the tax system. However, as it stands, the bill represents a missed opportunity and poses some real risks to Scotland's public finances.

In particular, the economic and job-creating powers in the bill are very limited. As the Parliament has recognised, the capital borrowing powers are limited and the proposed framework is not based on any clear principles. Moreover, the revenue borrowing powers give no flexibility to borrow against cyclical changes in tax revenue and are not sufficiently large to protect the Scottish budget in times of significant downturn. The income tax powers are limited to half the base rate, which, as we all know, will be extremely difficult to use in practice. In any case, if we did use them and managed to stimulate growth, the UK Treasury would take most of the benefit through higher tax revenues, particularly at the higher rates.

In our critique of the bill—and indeed at the recent election—the Scottish Government has offered detailed proposals for changes to improve the bill's economic aspects. We have proposed more modest extensions of the tax powers including the devolution of corporation tax and excise duty revenues and the introduction of a principles-based borrowing regime. With such proposals, we would extend the UK Government's proposals to provide a mixture of real economic tools and a wider spread of funding.

That would increase the bill's potential to assist with our goal of sustainable economic growth and mitigate the risks to Scotland's public finances from relying on a very small number of taxes, by far the largest of which would be income tax.

That leads me on to the other major critique of the bill: its effect on Scotland's public sector funding in the future. There have been various estimates of the historical and likely future effects of the bill's proposals on the size of the Scottish budget, and in particular the potential consequences of relying on the performance of just one tax to fund a large part of our budget. However, there is no debate that the mechanism for adjusting the block grant has yet to be decided. We are therefore in the dark about how to forecast the financial effects of the bill on future Scottish budgets, never mind the uncertainties inherent in forecasting.

If we cannot forecast—or even begin to predict—those very important effects, we as a Government are in a most unsatisfactory position in terms of being able to lay out information for the committee and the Parliament. If we cannot do so, neither can the UK Government. If we cannot provide information about financial effects, I find it difficult to see on what basis we could recommend to the Parliament that it should support the proposed arrangements. It feels as if we are being asked to sign a blank cheque.

As the details of the mechanism—and therefore information about its effects—will not be available before the bill is passed, the Government has proposed that the Parliament should have a formal role in the commencement of the financial sections of the bill. The decision about when to commence those sections currently lies entirely in the hands of Treasury ministers.

Parliamentary consent would give both Governments the incentive—and the time—to reach a consensual position. It would also recognise this Parliament's proper role in extending its own functions, which is consistent with the recent extensions to the powers of the National Assembly for Wales.

The block grant adjustment is not the only remaining issue to be settled. The sharing of the costs of implementation, the accountability of Her Majesty's Revenue and Customs, and detailed arrangements for the Scottish rate of income tax are also matters on which the Governments need to reach agreement. All those negotiations would benefit from the commencement arrangements that we propose, and we seek the committee's support for that purpose.

The Convener: Thank you, Mr Swinney. Before I open up to questions from the committee, it would be useful if Mr Crawford could outline for

the committee the legislative consent motion procedure and how it will work for this bill in our Parliament.

Bruce Crawford: I will tell you about the Sewel convention, which is quite important when we consider the potential end of this journey. Under the Sewel convention, the Scottish Parliament's consent is required for the UK Government to legislate in three areas: legislation in devolved areas; changes to the powers of the Parliament; and changes to the powers of Scottish ministers. The convention operates to constrain the ability of Westminster to legislate without this Parliament's consent. Westminster will not proceed to pass legislation that falls within those categories. The convention is necessary as, under the current constitutional arrangements, Westminster retains the legal power to legislate on any matter, whether it is reserved or devolved.

The convention recognises that devolution could not sensibly operate if Westminster acted on its own legal authority in areas in which this Parliament has responsibility. That includes changes to the competence of the Parliament and ministers. The Scotland Act 1998 provides that such changes require the consent of the Scottish Parliament.

Although the convention acts on Westminster, in practice the UK Government undertakes to act on the views of this Parliament by lodging any relevant amendments at Westminster and normally agreeing with the Scottish Government the terms of the legislation before it is introduced in the UK Parliament.

The convention is embodied in the standing orders of this Parliament and in UK and Scottish Government guidance. It is not as yet embodied in the standing orders of Westminster although, if I recall correctly, that was a recommendation of the Calman commission.

The convention has been followed since 1999, and there are no examples of Westminster legislating in the face of this Parliament's views. Changes have been made to bills, usually following discussion between Governments. The convention is fundamental to protecting the rights and privileges of this Parliament and Scotland's interests.

Helpfully, during the bill's second reading in the House of Commons on 27 January, Michael Moore said:

"Indeed, the Bill will fundamentally change the powers and responsibilities of the Scottish Parliament. For that reason, the Government will proceed with the Bill only with the formal and explicit consent of the Scottish Parliament. It is right and proper that the Scottish Parliament should examine the measures that we set out in the Scotland Bill."—[*House of Commons*, 27 January 2011; Vol 522, c 477.]

I hope that that helps in understanding the process.

The Convener: Before I invite questions from committee members, I remind them that, once a theme has been opened, it would be helpful if we could stay on it.

13:15

Richard Baker (North East Scotland) (Lab): In light of some of the evidence that the committee has heard, I want to test the arguments on corporation tax. Last week, Dr Gudgin estimated that a reduction in corporation tax from 23 to 20 per cent would result in a loss of revenue to Scotland of between £300 million and £400 million. He said that, if that money came off public expenditure, about 6,000 public sector jobs would be lost, to be replaced by something like 1,500 jobs a year from foreign direct investment—the cost of which would be enormous, at about £200,000 per job. Have you seen that evidence? If so, what is your response to Dr Gudgin's statement on the effects of the devolution of corporation tax?

John Swinney: I have read the evidence that the committee heard. The Government has set out its expectations based on a reduction in corporation tax from 23 to 20 per cent. We have contended that that would increase the level of gross domestic product in Scotland by 1.4 per cent after 20 years; that it would increase overall investment in the Scottish economy by 1.9 per cent over the same period; and that it would increase employment in Scotland by 27,000 jobs. In any analysis of the effects of reducing the rate of corporation tax, one must think also about the economic benefits that may arise. It is important to examine both sides of the argument.

Richard Baker: Those forecasts were described by Professor Heady to the committee as "brave". What would be the impact on your modelling if England reciprocated and cut its rate of corporation tax to 20 per cent too?

John Swinney: I can set out the economic benefit for Scotland, but any examination of a comparable decision in England would be an examination of a hypothetical situation. Our objective is always to strengthen the Scottish economy, taking steps to ensure that it can deliver a competitive advantage. That is why we would reduce the rate here if we had the powers to do so.

Richard Baker: We are questioning all hypotheses. If your suggested move is so evidently a good move for the Scottish economy, why has it not received broader support from across the business community? A range of organisations—ones that you might have thought

would be leading the charge for cuts in corporation tax—have failed to support your policy. Why is that?

John Swinney: Mr Baker makes a fair point when he suggests that there are mixed opinions on this topic. I made much the same point to this committee in June and to your predecessor committee in the previous session of Parliament. There are clearly different opinions within the business community. There are even different opinions within the Confederation of British Industry: CBI Northern Ireland thinks that reducing corporation tax is a great thing, but CBI Scotland thinks that it is not such a good thing—if I can put it charitably. People have different perspectives. I can think of a number of prominent and successful wealth and job creators in Scotland, such as Sir Tom Hunter or Jim McColl—and I believe that the committee took evidence from Martin Togneri, who was a successful chief executive of Scottish Development International over many years—who have spoken about the advantages of reducing corporation tax and devolving the power. Clearly, in a democracy, there will be different opinions.

John Mason (Glasgow Shettleston) (SNP): On the general point of taxation, I noticed that, in your letter to David Gauke, which dealt mainly with alcohol, you made some general points about aligning tax revenue with the public spending cost and on the view that relying too much on one tax can run the risk of creating problems with volatility. Could you expand on why you feel that it would be good to have a range of taxes, including corporation tax, instead of just the one tax?

John Swinney: The nub of the issue is that, if there is a dependence on one taxation instrument, such as income tax, there may be volatility in the revenues from that tax. We must have a number of compensating levers that provide sufficient flexibility to take account of that. The problem with the Scotland Bill is that the income tax power is not complemented by a range of other levers that could be used if there were volatility in income tax revenues.

Essentially, the argument crystallises around the importance of being able to deliver stable public finances when there is volatility. As any of us would recognise, there is always a degree of volatility in public finance—that is particularly the case in the present circumstances. It is important, therefore, that we are able to take decisions that enable us to balance the budget and provide stability in the public finances. Relying purely and simply on the income tax measures does not provide that degree of confidence. A wider range of taxation measures would assist in that process.

John Mason: One of the arguments that have been used by some witnesses against our having control over corporation tax involves the

complexity of splitting up profits and so on. However, we were told that the professional advice that had been given to Northern Ireland was that the practical problems were not insurmountable and that it would be possible for corporation tax to be shared out. There seems to be broad agreement from London on that. Can the practical problems be overcome?

John Swinney: There will always be practical challenges with any issue. There will be enormous practical challenges with the Scottish rate of income tax that is proposed in the Scotland Bill. Anyone who sits in front of the committee and says that the implementation of the Scottish rate of income tax will be a straightforward and hassle-free proposition is not telling the committee the whole story, as it will be a complicated and challenging process. I think that professional opinion would substantiate that as well.

The fact that something is difficult does not mean that we should not do it. We do plenty of difficult things in life. There are clearly ways in which the proposal could be taken forward.

I was struck by one of the comments that was made by the House of Commons Northern Ireland Affairs Committee when it considered the issue of devolving corporation tax. Page 37 of its report, which was published on 24 May 2011, says:

"when we asked the Secretary of State if any of the businesses he had spoken to in Northern Ireland had raised the issue of an increased administrative or financial burden upon them due to a lower tax rate, he said: 'No, honestly, no one has raised that once'."

There is a bit of a mismatch in the debate about whether the practical advantages and benefits of our having the ability to vary corporation tax are in any way outweighed by the administrative issues that would have to be confronted. That comment puts that into some context.

John Mason: We have tended to concentrate all the way through on the rate of corporation tax, but I think that we detected that there was more support among business for having corporation tax powers to target a particular type of business or to create capital allowances in enterprise zones and so on. Would you be seeking to use those kinds of powers as well as the main rate?

John Swinney: Those are very desirable elements of the process. With regard to the current debate about enterprise zones, one of the key characteristics of the enterprise zones south of the border will be the ability to benefit from a beneficial approach on capital allowances. That is a substantial part of the process of business investment and attraction.

Our discussion paper sets out areas of reform such as the ability to have a competitive headline tax rate, which Mr Mason has referred to, the

potential to have a beneficial regime for small and medium-sized companies, the potential to provide greater tax incentives for particular activities and the ability to support regional economic development, which relates to my point about enterprise zones. It is clear that there are opportunities to take those proposals forward to create a most competitive business tax regime.

James Kelly (Rutherglen) (Lab): You mentioned the projections from your model which, over a 20-year period, present a position that supports your view on corporation tax. You will be aware that, with modelling, a lot can depend on the assumptions, variables and methodology that are used. How do you respond to those who have criticised the publication of the result of your modelling by saying that it is less than robust?

John Swinney: I would not accept that criticism. The model has been constructed to enable us to provide a robust framework for assessing this particular point. Essentially, the modelling is deeply rooted in the respected general equilibrium model of the Scottish economy, which is generally viewed to be as reliable in forecasting terms as any model can be, so I am very confident in the approach that has been taken. The mechanisms and modelling instruments that have been used are well tried and tested in assessing the economic impact of policy measures and levers.

James Kelly: Will you agree to full publication of the methodology, variables and assumptions that were used in the model?

John Swinney: I will be delighted to do that. The model has been developed under the auspices of the Fraser of Allander institute for more than 20 years. It is a model that is well established in wider thinking about the Scottish economy. I will certainly publish further detail on the economic modelling, if it would help the debate, and I will do so timeously, to ensure that the committee can consider that material.

Willie Rennie (Mid Scotland and Fife) (LD): You had about 40 questions from the UK Government on corporation tax, and I have read your response to those questions. Do you think that you have answered, in detail, all the questions that it posed?

John Swinney: Yes.

Willie Rennie: You do?

John Swinney: I do.

Willie Rennie: What kind of reduction would you make to the Scottish block if corporation tax were to be devolved?

John Swinney: That is clearly something that needs to be discussed with the UK Government.

Mr Crawford made a point about the fact that substantive negotiations have to be undertaken.

I will use an example from the Scotland Bill to illustrate my point. Even today, the bill's author, the Scotland Office, cannot tell us by what amount the Scottish block will be reduced to provide for the Scottish rate of income tax, which is one of the legislative proposals that the Scottish Parliament is being asked to endorse. Mr Crawford and I have already participated in early discussions with the UK Government about how one might approach the issue of block grant adjustment methodology. If there has to be discussion and negotiation about the methodology that is to be used for the Scottish rate of income tax, which is the legislative proposal that we have in front of us, the same must apply in relation to corporation tax.

13:30

Willie Rennie: We have received evidence from experts who say that corporation tax is one of the more volatile taxes. In your answer to Mr Mason, you said that you want a basket of taxes to allow you room for mitigation when the level of taxes ranges from one year to the next. However, given the fact that corporation tax is one of the more volatile taxes, do you not think that it would just add to the problem of volatility if you were to use corporation tax to mitigate against volatility in income tax?

John Swinney: We have to come at the issue from a point of principle on the sustainability of the public finances of Scotland in whatever constitutional and financial arrangement we move to. Parliament must be interested in whether the bill—whatever its contents—creates a model for sustainability in our public finances. To enable it to do so, we must design a piece of legislation that does that. As it stands, I do not believe that I could recommend to Parliament that the UK Government's proposal in the Scotland Bill is sufficiently broad to provide us with that financial sustainability.

We have, therefore, suggested a number of areas in which the bill could be enhanced to strengthen it. It will come as no surprise to Mr Rennie to hear that I consider that we require the full range of taxation instruments and levers to provide that sustainability. Nevertheless, advances can be made from one scenario to another. The key phrase is that which Mr Rennie used in his question: we must have access to a basket of taxes that enables us to take account of volatilities in any tax circumstance that we face.

Willie Rennie: Taxes tend to go up and down, often in tandem. During a recession, all taxes tend to be affected by that—income tax is one of the more stable taxes. I am, therefore, puzzled when

you talk about stability but then cite corporation tax as a major lever to mitigate against volatility. I return to my question: do you think that corporation tax will add more stability to the Parliament's tax income on top of income tax?

John Swinney: Before I address that point, I note Mr Rennie's point about income from all taxes generally going down during a recession. That is not the case with business rates income in Scotland. In 2008-09, there was still growth in the business rates take despite the acute economic challenges that we faced at that time.

My answer to Mr Rennie is founded on the importance of ensuring that we have available to us a range of instruments that will enable us to deal with the economic circumstances that we face. I do not approach the matter thinking that corporation tax is inevitably a tax from which the revenue decreases. The UK Government predicts that, despite the fact that it is reducing the headline rate of corporation tax, the amount of revenue raised by corporation tax will increase. That tells me that, if we get the right approach on corporation tax, we can generate a significantly greater return due to higher levels of economic activity.

Willie Rennie: Nevertheless, your evidence shows that corporation tax is one of the more volatile taxes.

John Swinney: I ask Mr Rennie to take my point about the current position of the UK Government. The headline rate of corporation tax is to be reduced, but the tax take is expected to increase.

The Convener: Mr McLetchie would like to ask some questions about corporation tax.

John Swinney: I would just add that, between 2007-08 and 2009-10, the total amount of lower tax revenue was £875 million for corporation tax and £861 million for income tax. The numbers are broadly the same.

David McLetchie (Lothian) (Con): I want to try to establish the principle of what the Scottish Government seeks in this context, because the language on corporation tax slips backwards and forwards significantly.

In your introductory remarks, you made clear the Government's aspiration for Scotland to be an independent country, in which case we could set whatever taxes we liked—corporation tax, income tax and all the rest. However, you made the fair point that we must consider the Scotland Bill proposals in the context of the United Kingdom and its tax system.

Will you clarify whether the Government's position is that the whole of the right to set taxes on corporations should be devolved in the

Scotland Bill or whether you seek only what the Northern Ireland Executive seeks, which is the right to set the rate of corporation tax? Will you clarify exactly what you want in the context of the bill?

John Swinney: We want to have the right to control the corporation tax regime for Scotland. Does that make it clear enough to Mr McLetchie?

David McLetchie: The Scotland Act 1998—the present constitutional settlement—works on the basis that everything is devolved unless it is reserved. Is your position that there should no longer be reserved to the United Kingdom Government any right to set taxes on corporations that are based in Scotland and, therefore, that it should be—this is the other side of the coin—a wholly devolved function?

John Swinney: My point is that the right to control corporation tax should be devolved to the Scottish Government. That is our proposition.

David McLetchie: Does that mean that your proposition is that the Government and Parliament at Westminster should no longer have any powers at all regarding the structure of corporation tax in Scotland? I refer to all the features that make a corporate tax system, such as the exemptions, reliefs, allowances and rates. Is your position that those should be wholly devolved and that the Westminster Parliament, under the Scotland Bill—this is the key question, whether it is under the Scotland Bill—should have nothing to do with them?

John Swinney: Yes, that would be my position.

David McLetchie: That is not the same proposition that is argued in relation to Northern Ireland, is it?

John Swinney: We cite the evidence of Northern Ireland where the United Kingdom Government might permit a different rate of corporation tax to be charged. While the debate about that takes place, we want to ensure that we do not miss an opportunity to ensure that Scotland can exercise control over corporation tax responsibilities. We have set out our position on that debate and have substantiated it with a consultation paper and a proposition to the United Kingdom Government.

David McLetchie: So your position is to call for the wholesale devolution of corporation tax within the current constitutional framework and no further reservation to the United Kingdom Government of any power to levy taxes on corporations.

John Swinney: That is my position.

David McLetchie: In that regime, you would expect the Scottish Government to negotiate double tax arrangements with other foreign

Governments in relation to multinational companies and to set rules for places of determination, economic activity and all the rest of it. You think that all that can be done in a fully devolved system of corporation tax.

John Swinney: Yes. For example, with double taxation treaties, which Mr McLetchie specifically highlighted, a perfectly well-ordered approach could be taken to ensure that corporations in Scotland continue to operate in exactly the same fashion as they operate as part of the United Kingdom.

David McLetchie: Just to be clear, then—

John Swinney: Let me continue, because this is a very important issue. It hinges on the point that Mr McLetchie has laboured about his question being asked in the context of the continuation of the United Kingdom. It is a fundamental part of the nature of the Government's proposal.

David McLetchie: Absolutely, because, as you have acknowledged, this proposal has to work within the UK context. I am very pleased that we have been able to establish that what the Scottish Government wants is not what is being sought in relation to Northern Ireland and that the situations are not comparable. Northern Ireland wants a rate-setting power, with the structure of corporation tax remaining with Westminster, while you want the total devolution of all aspects of corporation tax to Scotland. Am I correct in suggesting that the two are not comparable?

John Swinney: I would not say that they are not comparable—they are different. There are clear comparisons to be made between them—

David McLetchie: Well, the comparison is that Ireland wants one tiny element—

The Convener: Mr McLetchie, you have laboured the point enough. Please wind it up now.

David McLetchie: Mr Swinney was the one who was carrying on.

John Swinney: But, convener—

The Convener: I ask both of you to wind up this discussion.

John Swinney: Mr McLetchie is trying to define the nature of the relationship between our proposals and those that are being put forward by Northern Ireland, and I am merely pointing out that there are comparabilities between them. I disagree with his point that these things are not comparable. They are comparable, although I am willing to accept that they are different.

David McLetchie: Fundamentally different.

John Swinney: Well—

David McLetchie: Let us face it: there must be a fundamental difference between total control over the setting of a tax and the devolution of a minor rate-setting element with every other facet remaining reserved. You cannot get much more fundamental than that.

The Convener: Your final word, please, Mr Swinney.

John Swinney: We have had “comparable”, “different”, “fundamental”—the way that this debate is going, we will be hearing the word “gradualist” next. I have clarified the Government’s position, convener.

The Convener: Are you content, Mr McLetchie?

David McLetchie: I am very content to have established that critical point.

The Convener: As Mr McLetchie has raised the north of Ireland issue, I wonder whether Mr Swinney can tell us what he thinks of Dr Gudgin’s statement that he had been assured by the UK Government that no quarter would be given to Scotland in relation to corporation tax.

John Swinney: I do not know the source of the comments to which the witness was referring. However, if it is true—I repeat that I have no inside knowledge of whether or not it is true—it does not say much about the process in which we are being encouraged to participate with the UK Government to try to make progress on some of these issues. As Mr Crawford made clear at the start of the meeting, the Scottish and UK Governments need to have a substantive dialogue about these questions.

Alison Johnstone (Lothian) (Green): My question is for the Cabinet Secretary for Parliamentary Business and Government Strategy. Any change to, and indeed any increase in, devolved powers generally comes about through public involvement and consultation, and witnesses have expressed concern at the level of such involvement and consultation. Indeed, those points were well made in our evidence session on welfare reform, particularly by the Scottish Council for Voluntary Organisations and Citizens Advice Scotland. For example, Martin Sime from the SCVO said:

“there has been a failure to engage people in the process leading up to”

the bill’s

“introduction; ... it looks out of kilter with broader questions about Scotland’s future”.—[*Official Report, Scotland Bill Committee*, 4 October 2011; c 315.]

Clearly there is a great deal of difference between the constitutional convention and the Calman commission but has enough been done to make the bill accessible to wider Scotland and ensure

that people can influence the issues under discussion?

13:45

Bruce Crawford: As I said in my opening comments, following the election result in May, when the Scottish people decided that they wanted a different picture of what Scotland would look like—a more positive outlook about where we would be and a better outcome for our nation—there was an opportunity for everyone who is involved in the process to reflect on that. However, across the range of evidence that I receive, there is a general concern that the bill does not go far enough in the powers that it confers on the Scottish Parliament. Although the Welfare Reform Bill is not part of the Scotland Bill, there is also widespread concern in Scotland about the welfare reform proposals and their potential impacts on many parts of society. The debate that we had in Parliament not long ago reflected that concern, and there is certainly room for further consideration and debate of the particular issue that Martin Sime talked about before irrevocable decisions are made that might be damaging to those who are on disability living allowance or other elements of the welfare reform package.

Nevertheless, as I said in my opening statement and as Mr Swinney has said several times, at this stage in the process between the two Governments it is incumbent on us to get down to some serious negotiations about how the bill can be improved. A fair number of letters has been ping-ponging backwards and forwards. I think that 14 questions were put to Ms Hyslop on broadcasting, and Mr Rennie says that 40 questions have been put to Mr Swinney on issues to do with corporation tax. We are responding to such questions. However, at the end of the day, although all the letters that are going backwards and forwards might throw more light on the various issues, the only way in which we will get an outcome that allows both Governments to tell their respective Parliaments that they have got something that works and around which there is consensus is through discussion. Whether that discussion is with the wider Scottish people or with the Scottish Government, that is an appropriate way in which to approach the matter.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): I, too, am concerned. In your opening remarks, you suggested that negotiations on the Scotland Bill between yourselves and the UK Government are not happening or are not happening at the level that you expected. The UK Government claims that the bill involves the biggest transfer of fiscal powers since the union. On the face of it, the Scottish Government should welcome that; however, your remarks suggest that

you are concerned about the risks that are involved with the powers that are being transferred and that you are not having adequate discussions or agreements with the UK Government on issues such as the block grant and how that will be reduced when the income tax provisions are implemented. Can you give us a bit more on your thinking?

Bruce Crawford: On your point about the commencement of the financial powers, as long ago as 22 February—the issue may have arisen even before then—we were writing to the UK Government to say, “Look, we think we’ve got a problem coming along here. You really can’t ask the Scottish Parliament to sign a blank cheque for powers that won’t come in for some considerable time—until well after the bill is passed.” We signalled that we had issues at that stage. I wrote again on the matter on 6 July, on issues of engagement. I wrote again, on 12 September, outlining some of the issues and referring back to the original letter that was sent by Ms Hyslop.

Mr Swinney and I have met Mr Mundell, Mr Moore and Mr Gauke to press them on the issue of commencement, in an effort to encourage further discussion. We did so for good reason. The UK Government proposes that the block grant be reduced to take account of the Scottish Parliament’s new taxation powers under the Scotland Bill. The amount of the reduction, and the factors to be taken into account, have yet to be agreed. The UK Government’s proposal is that changes will take effect from April 2019, after a transition period starting in 2016. No commitment has been given on when the mechanisms will be finalised, but it is clear that that will happen well after the bill has been passed. As Mr Swinney and I have both said, the Scottish Parliament—not just the Scottish Government—is being asked to sign a blank cheque. In order to resolve the problem, we have proposed that the Scottish Parliament should be involved in a joint consent process, once we are satisfied that the block grant mechanisms are adequate.

Our proposal is really quite simple, and I do not understand the problem. A number of precedents exist. Mr Swinney has mentioned the situation in Wales in 2008, when it fell on Welsh Assembly ministers, rather than the UK Government minister, to commence new powers for the Assembly. Elements of the Anti-terrorism, Crime and Security Act 2001 required orders to be made jointly by the UK secretary of state and Scottish ministers before certain provisions came into force. The Adoption and Children Act 2002 contained a range of commencement procedures involving Scottish ministers and the Welsh Assembly. Sections of the Policing and Crime Act 2009 relating to football banning orders required the consent of Scottish ministers before being

brought into force. We are not asking for something novel or unique. We simply seek an acknowledgement that the shape of the mechanisms will not be finalised or signed off until after the bill is passed. In anyone’s language, what we are asking is reasonable.

John Swinney: The Government’s objective in attempting to secure an arrangement for commencement orders is simply to ensure that Parliament has a means of being satisfied with the implementation of adjustments to the block grant and the implementation of the Scottish rate of income tax at the time they happen. Decisions will be taken some years in the future, and giving Parliament the proper ability to protect the public interest will be a practical and necessary provision.

Adam Ingram: So you would not be able to assure the Scottish Parliament that the enactment and implementation of the provisions in the bill would not disadvantage Scotland’s economic interests.

John Swinney: As things stand, I do not believe that I have a basis on which to assure the public that the implementation of the Scotland Bill will not be to Scotland’s detriment. It is difficult for the Government to recommend the bill, because of inherent dangers that will have to be addressed. The mechanisms for addressing those dangers are in the relatively well-established, tried-and-tested proposition of commencement orders. We are not bringing a new proposition to the debate, but such orders would allow the Government to tell the public confidently that we could protect the public interest. At the moment, such mechanisms do not exist. Ensuring that they exist is a fundamental part of my responsibilities as finance secretary.

Bruce Crawford: I have been stressing the need for negotiation because of the timescales. The committee will come to conclusions in its report sometime at the beginning of January, and the next stage at Westminster will be the committee stage at the House of Lords, which is expected to take around five days in January. That is normally the stage at which the Government of the day will present its substantive amendments to the bill.

There is only a short time between now and then for us to be able to agree on the joint commencement powers, if we can negotiate them successfully. That is why it is vital that we sit down, talk about the issues and get them resolved, otherwise we will potentially be in the situation that Mr Swinney has just outlined: we will not be able to recommend an LCM to the Parliament. We do not want to be in that situation; rather, we want to try to get a result.

David McLetchie: On grant reductions in relation to the income tax power that is proposed in the Scotland Bill, do you accept the proposition that has been put by Her Majesty's Government, which is that the objective is to achieve a mechanism so that the position is effectively tax neutral in the first instance? Do you accept in good faith that it is trying to get to the position in which the amount of the grant reduction will correspond with an accurate figure for the take from the 10p tax rate?

John Swinney: That is what the UK Government has said that it wants to do.

David McLetchie: Right. Do you accept that that is a fair proposition?

John Swinney: I do.

David McLetchie: So people on both sides of the discussion are coming to it from the same basis: that we want to achieve a balanced and neutral starting point and that we have mechanisms to achieve that in the machinery.

John Swinney: I was with Mr McLetchie for most of that sentence, but we are uncertain about the end bit. I accept that the United Kingdom Government and the Scottish Government want to get to the position at which, when the block grant adjustment mechanism is used, Scotland is no better off and no worse off than it would have been if there had been no change, but I return to my answer to Mr Ingram: I do not see a mechanism that exists to enable me to get to that point. We think that, in relation to commencement orders, that bit has to be resolved.

David McLetchie: Right. I am simply trying to get a handle on what is the stumbling block to allaying your concerns. Am I right in thinking that the Joint Exchequer Committee is the forum in which Her Majesty's Government and the Scottish Government are discussing those technical issues?

John Swinney: We have had one initial discussion in the Joint Exchequer Committee on the principles of the block grant adjustment mechanism. The key point—I am sorry to labour it, but it is the nub of the issue—is whether a mechanism exists that enables the Scottish Government to be confident that, when the block grant adjustment mechanism is worked out, it will fulfil the objective of Scotland being no better off and no worse off.

David McLetchie: That is a question for Her Majesty's Government to answer as well; we will also put it to the Secretary of State for Scotland. The proposition that sets grant reductions vis-à-vis an income tax power has been around for several years, the Scotland Bill has been around for a considerable time, and the Joint Exchequer

Committee has existed for the whole of that period.

John Swinney: No. Sorry. The Joint Exchequer Committee met for the first time on the last day that Mr Gauke gave evidence to the committee.

David McLetchie: I beg your pardon. There have been other forums, but not that particular one.

John Swinney: Can I perhaps put a bit of colour into this? That might help the committee to understand. I know that it might be difficult for Mr McLetchie to contemplate this, but the Government is coming at the matter from a completely reasonable perspective.

David McLetchie: So am I, Mr Swinney.

John Swinney: I know.

David McLetchie: As all of us are.

John Swinney: I am trying to set out in my usual fashion of being utterly reasonable about everything.

The Joint Exchequer Committee met for the first time on the day that Mr Gauke came here. Forgive me for not recalling the date, but somebody will help me out. I have just been told that the first time that it met to discuss some of the arrangements was on 27 September. Prior to that, there were two forums for my dialogue on financial issues with the United Kingdom Government: bilateral meetings with Treasury ministers, of which there have been many, and meetings of the finance quad, which consists of the finance ministers of the United Kingdom Government and the three devolved Administrations.

14:00

My experience of the finance quad has been roughly as follows: we go along, we say our piece, the United Kingdom Government decides what will happen and that is what happens. There has been one exception to that pattern. At our last finance ministers quad—somebody will have to help me with the date—we had a discussion about the budget exchange mechanism. My colleague in Northern Ireland proposed an alternative mechanism for budget carry-over arrangements that was at odds with the Treasury's proposition but the Treasury accepted it. In four and a half years, we have had one success in changing the Treasury's mind.

It looks to me as though the Joint Exchequer Committee is taking the same form as the finance ministers quad, whereby the final decision rests with United Kingdom ministers. All I am asking is that Parliament be given the ability to sign off arrangements that will fundamentally affect the public finances of Scotland and for that to be done

in a way that enables the Scottish Government to recommend the bill in the sure and certain knowledge that the Parliament will be able to protect the public finances in the years to come.

David McLetchie: I see that and I understand where you are coming from but, given that the ultimate goal is the same on both sides, how we get there—how we assess receipts against grant and all the rest of it—is ultimately a highly technical question that requires a great deal of expert analysis of flows of revenues. It should not, in itself, become an issue of major constitutional significance, because all we are talking about is how we get the sums right. Would it facilitate your discussions in the Joint Exchequer Committee if the meeting papers and minutes were published for us to get an understanding of exactly what technical issues formed the barrier to achieving agreement?

John Swinney: It is not in my gift to say that the proceedings of the Joint Exchequer Committee should be published. That would require a joint agreement between the Scottish and United Kingdom Governments.

David McLetchie: I accept that, but would you welcome publication?

John Swinney: I would have no problem with that, Mr McLetchie.

David McLetchie: Would that enable us to get to the root of the points of difference in reaching the ultimate goal?

John Swinney: I will answer that in two respects. One concerns process and one concerns substance. We have had one brief discussion on the principles of block grant adjustment mechanisms, which happened on 27 September. If Mr McLetchie is bracing himself for a huge deluge of papers to come his way that support that discussion, I can relieve him of that burden, because not many papers are coming out in connection with it.

I apologise for labouring the process point, but it gets to the nub of a fundamental issue that the committee must consider seriously. How can we design a mechanism that allows the Scottish Government and the Scottish Parliament to be comfortable with the block grant adjustment mechanism that is finally put in place?

As things stand, it looks as if we are moving towards arrangements in which the final say, if we cannot reach agreement, will rest with the United Kingdom Government. I will work very hard to get to an agreed position, but I cannot give the Parliament an authoritative guarantee that I will get to an arrangement that will satisfy the public interest in Scotland. Therefore, we need a mechanism that protects our ability to do that and

we seek a way in which the Parliament can be given the chance to be comfortable with the proposed arrangement.

Bruce Crawford: Although the desire for agreement exists, I can see no chance that it will be reached before royal assent, because of the timescale involved. That is a key problem.

David McLetchie: What would be a realistic timescale?

The Convener: Mr McLetchie, please ask your last question, because we are running out of time and other people want to come in.

David McLetchie: Nothing will commence until 2015-16—and the provisions will not commence fully until 2019—so a considerable time is available to both Governments, even with the snail-like progress of negotiations, to allow somebody to come along and say, “Right, we’ve agreed on how to do the sums. Here’s our agreement.” Why can things not be done in five years?

John Swinney: It could take five years or it could take five minutes. However, that is not the important thing; the important thing is whether both sides can achieve consent. The Scottish Government’s objective is to come to an arrangement in which we and the UK Government both have confidence and to which we both consent. The negotiation could be completely straightforward. It could be fine. It could be all over and done with in five minutes, with everything signed and everybody happy, or it could take five years of dialogue because we are unable to reach an arrangement that is in the interests of taxpayers in Scotland.

We believe that commencement orders are important, precisely for the reason that Mr McLetchie has just highlighted—that some provisions will not be operable until 2019-20. We have to be sure that decisions taken by this Parliament on an LCM will in no way commit a future Parliament to a prejudicial financial arrangement.

David McLetchie: You say it takes—

The Convener: I am sorry, Mr McLetchie—

David McLetchie: You say it takes—

The Convener: Mr McLetchie! Please, I think that that is enough.

John Swinney: I, I—

The Convener: You as well, Mr Swinney. Other people wish to contribute. I think that we have covered the point. Stewart Maxwell is very keen to comment before he has to go to the chamber.

Stewart Maxwell (West Scotland) (SNP): I apologise to the committee—I will have to leave in a moment because I have to ask a parliamentary question.

Mr Crawford partially answered my question when he said that the negotiations to achieve clarity on the mechanisms would not be concluded before the LCM would have to be put to the Parliament. Is that correct?

Bruce Crawford: It is highly unlikely that we could conclude the negotiations before then. A considerable increase in Joint Exchequer Committee meetings would be required, but I am not sure—although I do not want to commit myself too firmly—that another one is even planned. We do not even know when the next such meeting will be.

I want to build on a point that Mr Swinney made. The joint commencement process would kick in only when we have reached agreement. However, in discussing the bill, we cannot know that we will reach that point. The joint commencement may take place only after a number of years, as long as powers in the bill allow that to happen.

Stewart Maxwell: Parliament passed the original LCM—with caveats—some months ago. In effect, it was on the principle of the bill. The coming LCM will contain details, but even at the end of the bill's progress at Westminster, we still will not know a lot of the details. Would the joint commencement orders that you are asking for be an extension of the LCM process? There was an LCM at the beginning, there is an LCM to come, and the joint commencement orders will, in effect, be almost like another LCM. It is about approval once we know the final detail.

Bruce Crawford: I know what you mean, but that would not be another LCM.

Stewart Maxwell: I understand that.

Bruce Crawford: If the normal process was followed at Westminster, there would have to be an amendment from the UK Government. That would happen during the five days in January of the committee stage at the House of Lords. The amendment would have to say that, before the bill's financial provisions can be enacted, the Scottish Parliament will have to give its consent—in other words, there will have to be a joint commencement process.

The Convener: Mr Crawford and Mr Swinney, are you saying that the simple way round the problem—if the bill were to be passed—would be for the joint commencement to be noted in the bill, so that, when the time came round for implementing certain parts of the bill, both Parliaments would have their say?

John Swinney: That is the very simple amendment that we are talking about, convener.

Bruce Crawford: It is nothing more difficult than that.

Richard Baker: I accept the need to have details on the mechanism for the no-detriment policy. However, if you do not achieve the changes that you have outlined, will you reject the bill and forgo the opportunity of having borrowing powers now? Big issues are at stake. What is your bottom line?

John Swinney: The issue is easily resolved by the commencement order mechanism. The Government has supported an LCM on the bill before and has every desire to make the bill work, but we are flagging up very openly to the committee a major issue, which we do not think is that difficult to resolve, with the commencement order mechanism. That should be resolved as a consequence of the passage of the bill. That is our remaining outstanding significant issue with the passage of the bill.

The Convener: I will continue the theme of intergovernmental dialogue and negotiation. I am a bit concerned. Beyond the small concessions on borrowing limits and bonds made in the summer, has either of you had any sense at all that the UK Government is seriously considering amendments to the bill? There are proposals that were agreed by all four parties on the previous Scotland Bill Committee, as shown in its report; there are the six areas put forward by the Scottish Government; we have heard about and discussed joint commencement orders; and there are re-reservations. Is there any sense at all, whether by letter or by formal or informal discussion, that the UK Government is willing to move on those issues?

Bruce Crawford: As I explained earlier, there has been a considerable amount of correspondence backwards and forwards, which shows that there is engagement. I am not sure that asking a series of questions, having them answered and continuing with another series of questions and answers is always the best process. The UK Government has said to me all along, in warm words, that it wants to discuss the issues with us and to be involved in a process. I suspect that that process will come to a head once the committee has had a chance to have its say and make recommendations.

The indication that we have had is that the UK Government will take what we have been saying and what the committee says and begin a discussion about what the whole package might look like. That is its position. Given the timescale that I outlined earlier, in which the Lords committee stage would happen in January, my

concern is that a month over Christmas is an awfully short period for serious discussions to take place in order to reach a position where both Governments are happy about what they are recommending to their respective Parliaments.

There are other opportunities—I do not want to say that there are not. There is the report stage in the Lords in April. It is not normal for Governments to table substantial amendments at that stage—that is possible, but it does not always happen. That leaves us in the committee and in Parliament unsure about when I can lodge an LCM. If we cannot get some more meaningful outcomes by the time we get to the five days in January, will we get any further by April? We need to make that judgment about the responses that we get from the UK Government. We are in the process to try to make this work and to be reasonable, but the time constraints are becoming more and more pressing.

The Convener: Are you concerned that no amendments have come so far from the UK Government?

Bruce Crawford: Obviously, I would like to have had some discussion about the Scottish Government's proposals, to have made more progress by now and to have seen at least an indication that amendments were going to come forward, but there has been no process for possible amendments to come forward in hard form, other than in September when the issue was discussed at Westminster.

Willie Rennie: I know that you are trying to be reasonable, but the Scottish Government has come in with six demands well into the process of Calman and the Scotland Bill, with the bill having been through the initial study and report by the predecessor to this committee, and the UK Government is quite reasonably asking serious questions. Instead of answers to those questions, we get three pages of assertion from Mr Swinney about what the corporation tax proposals mean. I cannot see any detail in there, despite what Mr Swinney says. I do not think that it is unreasonable that we get some detail about the Scottish Government's proposals before amendments can even be considered, even at this late stage in the process. It is a bit of a reckless approach to legislation.

14:15

John Mason: Just like with income tax.

Willie Rennie: But that has been considered over a long period of time. Mr Swinney accepts that there is a proposal and that detailed analysis needs to be done. There is no point in making the decision on income tax now, when we do not know all the details of how it will work. It is quite

reasonable that there is a Joint Exchequer Committee approach to these matters, but this reckless approach of seeking to add a huge number of powers to the Scotland Bill when they have not had appropriate consideration is not the way to approach legislation.

Bruce Crawford: We have, in very good time, put proposals to the UK Government about the various issues, whether they are to do with corporation tax, the Crown Estate or anything else. We have had 40 questions put to us on the proposals. I do not accept your description of Mr Swinney's letter in response to the UK Government's questions. I do not want to get into a trade-off with you, because all that does is put the negotiations further off. I could say that some of the questions were spurious, in the same way as you have accused Mr Swinney's answers of not being fulsome, but, frankly, that would not get us anywhere.

We received some letters this week from the UK Government in response to our proposals on the EU and on broadcasting. We responded before today's committee meeting, because we realised that the committee needed to have all the responses that it could possibly have from the Scottish Government.

You can like it or lump it, but Scotland's political make-up changed significantly last May. Inevitably, in the circumstances the Scottish Government wants to put forward suggestions to take the bill to a different level, because that is obviously where the people of Scotland recognised that they wanted to be.

The UK Government has told us that it wants to be involved in a genuine discussion with us on the issues that we have described. It is just a bit late in the process for us to sit down round the table—

Willie Rennie: I—

Bruce Crawford: —sit round the table, not just—

The Convener: Mr Swinney wants to come in.

Willie Rennie: I can see that he is getting rather excited about something, so—

Bruce Crawford: —not just sending letters—

The Convener: Excuse me, but can you please all stop talking at the same time? It makes it very difficult to hear.

Bruce Crawford: The way to get progress is to sit down and talk to people meaningfully, rather than ping letters back and forward.

The Convener: Mr Swinney wants to come in. I will let Mr Rennie back in—briefly, because I am aware that Nigel Don has to leave fairly soon and I want him to come in.

John Swinney: If I may, I will make a number of points in response to Mr Rennie's comments, convener.

The Convener: Not too many.

John Swinney: I have a lot to say.

Mr Rennie commented on the letter that I sent yesterday to the Exchequer Secretary to the Treasury. The Exchequer Secretary wrote to me on 5 September raising a number of specific issues about our consultation paper on corporation tax. I submitted a proposition on corporation tax to the Treasury on 8 September, and my view was that the detail in that proposition addressed the points that Mr Gauke raised with me. However, when I saw the issue being kicked around, I felt that it might help if I wrote a further letter to give a pointer to the fact that I had submitted that detailed proposition to the Treasury on 8 September. I do not think that there is a lack of detail in what we are putting forward.

There is another dimension to all this, which is not just to do with our suggestions in relation to the convener's points about whether we would have liked to have heard more from the UK Government. There is also the issue of what the UK Government said to the previous Scotland Bill Committee. I could go through a legion of points.

The first example that I will give is on borrowing. The Scotland Bill Committee in the previous session of Parliament said that

"the proposed annual and overall limits for short-term borrowing are set to be inadequate".

If the response that has come from the UK Government so far is all there is, the only bit of movement is about prepayment, which is not a particularly full interpretation of the commitment to earlier borrowing powers that was in the command paper.

The previous committee also said:

"if a scheme to vary corporation tax were to be available in some of the devolved countries of the UK as a tool of the UK Government's regional economic policy, it should be available as an option for a Scottish Government to use also."

What is the answer on that one?

Mr Rennie said in the preamble to his question to Mr Crawford that there was no point in making the decision on income tax now. That makes my point about joint commencement powers. We cannot make a decision about these issues at this stage; we cannot do so until we have confidence that the block grant adjustment mechanisms and the implementation arrangements will not be detrimental to Scotland's public finances. That is the core of my argument for those powers to be added to the bill.

Bruce Crawford: I would like to finish off that point. It is not just the financial powers on which the previous Scotland Bill Committee made suggestions to the UK Government that have not been responded to in the way that people might have expected; that is also true of the UK Government's interpretation of powers over drink-driving and speed limits, and the proposed reservation of issues to do with registered social landlords and insolvency. Those are issues not just for the Scottish Government; they were issues for the previous Scotland Bill Committee, too.

The Convener: Do you want to make a quick response, Mr Rennie? Nigel Don is getting anxious.

Willie Rennie: No, it is all right.

The Convener: Is your question on this point, Mr Don, or are you taking advantage?

Nigel Don (Angus North and Mearns) (SNP): My question is on borrowing powers, which Mr Swinney has just raised—as always, he is ahead of me. That is exactly where I wanted to go.

Good afternoon, gentlemen. I am concerned about what you have said. We talked about things being done at slightly short notice, which we could argue about—indeed, you did so—but I am looking at a paper on borrowing powers that the Scottish Government produced in June and which was clearly based on previous discussions. I was hoping that you would tell me that there had been substantive and sensible discussions about revenue and capital borrowing. I do not want to put words into your mouth, but you seem to be saying that nothing much has happened. Is that what you are saying?

John Swinney: The Scottish Government made propositions that the annual borrowing limit for capital investment should be increased and that the total borrowing capability should be put into the context of a prudential borrowing framework. We have argued those points, which are consistent with what the previous Scotland Bill Committee said about the limitations of the powers that the bill proposed. As things stand, the response that we have had shows very limited movement in that respect.

Nigel Don: I want to pick up on capital borrowing. When I last spoke to Mr Moore about that, I put it to him that it was counterintuitive for capital borrowing to go with the cycle of capital expenditure, because you would want to smooth out capital expenditure. In other words, you would want to be able to borrow more capital in the years in which you had a lower capital grant. I take it that you would agree. Have you heard from anyone about that?

John Swinney: Given that we face acute economic challenges, the Scottish Government believes—this is a point of economic policy on which there is substantial disagreement between the Scottish Government and the UK Government—that this is the moment at which we should be investing in capital infrastructure in Scotland. At the moment, our capital budget is about £1 billion lower per annum than the trend capital budget has been for most of the past 10 years. In that context, I certainly think that it would be a sensible and desirable economic intervention to engage in capital borrowing to ensure that we could strengthen economic recovery. That power is not available to us, and it would be helpful to have it.

The present proposals from the UK Government would mean that there would be severe constraints on our ability to vary the model that it has set out. The reflections of the previous Scotland Bill Committee that those proposals were inadequate still ring true.

Bruce Crawford: It is, of course, not just the previous Scotland Bill Committee that thought that. If my understanding is correct, the Scottish Affairs Committee in the House of Commons and a number of independent experts have said that the Scotland Bill proposals for capital borrowing required substantial enhancement and improvement. The same thing is being said at Westminster.

Nigel Don: Are the cabinet secretaries telling us that there has been no substantial comeback from the UK Government on the subject in the past three or four months?

John Swinney: The only material point that I could draw to the committee's attention is the written ministerial statement that the United Kingdom Government produced during the summer, before the Westminster parliamentary recess. In essence, that paved the way for the prepayment arrangements to be put in place in advance of the introduction of borrowing powers in 2015-16.

Nigel Don: Yes, but that has made no substantial difference. To return to Mr McLetchie's point, in principle, we are talking about the financial circumstances for devolved Scotland for the foreseeable future, if nothing supervenes. Prepayments over a couple of years might be helpful at the beginning, but that has nothing to do with the substantial situation over time.

John Swinney: Prepayments are the only area on which there has been any material movement. The Chief Secretary to the Treasury has indicated to me that he will respond in due course to our proposals on further borrowing powers. I suppose

that that is an indication that there might be a further response that is yet to come.

Nigel Don: We wait in expectation.

John Mason: I have two points, the first of which is on borrowing and follows up on Mr Don's questions. My experience in local government was that prudential borrowing works well. Last month, I went back to Glasgow City Council to get an update, and all that I can see is that it is a solid and robust model. Rather than have a figure that we can borrow, the system should be based on what we can afford to repay and other such factors. A number of witnesses have agreed with that, although one witness last week suggested that they were afraid of prudential borrowing in case we borrowed so much that we destabilised the whole of the UK. Is that likely to happen? When we heard from UK ministers, one of them said that he thought that having a fixed amount was better than prudential borrowing. We will ask them about that again this afternoon, I am sure, but I struggle to understand the position, because it suggests that we would borrow more than we could afford.

John Swinney: The prudential borrowing regime is sound because it puts the onus of financial responsibility on the borrowing authority. I am sure that Mr Mason will agree that a bit more of that might not have gone amiss in recent times. The prudential borrowing framework that is envisaged is a logical extension of United Kingdom Government ministers' aspirations for the bill. If I understand the secretary of state correctly, he has said that the bill is predominantly about increasing financial accountability for the Parliament. If that is the case, a prudential borrowing regime is entirely consistent with that aspiration. I have greater aspirations for the bill, but if the aspiration is to strengthen financial accountability, the introduction of a prudential borrowing regime would be a most effective way of doing that.

John Mason: I will move on to my second question. One issue that was not in the Scottish Government's six suggestions but which witnesses have raised with the committee is whether we should have control over welfare. It seems intuitive that, if the Scottish Government is successful in creating jobs, there is a saving in benefits, but that saving goes to London. On the other hand, the risk is that, if more people go on to benefits, the cost goes south. Would the Government like to have that power, or is it not essential at the moment?

John Swinney: It is desirable. To illustrate, I will refer to the reasons why the United Kingdom Government has embarked on the work programme. The UK Government is clearly attracted to the work programme because it has

the advantage that, for every individual who leaves benefit, there is a corresponding reduction in the benefit bill for the UK Government and an increase in the tax base, because that individual becomes a taxpayer.

14:30

The issue for the Scottish Government is that we use public expenditure to support the journey into employment for individuals who are on welfare, but we get none of the incremental benefit or advantage—if I can use that word, to separate the terminology—from the fact that the individual no longer claims benefit, which of course is not a drain on our budget, but pays income tax. It is one of the examples that make the case for a greater degree of devolved responsibility in such areas of activity.

There is another advantage. The Scottish Government, local authorities and many other bodies that act on our behalf are immersed in the process of employability at the local level—Mr Mason will be familiar with such issues in his constituency—but they also have to interact with programmes such as the work programme, the Department for Work and Pensions and Jobcentre Plus. One of my priorities as part of my employment responsibilities—this is an example of good joint working—has been to take forward a dialogue with UK ministers about ensuring that, regardless of the constitutional delineation of responsibility, individuals in Scotland who access the into-employment services that are available are in no way put off by the fact that they happen to be going to an organisation that reports to the UK Government or an organisation that reports to the Scottish Government. We must have a seamless service for individuals who access services in this area. We are making some progress on that integration of services at an operational level so that members of the public are not passed from pillar to post, which I am sure we have all seen in the past because services have not been integrated.

John Mason: Is there any suggestion that there will be some local flexibility? Since the committee last saw you, witnesses have told us that the DWP and Jobcentre Plus will sit round the table, but that there is no flexibility at a local level.

John Swinney: There is undoubtedly a commitment to partnership working. That assurance has been given to me by the Secretary of State for Work and Pensions, the Secretary of State for Scotland and the employment minister, Mr Grayling. I have also had helpful discussions with Jobcentre Plus and the agencies that are responsible to Scottish ministers. There is willingness to engage in that activity. The

challenge is to ensure that we turn it into practical reality.

The Convener: Mr Baker has a question on a different subject.

Richard Baker: Under the Scottish Government's model for the devolution of excise duty, who would be responsible for collecting it?

John Swinney: Excise duty would be collected as it is presently collected.

Richard Baker: It would be collected by HMRC.

John Swinney: Yes.

Richard Baker: What negotiations have you had with HMRC about that? I presume that it would not do the work for free and that there would have to be a payment. It would not be a simple thing to do, because HMRC would have to set different rates for different products in Scotland. I presume that you have had some negotiations on how that would be achieved.

John Swinney: Our proposition is that there would be no change to excise duty rates. The point that Mr Baker advances about discussions with the relevant authority essentially takes us back to the point that Mr Crawford and I have been making about substantive discussions. We have put forward the proposals, and we would welcome the opportunity to engage in substantive discussions about how we might take them forward.

Richard Baker: Sure, but on this proposal, given that it comes from you, there is a certain onus on the Scottish Government to initiate a dialogue with HMRC before it can ask it to administer the duty.

John Swinney: The organisations that are involved in this area of activity are responsible to United Kingdom Government ministers, and I have learned over the years that, unless we get their agreement and consent that organisations will engage in the process purposefully, the discussions do not get terribly far. That was, by and large, my reflection on the last Labour Government's approach to council tax benefit and associated issues, which was, if I may say so, less than helpful.

Richard Baker: There is never any harm in asking, though. My question on the overall policy reflects my question to you on corporation tax.

You have advocated a more generous excise duty for the whisky industry, for example, yet it still does not support the devolution of excise duty and there has been a dearth of support for the measure in the business community. Did you not hope for rather broader support for the proposal that you have made for the Scotland Bill?

John Swinney: I have seen endorsements of where the Government is going on this issue from a variety of organisations, principally those that are concerned about the implications of alcohol consumption in Scotland. We remain keen to sustain those discussions.

David McLetchie: Can we be clear that what started off as a demand for the devolution of excise duty on alcohol has now morphed into a more limited proposition that the Scottish Government should simply be assigned the excise duty revenues from sales of alcohol in Scotland? Can we be clear that that is now the Government's position, contrary to the assertions made in the immediate aftermath of the election?

John Swinney: The proposal that I sent to the UK Government is that Scotland should be assigned the excise duty raised from alcohol consumption in Scotland.

David McLetchie: I know that, Mr Swinney. I can read that very clearly, and just as well as you can. My question is this: is that not a considerable climb-down from the bold assertions made by the First Minister and others in the aftermath of the election? One of the famous six demands was that Scotland should have the right to excise duties on alcohol, which should be devolved. What you now have is a totally different proposition from that which was first asserted by the First Minister. Is that not correct?

John Swinney: I think that the proposal is a helpful way of trying to encourage the UK Government to come to an agreement that would significantly enhance the financial responsibility of the Parliament.

David McLetchie: Fine. So, we agree: it is a climbdown by the First Minister.

John Mason: I do not think we agree that at all.

David McLetchie: Well, if it is not a climbdown, is it or is it not a fundamentally different proposition from that which was first made?

John Swinney: I think that it is a proposition that is entirely consistent with the aspirations of the Scottish Government to be in control of a wider range of the financial instruments that affect Scotland. It is set out in a practical way that will assist the UK Government, if it is interested in being practical and reasonable, in coming to an agreement on the issue.

David McLetchie: Okay, well, we will just leave the cover-up of the climbdown.

I will move on to another aspect of the issue. A lot of the aspiration is not just about revenues, because you link your proposition to the Government's policy on reducing alcohol consumption in Scotland, so there is a social

policy dimension as well as a revenue dimension. I think we can agree that that is the Government's intention. If your policy on reducing the consumption of alcohol through minimum pricing was successful, would assigned revenues from excise duties not be likely to fall?

John Swinney: They might well fall, but if people were consuming less alcohol, the burden on our health service and other public services would fall into the bargain—so much so that people who required an ambulance to be called at the weekend would no longer have to take a chance, bearing in mind that, at present at the weekend, two out of every three ambulances are out attending to someone who is having a crisis involving alcohol.

David McLetchie: That goes, of course, to one of the fundamental issues about preventative spend, does it not? You assert in your letter to Mr Gauke, which we got the other day, that assignation of excise duties would provide a more stable revenue stream. If your policy objective is successful, however, you will have signed up to a declining revenue stream. In fact, one might say, as you do regularly about the income tax proposal, that this particular proposal on excise duty has an inherent deflationary bias. Is that not the case?

John Swinney: What goes with that is the impact on public health of encouraging less consumption of alcohol in Scotland, which would reduce the burden on our public services that every one of us is paying for, whether or not we drink excessively.

David McLetchie: I wish you great success in achieving that kind of trade-off, because very few Governments have managed to do it.

John Swinney: That perhaps gets to the nub of Mr McLetchie's aspirations, which may not be as clear as the Government's ambitions. Unless our country interrupts its current relationship with alcohol, the burden on our public services will be difficult to address in years to come.

I would be the first to acknowledge that one of the benefits of reduced alcohol consumption would be a lower burden on our public services, which would make them more sustainable in the long term. It is one of the points about the impact of the proposals that is well made.

David McLetchie: So the objective behind the proposal is to cut spending on the health service.

John Swinney: Oh, come off it!

John Mason: Oh, come on!

David McLetchie: It is a fair point. You are saying—

The Convener: Mr McLetchie, remember that this is a committee, not a courtroom.

John Swinney: It is not a fair point. It is a juvenile torturing of an answer that I have given.

David McLetchie: No. It is a fair point. You have said that lower revenues will have a direct trade-off that will enable you to reduce expenditure on the health service. I asked whether the consequence of the proposal will be reduced spending on the health service. That is correct, is it not?

John Swinney: Here we have the 21st century modern Conservative Party position, which is that we should ratchet up expenditure on the causes of ill health and damage to the health of our population. Perhaps that is why the Scottish Government and the Conservatives have not seen eye to eye on minimum pricing. I live in hope that we might yet do so, because the way in which Mr McLetchie has tried to contort the argument in no way represents the Government's approach to tackling a serious issue that affects our country.

David McLetchie: There is another serious issue. As we all know, there are growing demands on the health service. If one was to make savings in areas attributable to excessive alcohol consumption, there are plenty of other areas in the health service that would readily take up the slack and in which there are constraints, of which the health secretary is well aware.

My point is that Mr Swinney's proposal to have declining tax revenues coming into Scotland means that there will be less money in the health service, not just for expenditure in relation to alcohol but for expenditure on other priorities that are currently underresourced. It is therefore a perfectly fair proposition to say that he intends to cut spending on the health service.

John Swinney: We now have an utterly obtuse misrepresentation of my argument.

The Convener: Thank you, Mr Swinney. Willie Rennie has a question on a specific subject.

Willie Rennie: It is about the Azores judgment, Mr Swinney. Why do you think that we would not fall foul of it if corporation tax rates were to be devolved?

John Swinney: We think that on the basis that we consider our propositions to be entirely consistent with the Azores judgment.

Willie Rennie: Will you give us more detail about why you think that is?

John Swinney: I am happy to write to the committee with further detail to substantiate my answer. I do not have additional information in front of me today but we have considered the issues in relation to the Azores judgment, with which we believe our position is consistent.

The Convener: It would be good if you would follow up on that, Mr Swinney.

There are other issues that we did not cover, for example relating to the Crown Estate. With your permission, we will write to you to ask you to follow up on those.

I conclude by asking something fairly straightforward. We have done outreach work with the business community and the voluntary sector, and some of the questions today have reflected our findings. Many people, speaking both as individuals and on behalf of their respective organisations, have expressed disappointment with the Scotland Bill as it stands in that it does not properly look at a degree of fiscal autonomy for Scotland and does not allow Scotland to make proper decisions. Some have gone as far as to say kill the bill—I think that that was the expression used in this very committee. This is a UK Government bill and it is for the UK Government to justify what it is offering to Scotland, but what do you, as members of the Scottish Government, want from the bill?

14:45

Bruce Crawford: We have had a good explanation of the issues around the financial powers. However, a range of areas of the bill need to be reconsidered. I am not sure how much evidence the committee has already taken on some of them. There are the reservation issues, for example. I will give you one or two further examples of areas that need to be re-examined. The issue of health professionals is a good one. We believe that the devolved regulation has clear benefits for Scotland and enables regulations to be tailored to meet the needs and circumstances of the Scottish health service. It also ensures that Scotland has a voice in wider decisions that are taken at a UK level that have implications for devolved matters. The recent regulations that were introduced for practitioner psychologists are an example of the benefit of the devolved regulation. The UK Department of Health originally wanted them to be educated to doctorate level for regulation purposes, as that is the standard in England. That would have posed a major problem for the national health service in Scotland, and for its educational psychologists, the majority of whom are trained to masters level to undertake specific tasks, as that is considered to be a better use of resources. If those regulations were re-reserved, that might cause some difficulties.

It is also striking that, when the UK regulatory bodies with the responsibility for devolved professions appeared before the committee, they all reflected a willingness to work within a devolved, a partly devolved or a wholly reserved legislative framework. They clearly stated that the

partly devolved arrangements had not caused them any problems. In support of its recommendations to reserve regulations, the Calman commission quoted evidence from two royal colleges, whose concerns focused on the regulation of doctors, which is entirely reserved. The UK Department of Health's evidence to the commission concluded:

"DH is not seeking any change to the reservation of the health professions in the Scotland Act 1998. In practice, both the Government and the devolved administration have always sought to apply a UK-wide framework to the regulation of the health professions, despite the fact the devolved competence exists for some professions. By working together, we have been able to manage the complications and additional work inherent in the settlement. To seek total reservation in this area would be unnecessary, when pragmatic, shared solutions are available."

If you wish, convener, I could give examples of other areas, such as international obligations. We could write with those details.

The Convener: I do not want to adopt the style of Mr McLetchie and put words in your mouth, but is it the case that you are saying that you do not think that there is anything that Scotland already has power over that should go back down south?

Bruce Crawford: International obligations—there are good reasons why they should not go—insolvency and, in particular, issues around registered social landlords and the impact that there might be on the housing market in Scotland and on how we deliver social housing are some of a whole series of areas on which I am happy to give you further evidence right now, or on which I could provide a bit more detail in writing, to help the committee come to a reasonable conclusion.

The Convener: I would appreciate it if you could submit that to us in writing.

Bruce Crawford: I am happy to do that.

The Convener: Mr McLe—I nearly called you Mr McLetchie, Mr Swinney. How does that feel?

John Swinney: It is an easy mistake to make. We are both curmudgeonly old devils.

I will deal with Mr Rennie's point about the Azores judgment. It requires that, for the devolution of business taxation within a member state, three conditions of autonomy must be satisfied: institutional, procedural and financial. Institutional autonomy requires that the sub-central Government has a political and administrative structure that is distinct from the centre, with which we would comply. Procedural autonomy means that any decision that is taken by the sub-centre to change taxation must be taken without central interference—well, we do not generally take decisions at the behest of the UK Government. Financial autonomy means that the fiscal

consequences that flow from the reduction in a tax rate must not be offset by aid or subsidies from the central Government and would take place entirely within our fiscal envelope. We pass those three tests satisfactorily. In relation to Her Majesty's Treasury's consultation paper on the Northern Ireland situation, those arrangements were tested and found to be appropriate. I think that that deals with the issues. I will not write to the committee on that point.

You asked what I hope to achieve from this bill. I hope that we have a bill that is better able to meet the aspirations of the people of Scotland. I think that, if we were to go out on the street today, we would find that the Scotland Bill has not resonated one jot with the public. We have to make it meaningful for people, which means that it has to have the ability to give us the powers to create employment and create wealth in Scotland and to use that wealth for the benefit of the people of Scotland. Therefore, the financial provisions and borrowing capability must be strengthened and the broader range of tax powers must be enacted. Crucially, the UK Government has to understand that the proposals that are before us today lack a mechanism to enable Parliament to be satisfied that the financial provisions of the bill could be in the public interest in Scotland, and, therefore, it is essential that commencement powers be added to the bill.

The Convener: I thank Mr Swinney, Mr Crawford and their backing band for coming along. I suspend the meeting until 3 o'clock.

14:51

Meeting suspended.

15:02

On resuming—

The Convener: I welcome to the meeting the right hon Michael Moore and the right hon David Mundell, who are accompanied by Laura Crawford and Alisdair McIntosh, and invite both to make a short opening statement.

Michael Moore MP (Secretary of State for Scotland): Thank you very much, convener, particularly for inviting us back, which is what you said you would do when we previously gave evidence. At that time, we got a brownie point for making brief opening remarks and, again, I do not wish to detain the committee too long in that respect.

I reiterate that the UK Government introduced the Scotland Bill and its significant package of measures on the back of the outcome of the 2010 election. For the past year, we have been working our way through the bill process from original

publication through consideration by the Houses of Parliament at Westminster and we have also been glad to have the opportunity to engage up here. We are, of course, committed to this package of measures, which improves the devolution settlement and makes significant additions to the Scottish Parliament's financial accountability. We remain well aware of the Scottish Government's additional requests in six different areas and, since we last met, we have continued our dialogue with the Government on each of them. Indeed, we received replies to our latest correspondence on some of the issues only last night and will consider them carefully.

Also, since we last met, we have had the first meeting of the Joint Exchequer Committee, which brings the two Governments together to consider the bill's implementation. Given that the bill has not yet been enacted, the committee's establishment is a major step and I believe that it represents a commitment by both Governments to undertaking the important work of addressing the issues in the legislation. We look forward to receiving the committee's report in due course and will consider all the evidence and your findings with great care.

The Convener: Mr Mundell, did you wish to say something? Your light flashed.

David Mundell MP (Parliamentary Under-Secretary of State for Scotland): It was not of my doing, convener. I will answer questions if I am asked the right ones.

The Convener: At our previous meeting, we had a lot of discussion about respect for Scotland, the Parliament and, indeed, the committee's findings. Mr Moore, do you still feel that our findings will be treated with the respect that you said they would be when we last met in this room?

Michael Moore: Indeed. I had hoped that that would have been clear from my opening remarks. We have been following the evidence that has been given to the committee and hope that it will be reflected on in your report, which we look forward to receiving and treating with due care and attention.

The Convener: Although the parties that sat on the previous Scotland Bill Committee agreed on many issues across the board, the UK Government appears to have made no concessions in certain areas. How does that tie in with respecting the Parliament's views, as represented by its committees?

Michael Moore: The manner in which we have looked at the different issues is important. I believe that we have very respectfully looked at the suggestions in the previous Scotland Bill Committee report; indeed, as a direct result of that committee's recommendations, we have

introduced measures to clarify certain financial powers and to get on with the Joint Exchequer Committee's work. In our submissions and previous evidence, we have set out the areas in which we are not in agreement, but I hope that, where that is the case, we have made our reasons clear.

The Convener: Other committee members will pick up on specific points but I have to say that, at last week's meeting, we were very shocked when Dr Gudgin told us plainly that the UK Government—Westminster ministers—had told him that there was no chance at all that the Parliament would be granted the right to set corporation tax.

Michael Moore: I am afraid that I do not know on whose authority Dr Gudgin was speaking and certainly do not recognise what he said as being close to the truth. We have had a consultation, we are considering what will happen in Northern Ireland and we are still looking carefully at the corporation tax proposals that have been made by the Scottish Government and which you have been scrutinising. We will continue to do that. Nothing has been ruled out. I repeat, though, that we are currently not persuaded of the proposal, for reasons that were well rehearsed previously. Nevertheless, we are having an on-going dialogue on the matter. Mr Swinney's letter to David Gauke, which was received last night, is the latest exchange on the subject and we will consider it very carefully.

The Convener: Speaking to Tyneside businesses yesterday, one of your colleagues, the Secretary of State for Energy and Climate Change, Chris Huhne, said:

"Clearly corporation tax is a reserved issue that is dealt with by the Treasury and I can't see this changing ... We don't want to see any change in that and I do not think it is very likely it will happen."

Do you think that such comments are helpful to the on-going dialogue and negotiation between Governments?

Michael Moore: The dialogue continues as constructively as possible. We have invited the Scottish Government to put forward its arguments and make a detailed case. I do not want to anticipate our response to the latest letter—after all, we have barely had time to consider it—but we will see how much of the detail Mr Swinney has responded to. I should also make it clear that these points were raised not just by us but by many others in the Scottish business community who are seeking clarity on certain issues. I hope that you accept my assurance that the process is on-going.

John Mason: I have to say that I am concerned by some of your comments. For example, you

referred to a package of measures, which suggests to me that we have to either take it or leave it. You also said that the bill was based on the 2010 election, which suggests that the 2011 election has had no impact on your thinking. Moreover, you said that the manner in which you look at the issues is important. Frankly, though, the issue for many of us is not the manner in which you look at things but whether any changes get made. Is there any chance that the borrowing powers, instead of having a limit, will become prudential borrowing powers? Is there any chance of our receiving powers over corporation tax? Is there any chance of a change in the proposals on income tax?

Michael Moore: The manner in which we engage is very important indeed. Although we would all acknowledge that our starting positions are fundamentally different, our approach has been entirely constructive and has been based on good-quality dialogue. In the end, everything comes down to an assessment of the evidence and the arguments. That is why I am keen to consider Mr Swinney's latest letter and to discuss it with my colleagues in the Treasury, at which point we will take a view on what further clarifications are required.

I certainly do not disregard the elections this May. However, I sometimes feel that people forget the elections of 2010. At those elections, three parties that supported the Calman proposals—which, through the Scotland Bill, we are now implementing—won a substantial share of the vote in Scotland and many hundreds of thousands of votes. That is the basis on which we have proceeded with the bill. Had we not given due regard to the elections in May this year, we might simply have said that people could come forward with whatever ideas they wished, and we would not consider them at all. I hope that Mr Mason will acknowledge that we are far from that position.

John Mason: The word “dialogue” has been used a number of times. What is that dialogue? At our evidence session earlier this afternoon, I got the impression that it was mainly letters going backwards and forwards. I think about dialogue as being people getting round a table and speaking to one another and negotiating.

Michael Moore: The word “dialogue” is exactly right. A number of ideas have been put to us, and we have considered them. Of course, much of the dialogue is done formally through correspondence, because that is helpful in allowing everybody to understand how thinking has developed. As is right, much of that correspondence—indeed, all of it—has been shared with this committee and with the Scottish Affairs Committee in the House of Commons. However, on many different occasions, the Cabinet Secretary for Finance, Employment

and Sustainable Growth, the First Minister and other ministers have held meetings with their counterparts. David Mundell has regular meetings with Mr Crawford on a number of issues. The dialogue is not simply an exchange of letters; there are also meetings and discussions, and we will continue with that without any worries—as long as we are making progress and understanding the details of the arguments presented.

The Convener: Might I suggest that, when you carefully consider Mr Swinney's comments, you also carefully consider the comments of your colleagues in the UK Government who speak to groups outwith Scotland on what should be happening in Scotland, and on what they believe will happen in Scotland?

Michael Moore: I will be very happy to pass your clear message back to Mr Huhne.

The Convener: And others, because I suspect that Mr Huhne is not alone.

Nigel Don: Thank you for coming to see us again, Mr Moore. I want to consider an area on which I believe that no dispute whatever arises in principle—borrowing powers, both capital and revenue. Calman thought that we should have them, the bill proposes them and the Scottish Government thinks that we should have them, too. Therefore, all we have to debate is not the detail but the principle of the detail.

The Scotland Bill seems to propose, and I have not heard any caveats, a borrowing power that is a limit—a simple number. In a document published back in June, which I am sure that you have seen, the Scottish Government suggested a prudential power, so that the Scottish Government could say, in effect, “Let's see what we can afford.” That sort of system works very well in local authorities up here, and it seems to make sense. You have spoken about dialogue but, when I asked Mr Swinney about the issue three quarters of an hour ago, he suggested that there had not really been much discussion on the suggestion, and that you had not said how you might respond. What point have you reached in your thinking? Some kind of prudential system is surely better.

15:15

Michael Moore: I anticipate that there will not be full agreement on all areas at the end of this process and this dialogue, but we are looking to continue to be as well engaged as possible in the meantime.

On borrowing, the fact that we have brought forward prepayments, which the Scottish Government has availed itself of—it is able to use the finance released for the early work on the

Forth replacement crossing—shows a degree of responsiveness that I hope will be welcomed. Likewise, we said earlier in the year that we would look at the issue of bonds being issued by the Scottish Government. We have amended the bill to facilitate that possibility in the future. A consultation on that will happen at the earliest opportunity.

In making their point about prudential borrowing, Mr Mason and Mr Don have said that affordability is the key criterion. That is absolutely what the UK Government is looking at in terms of the borrowing powers that exist for Scotland within the UK's overall financial arrangements. I draw attention to the fact that, in the bill, we are saying that this is the starting point for the borrowing powers—this is a floor. The powers can be revisited and increased if the financial circumstances exist and the case is made for that in the future. We have something that we can all agree on. It recognises the affordability constraints that we are under, but the process for enacting an increase at an appropriate time if the appropriate case is made is pretty straightforward.

Nigel Don: Thank you for that. I think that the prepayment issue is respected, understood and appreciated.

You are setting affordability in the context of the UK Treasury, which is what I would expect you to do in the first instance, whereas the Scottish Government is suggesting that affordability might well be seen in the context of the Scottish Government's income because, if a Government is managing the Scottish environment, it has an income against which affordability can be measured. What is the problem with that, given that the amounts involved are a remarkably small fraction of the UK affordability anyway?

Michael Moore: The total borrowing would be within the UK's overall borrowing requirements, so it is entirely right that the Treasury would want to monitor that carefully. We have said that, given where we are in the current spending review period and given the overall state of the public finances, it is important that we keep a responsible grip on the Government budget. That is what we are doing. I understand that the Scottish Government wants more. I make it absolutely clear that we will have further discussions with Mr Swinney and others about that. However, we would need to be persuaded, in a way that we are not at the moment, that the powers that the Scottish Government proposes would meet our criteria in relation to the UK economy as a whole as well as provide the flexibility that I understand the Scottish Government is seeking.

Nigel Don: I am sure that John Swinney would be delighted if those discussions could carry on, because the implication was that they have not got

very far, but let us leave that between you and Mr Swinney for the moment.

I return to a point that I raised when you were last here; I am sure that you will recall it. It is proposed that capital borrowing should be a proportion of the capital grant—I do not think that that has changed. I reiterate that that is counterintuitive. The ability to borrow in capital should surely be countercyclical to the grant, so that the Government can keep capital spending as stable as possible, because that is what the construction industry needs in order to be there to carry on doing its job. Have you reflected on that at all?

Michael Moore: I understand the argument. You put it perfectly clearly previously, and others have, too. The Scottish Government is able to move revenue into capital if it wishes to. It carried out a spending review recently and it has taken some key decisions on capital. As things stand, we have not been persuaded to change the proposals that we have set out.

Nigel Don: If I have got that right, you are suggesting that we should be making up the capital shortfall in any period from revenue rather than borrowing. Forgive me, but that sounds totally wrong—look at chapter 1 in any textbook on macroeconomics that you come across.

Michael Moore: What I am saying is that it is a political judgment for the Scottish Government for make. It has made its political judgments. I know that it would like to have more capital powers, and the argument about that has continued between the two Governments. I am saying that, given the financial situation in the country as a whole, we believe that we are offering significant powers that were not in Calman and which will make a big difference in Scotland. We are letting the Scottish Government get early access to the borrowing facilities and it is taking advantage of that. We have responded well and pragmatically to the suggestions that have been made so far, within the overall constraints that we are under.

Nigel Don: The pragmatic forward movement is much appreciated. I say that for the last time. However, I find it worrying that the need to borrow countercyclically which, as I said, is covered in chapter 1 of the standard textbook, does not seem to have impinged on the Treasury.

The Convener: Before I bring in Alison Johnstone, I have a question. You said that you have been listening and that you promised to make the changes. Given that the proposal came from the previous Scotland Bill Committee, why did you not amend the original bill, so that we would be discussing it now as potential legislation?

Michael Moore: Do you mean in terms of the specific point that Mr Don has just made?

The Convener: In terms of borrowing.

Michael Moore: As I set out a few moments ago, we have not been persuaded on that argument. We have listened carefully and looked at how we can change the borrowing provisions and the financial arrangements, and the early access to borrowing through the prepayments is an important step forward. The arrangements regarding the flexibility around the income tax powers and the variation between receipts and forecasts again reflect what the previous committee said, as does the willingness to look again at the bonds issue, which we had not previously been persuaded about. I think that that shows significant progress.

The Convener: You said that you consider what is in the bill a starting point for borrowing powers. I think that those were your words when you answered Mr Don's first question.

Michael Moore: That was specifically on the borrowing limit in the bill. It is a floor and not a ceiling.

The Convener: Yes. It is a starting point. When Sir Kenneth Calman came before the committee, he said that he considered the Calman commission's report to be a starting point, particularly in relation to the 10p tax variation element, yet you seem to make great play of saying that you are implementing the Calman commission recommendations, which are now a bit out of date, as they were published two or two and a half years ago. You took the Calman commission recommendations, you ignored what the first Scotland Bill Committee said in many respects, and you have gone right back to base. The author and co-ordinator of that report believes that it should have been a starting point. How can you justify that?

Michael Moore: If I may say so, that is an uncharacteristically unfair representation of the situation that we are in. If Sir Kenneth was back before you, I hope that he would repeat what he has said publicly in the past—I have no reason to doubt that he would—namely, that he is delighted that the commission that he chaired has seen the vast bulk of its proposals put into practice either through the command paper, in prospect, or through the bill. He respects the fact that, in implementing them, we have had to make some decisions, which means that there will not be full implementation. Things have moved on in some respects. We have had to consider the overall financial climate in which we are operating, for one thing.

We have adopted a huge range of the points in the report of the previous Scotland Bill Committee.

We have never said—today or at our previous appearance—that we are going to implement everything in full. We gave an undertaking to go away and look constructively at the proposals. We have done that and we have been fair and reasonable in our response. That is the basis on which we have engaged with the committee and the Scottish Government, and that process continues.

Alison Johnstone: I address my first question to the Secretary of State for Scotland. At the beginning of the discussion, when corporation tax was discussed and Dr Gudgeon's comments were raised, you said that you are not convinced that the devolution of corporation tax is a good idea and one that you can support and that you have had a consultation. Can you tell me a bit more about that consultation?

Michael Moore: I am not sure that that is exactly what I said. The Scotland Bill proposals emerged from the 2010 election. After that, over several months, we talked to many different people about the creation of the bill and the command paper. It has been through extensive scrutiny on different levels. The Scottish Government produced the proposal on corporation tax for Scotland. We had a consultation on that issue for Northern Ireland, not Scotland. The process of receiving submissions concluded some time ago. The Treasury and Government are still considering the matter and have not reached any firm conclusions.

Alison Johnstone: That is reassuring, because I picked up what you said as being that we have had a consultation. I will look at that in the *Official Report*.

I have another question, which is for both ministers. Does the bill as it stands sufficiently represent the wishes of the Scottish people? Has there been enough opportunity for Scottish people to shape the bill? Do you accept that the process has been far less participative than the previous one that resulted in power being devolved to a Scottish Parliament?

Michael Moore: Although I, of course, would say this, I am more than satisfied that there has been full engagement. It started with Sir Kenneth Calman's work with his commission, which took evidence from throughout Scotland and which had a broad range of commissioners serving on it. The commission produced a well-received report to which we sought to be faithful in the bill. That has been recognised not only by Sir Kenneth Calman but by Professor Muscatelli and others who carried out important work on the financial proposals. The issues were raised and debated during the election in 2010. In the outcome of that election, the three parties that supported the Calman proposals got more than three quarters of the

votes that were cast. From that, I take a pretty strong mandate to get on and deliver the legislation.

David Mundell: I am satisfied that the Calman proposals have been the subject of extensive consultation and discussion. There was the initial engagement by the Calman commission, which went the length and breadth of Scotland and which allowed people from all parts of Scotland to take part. There was an interim report, a report by financial experts and a final report. The previous Government produced a white paper, on which there were further comments. The current Government produced its proposals. The secretary of state and I were involved with the previous Scotland Bill Committee, which considered the bill extensively. No Westminster bill had previously been examined in such depth by the Scottish Parliament. After the Scottish elections earlier this year, we are going through the process with a second Scotland Bill Committee. The bill has had extensive scrutiny and everyone has had the ability to make their views known.

Alison Johnstone: If that ability for everyone to make their views known truly exists, is it likely that, if I were to go out on the pavement after the meeting and ask the first person I bumped into whether they knew what the Scotland Bill proposes, they would be able to answer?

David Mundell: They probably would not, which is why I do not believe that the Scottish Parliament elections that were held earlier this year gave a mandate to make significant changes to the Scotland Bill. *[Laughter.]*

Michael Moore: Touché.

Stewart Maxwell: I am interested in the view that there has been massive and extensive coverage of and consultation on the bill. Both your parties took the bill proposals into the election in May and got hammered. Should that not give you pause for reflection?

Michael Moore: Westminster is the Parliament where constitutional change can be fashioned and from where we can devolve the powers. That devolution has been a long-standing commitment from my party, which is why it was central to our manifesto in 2010, as it was in the manifestos of other parties. As I said, we got a very strong mandate for the proposals in that election—I do not resile from that at all.

15:30

Stewart Maxwell: You do not recognise that things have moved on.

Michael Moore: I am sure that you would be delighted for me to acknowledge the historic

victory that your party enjoyed in the election earlier this year, on the back of which the Scottish Government has produced six proposals for changes to the bill. However, as one of the Governments serving Scotland, we owe it to the people of Scotland to ensure that all those proposals are properly scrutinised. We have to ensure that they are detailed and well thought through, that they can enjoy a consensus across Scotland, which was achieved by the bill that we lodged, and that they are not only good for Scotland but not detrimental to the rest of the United Kingdom. In our consideration of those six proposals, that is exactly what we are doing.

David Mundell: The literature that I received from the SNP for the Scottish Parliament election indicated that the SNP would hold a referendum on independence, but it did not set out significant changes and amendments that you wanted to make to the Scotland Bill. I suggest that your party get on and hold its referendum on independence and not get involved in an analysis of the Scotland Bill.

The Convener: I remind you, gentlemen, that it is your bill that we are considering and that it is you who must justify what is in that bill.

Stewart Maxwell: Thank you, convener. I was going to make that point. As our witnesses are well aware, a referendum will be held, and I look forward to our winning that referendum in the second half of this parliamentary term.

Let us get back to the Scotland Bill, which is a Westminster proposal. Mr Moore, I was interested in your use of the word “consensus” when you said that there was a consensus on the Scotland Bill. Are you aware of the conference that took place on 8 November, which involved a wide range of experts—tax experts, businesses, people from the third sector and a variety of other organisations and people? They were asked a number of questions, one of which was whether they felt that the Scotland Bill goes far enough, should go further or goes too far. Your position is that the Scotland Bill is the right answer. What percentage of the people at that conference do you think agreed?

Michael Moore: I know that this is good, fun politics, but—

Stewart Maxwell: I just wondered because you said that there was consensus—

The Convener: I apologise for interrupting, but I think that you should just give Mr Moore the answer, Mr Maxwell.

Stewart Maxwell: You were very keen to emphasise that there was consensus across Scotland on the issue, Mr Moore. I will give you the answer: zero. Nobody at that conference

agreed with your proposals in the Scotland Bill. How do you match up the views of so many experts in the fields of tax, economics and the third sector—plus a range of other people—with your view that there is wide-ranging consensus on the Scotland Bill proposals?

Michael Moore: I am happy to point back to the election results, Mr Maxwell. When we put our proposals to people across Scotland in 2010, 77 per cent of the total votes cast were for the parties that had the Calman recommendations among their proposals—three different parties represented in the Parliament here and at Westminster.

Furthermore, when Sir Kenneth Calman took his commission around Scotland, there were more than 50 public events, not just one conference, which is what you are talking about. The important point that you might be getting to the heart of is that the answer that you get depends on the question that you ask. We might want to return to that issue in the context of the referendum.

We had to produce a proposal in the Scotland Bill, which we have done, with a package of measures included in the command paper that accompanies it. We have done that on the basis of the 2010 election results. Further to that, we have listened carefully—and continue to do so—to the voices in the Scottish Parliament and elsewhere about ways in which the bill can be changed and improved. We have demonstrated a strong willingness to do that in the right way, and we will continue to discuss the bill with this committee and with others as we need to.

Stewart Maxwell: You do not seem to have persuaded many of the experts, particularly in the fields of tax and finance, that your proposals are indeed correct.

Michael Moore: I disagree with you.

The Convener: Mr Moore, you insist on talking about the 2010 election. The parties who claim that that was a victory for the current Scotland Bill proposals sat on the previous Scotland Bill Committee in the Scottish Parliament. They gave their views and findings but, as far as I can see, there has been no concession on many of the issues that they raised, such as the devolution of the aggregates levy, air passenger duty, increasing capital borrowing limits to more than £2.2 billion, the Crown Estate, powers on drink-driving and speed limits, and international obligations—that does not even begin to start the list. How can you say that you have listened, given that in the previous session of Parliament people from your own party and all others agreed that certain issues should be considered for the Scotland Bill but have been ignored?

Michael Moore: Not to listen would be to ignore absolutely everything, not enter into the debate, not set out reasons why we thought a particular proposal was not sensible and not accept the need to engage in a process and engage with committees such as this one or committees at Westminster. I think that our track record shows that we have done quite the reverse.

Aside from that, although there are issues on the convener's list for which I have already rehearsed why we do not believe that it is necessary or appropriate to make the changes that have been requested, we have made considerable changes to the bill as a result of the previous Scotland Bill Committee's work, and we are still in dialogue with the Scottish Government. As I said at the outset, we will look carefully at what this committee brings forward in the next few weeks or couple of months, depending on when you conclude your deliberations.

The Convener: Thank you.

Joan McAlpine (South Scotland) (SNP): Mr Mundell suggested that in advance of the election people did not know that they were voting on the Scotland Bill. In that regard, I will quote what the First Minister said in the leaders' debate on the BBC on 1 May:

"I believe the Scotland Bill legislation going through Parliament just now is the immediate priority because we've got to get economic teeth into that legislation in order to assist the Scottish economy."

Just days after the First Minister said that, the people of Scotland went to the polls and the SNP polled more than the three Calman parties put together. I do not understand why you continue to say that you have a mandate for the legislation.

David Mundell: I do not follow the First Minister's words in quite the same detail as you do, Ms McAlpine, but—

Joan McAlpine: Well, the people of Scotland clearly did, because they went out and voted—

David Mundell: I cannot believe that you are suggesting that one sentence in one debate late in the campaign was the motivation for the votes of most people in Scotland in the Scottish Parliament election.

Joan McAlpine: In fact, that point was repeated in the *Evening News* on 1 May—

Members: Ah!

David Mundell: Sorry, convener, that is a clincher—I concede. [*Laughter.*]

Joan McAlpine: It was also in the *Daily Telegraph*.

The Convener: I think that we have covered the subject quite enough—on both sides—so we will move on to questions from Richard Baker.

Richard Baker: I am tempted to ask what would happen if we went into the street and asked somebody what devo max was—even if that person was the First Minister—but I will not.

I will return briefly to the substantive issue of borrowing powers. There is a body of opinion that says that now is the right time to get access to borrowing powers, and increased borrowing powers at that—the convener referred to that. I accept that you are currently not persuaded on that point, although I hope that you might be able to reflect on it more. You have said that the figure in the legislation is a floor and not a ceiling. If the bill goes through as it is, at what point do you think the UK Government might revisit the limits for capital borrowing?

Michael Moore: I am delighted to underline your point that the borrowing figure is a floor and not a ceiling. As I have already said, we have scoped it in that way as it reflects the financial situation of the United Kingdom as a whole in the course of this spending review. It is therefore something that we would return to as we considered the next spending review.

Richard Baker: So the figure would not change during the course of the spending review—it would be pretty much set in stone for the next three years.

Michael Moore: Indeed. We have set out what the limit should be and, as I have said already, given access to the prepayments so that work can get on for a major construction project. We are enhancing the powers that are available to the Scottish Government, and it is getting on and using them.

Richard Baker: There is no disagreement about whether the powers are important—they are—but there may continue to be disagreement about what the level of borrowing should be and when the powers should become available.

Adam Ingram: Mr Moore, I return to the remarks that you made about the extensive discussions that we have heard about the bill over the past year or two. On many points, despite all the parliamentary discussions and scrutiny and the dialogue that is obviously important to you, it is not clear what the bill will do or how it will do it. For example, the UK Government has failed to tell us how the cut in the block grant that is associated with the devolution of more tax powers will be calculated in the first instance and uprated in future years. Will you explain why you have not presented your mechanism to do that?

Michael Moore: We have set out before the committee and its predecessor committee the rationale that is in the command paper, which says that it will be a significant adjustment. It is a consequence of the significant financial powers that we are devolving to the Parliament to make it more accountable to people in Scotland and of the economic powers that we are giving it as part of that. To make that adjustment, we have to take great care. We have to have a methodology that is fair to the Scottish Government and UK taxpayers and ensures that we make the right adjustment and do not build in biases one way or the other.

The level of income tax receipts that will be given to the Scottish Government is fundamental to that change. We will not have information on that until the powers have been in force for two or three years. We propose that they should be introduced in 2016 and that the adjustment should come after a transition period of a minimum of two years. That will allow us to build up the evidence base, understand the actual nature of Scottish tax receipts and build up expertise and confidence in the forecasting capability of the Office for Budget Responsibility, which will take on that job.

In the meantime, we must agree the principles on which those adjustments should be made and engage thoroughly with the Scottish Government to work up the methodologies. That work is already under way. We had a constructive meeting of the Joint Exchequer Committee in September, at which we agreed the high-level principles of the block grant adjustment. That is a strong basis on which to carry forward our work.

Adam Ingram: I trust that you will agree that the devil is in the detail and that, if we want the Scottish Parliament to be able to make a judgment about whether the mechanisms will result in a neutral balance between income tax and the cuts in block grant, we have to see something in front of us. Are you asking the Scottish Parliament, the Scottish Government and the Scottish people to invest their total trust in the UK Government? Should we not be able to see some evidence that the mechanism will not disadvantage us?

Michael Moore: There must be a lot of trust in the process. The Scottish Government and the UK Government need to be partners in the Joint Exchequer Committee in good faith, and I believe that to be the case. However, we must accept that we cannot rush forward and predict now what the tax receipts will be. Well, we could have a stab at it but—I think that I said this to you the last time that I was before the committee—if I presented you with a mechanism and asked you what you thought of it, you would probably ask me on what evidence from tax receipts I had based it and how the forecasting mechanism, which is important to the adjustment mechanism, was working out.

We recognise that we cannot have complete clarity on that in 2011, but we can have clarity on the principle that there should be no detriment to either the Scottish Parliament or the UK Treasury, and we should ensure that the basic principles are transparent, that everybody can scrutinise them, and that they are flexible so that we do not lock in an arrangement that will, over time, go against those principles. As I said, we recently agreed a range of principles with the Scottish Government, and that is a firm basis on which we can do our work.

15:45

Adam Ingram: Okay. Are you willing to concede that we should proceed on the basis of joint commencement of the provisions in the bill? Would you be happy to work up your proposals and allow the Scottish Parliament to make a judgment on the basis of the appropriate evidence before taking the plunge?

Michael Moore: If I may say so, on a technical basis it is not possible to postpone commencement until you get to the adjustment mechanism. We have to get the tax system up and running, have the receipts in place for two or three years to have a body of evidence, and have the forecasting mechanism in place and worked through, so that we can then work through the actual mechanism itself. We have to commence before we can get into the process that allows us then to make an informed and fair adjustment process.

I have heard the argument a number of times, but we do not think that it is necessary to have joint commencement. I am not persuaded that that is the right way forward, but I recognise that we need to bring into the process not just the Scottish Parliament but Westminster. Scots elect us to Westminster, and they expect the work of ministers to be scrutinised at Westminster as well as here. Those processes are up and running and, over the course of our work through the Joint Exchequer Committee and as we build up the tax arrangements and everything else, I believe that we will be able to persuade the Scottish Government and yourselves that we are coming out with a mechanism that is based on the principle of fairness.

Adam Ingram: You may or may not be aware that, earlier this afternoon, Mr Swinney indicated that the issue of joint commencement is a sticking point for the Scottish Government and that he would not be in a position to recommend to the Scottish Parliament a legislative consent motion for acceptance. There is work to do in your dialogue to secure agreement on that, as you face the possibility of not having the Scottish

Parliament's approval. How would you respond to that?

Michael Moore: I have not had a chance to study the evidence that Mr Swinney gave this afternoon, but I will take care to do so. I am aware that he would like to see joint commencement proceedings but, as I have said, I am not persuaded about that. We are putting forward a package of measures for the Scottish Parliament from which the Scottish Government is already taking advantage through prepayments with the borrowing powers. We are committed in good faith to a discussion process, we have agreement on high-level principles for adjusting the block grant, and I am happy to restate that we will commit ourselves to maximum transparency as we go through that process.

The Convener: Can you clarify something for me, please, secretary of state? Did you say that you do not think that joint commencement is possible?

Michael Moore: No. I said that I am not persuaded that that is the right way to go.

The Convener: All right—I must have misheard you. Thank you for that. As you have not scrutinised the evidence that the Scottish Government gave, will you write to us with your views on it when you have time to do so?

Michael Moore: I am certainly happy to do that.

David McLetchie: I will follow on from the discussion with Mr Ingram. It seems to me that the joint commencement issue follows on from the grant reduction tax power and the fact that as yet it does not appear that there is agreement between Her Majesty's Government and the Scottish Government about the mechanism that will be applied.

That seems a cart-before-the-horse argument. If we resolved the first issue, which is on the principles and the mechanism, there would not be a second issue because, one would like to think, everyone would agree on what needs to be done technically and on the methodology. When do you expect a resolution of the issue? Will the Joint Exchequer Committee process speed up? I think that Mr Swinney alluded to the fact that there has been one meeting so far.

Can the rest of us be part of that debate? I asked Mr Swinney whether he thought it would be appropriate to publish—for our benefit and that of the wider public—some of the papers that are being exchanged, the minutes of the meeting and so on. Is that something that, in the interests of transparency, Her Majesty's Government would welcome?

Michael Moore: I am pleased to hear what the finance secretary said. I would be happy for us to

publish the minutes and other papers that the committee and others would find useful. It is important that the process is transparent and open and that people can see the high-level principles on which we are basing our discussions.

In the original command paper, when the Joint Exchequer Committee laboured under the much less snappy title of the intergovernmental bilateral committee on fiscal devolution—I am not making any great claims for the new name, but it was a recommendation of the previous committee—we said that it would meet twice a year. I have made it clear in comments in the House of Commons and elsewhere that it must meet as often as it needs to. The fact that it has met before enactment is an important symbol of our intention as two Governments to get on with the process. We have not set a date for the next meeting but it will happen before long.

David McLetchie: If I heard you correctly, you said that the two Governments have agreed on the high-level principles that will underpin the grant reduction mechanism. Are there any issues of a fundamental political nature left to argue about, or can the experts and technicians simply crunch the numbers and tell us what the answer is?

Michael Moore: That is an important part of the process, and some modelling can be done on different systems. The command paper outlines how we thought we should take the mechanism forward, but we indicated that we would be flexible and consider a range of models.

I concur that having agreed the high-level principles—a point that will be clear to everyone once the minutes are available—we are getting into the nuts and bolts of what the mechanism could look like.

This is a challenging process, which we recognise is challenging for the Scottish Government, too. Stamp duty land tax is an example of a tax that will be fully devolved at the earliest possible moment. We would expect that at some point this committee or the Parliament will want to look at the proposals on that. We are all working very hard.

David McLetchie: But on the principles that underpin what is going on, there is no difference between Her Majesty's Government and the Scottish Government. Therefore, because both sides agree on the way forward, there can be no question of anybody signing blank cheques. Is that the case?

Michael Moore: I hope that I am not pre-empting things by using the list that I have in front of me of the principles that we agreed. It starts off with the overarching objective of fairness to both the UK and Scottish Governments, limiting the risks of unintended transfers of resources one way

or the other, ensuring that the mechanism is not designed to gain advantage in one set of fiscal circumstances or another, and considering the effects of a shared tax base, including issues related to policy spillover and tax avoidance.

That sets the scene from the design process all the way through implementation, operation and review. We are ensuring that it is a living, breathing arrangement that does not lock in a process that will disadvantage people as regards the services provided by the Scottish Government or by the UK Government.

David McLetchie: That is very helpful. Thank you.

Joan McAlpine: One difficulty with the financial aspects of the bill is the amount of power that is given to the Office for Budget Responsibility in forecasting what Scotland's tax revenues will be in advance. The OBR has made several errors in the past in forecasting growth for the UK. Why should we rely on the OBR to forecast Scottish tax receipts, given its record and the fact that if our tax receipts do not match the forecasts we will immediately find that we have to cut public spending?

Michael Moore: May I make the distinction between the OBR, which makes projections based on predictions about growth and takes overarching views of the public finances—the chancellor will make the next statement on that in his autumn statement in a few days' time—and HMRC, which makes detailed forecasts of tax revenues and is the basis on which the Treasury will plan its expenditure? It is in the nature of government that nobody has perfect foresight and you have to use the agencies you can to the best of their ability. Whether there was a separate Scottish arrangement or whether that work is done by the OBR or the HMRC, there has to be a professional body with the expertise to make the projections.

There will of course be errors. Nobody in the world has perfect foresight. By using those who have most experience, we will, I believe, get the best mechanism into the hands of the Scottish Government so that it can project its expenditure as accurately as possible. Through the command paper and our previous discussions, we have made it pretty clear how many ways there will be to cope with the differences between projections and the actual receipts. There is flexibility to allow the Scottish Government to put money into the Scottish cash reserve, which will allow sums to be drawn down when the tax receipts are not as strong as projected, and to borrow to cover some of the shortfall. There will be in-year tax receipt figures supplied to the Scottish Government to allow it to make adjustments to spending as it goes through. The full range of flexibility will be available and, of course, everybody will do their

very best to get the best quality forecasts not just to the Scottish Government but to you here in the Scottish Parliament.

Joan McAlpine: I am glad that you accept that errors will be made. You will be aware, obviously—I think we can all agree on this point—that we have lived through a very volatile fiscal period. In one of the last three years, if we were using the forecasts available under this mechanism, the Scottish budget would have been £1 billion out. Our short-term revenue borrowing under these proposals, however, is capped at £500 million. There would clearly have been a significant shortfall in that case.

Michael Moore: I am not clear where the £1 billion comes from or how far out that projection was.

Joan McAlpine: I think it was in Mr Swinney's submission.

Michael Moore: We do not accept that the inaccuracy would be to that extent. The commitment that I can give you is that anybody—whether it was John Swinney, with all these powers to do it himself, me or the chancellor—would have to make available the best possible mechanism for forecasting tax revenues. HMRC constantly seeks to improve its performance and has been making substantial progress in that. Volatility does not help. We have just been through the deepest recession in peace time and we are living with the consequences of that, but we have built into the arrangements that are available to the Scottish Government flexibilities that we think will allow it to cope.

16:00

Joan McAlpine: The Office for Budget Responsibility uses Treasury models. When we have discussed the matter with a number of eminent economists, including Chris Heady from the University of Kent, Gerry Holtham and David Bell, they have all warned us against relying on forecasting from one source—the Office for Budget Responsibility. Indeed, Chris Heady said:

“It would seem to me appropriate that, if the Scottish Parliament makes decisions that are based on the OBR's forecast, it should be allowed to question the OBR. ... it would seem to me sensible that you would be able to question that judgment in much the same way as the UK Parliament can.”—[*Official Report, Scotland Bill Committee*, 13 September 2011; c 129-30.]

Would you be in favour of the Scottish Government having its own independent forecasting, so that we are not reliant on the OBR?

Michael Moore: I guess that nobody can prevent the Scottish Parliament from authorising the Scottish Government to spend public money in that way if it wishes to do so, although there would

be a legitimate debate to be had about whether that was a wise use of money. I appreciate the challenge that you set out for the OBR. Believe me, the Treasury is keen to ensure that it gets its forecasts as accurate as possible, given the huge uncertainties that economic forecasts always face, and HMRC is keen to continue to improve its performance as well. However, we should never be in a position in which the Scottish Government has to set up parallel bureaucracies to do the same job.

Joan McAlpine: You have described the bill as the greatest ever transfer of financial power from London to Scotland.

Michael Moore: I agree.

Joan McAlpine: However, it puts more powers in the hands of the Treasury because we will be dependent on the Treasury models telling us three years in advance what we will get. We will have less power than we have at present.

Michael Moore: I simply do not follow your argument. Your headline point is that the bill is some back-door way to give the Treasury more power over Scottish finances rather than less, but it takes some doing to arrive at that conclusion.

The Convener: I say for information that the previous Scotland Bill Committee covered that very point and recommended that the short-term borrowing limit be raised to £1 billion. That recommendation was not taken on board in the bill, either. Why is that, given that you have agreed that there is the potential for borrowing to be needed?

Michael Moore: I agreed that there will be variation from forecasts—variation between what forecasters say and what actually happens. That has been the reality for every government on earth and in history. However, it is our belief, from the modelling that the Treasury has done, that the mechanisms that we have put in place to allow use of the Scottish cash reserve and the borrowing powers, as well as the on-going responsibility of any Government to make in-year budgetary changes if they are required, will provide the Scottish Government with the tools to take account of any variations that we think are likely to occur.

Stewart Maxwell: The difference between the position of every government in the history of the world and what you propose for the Scottish Government is that those governments had a basket of taxes and when the forecasting was out by even a small amount—never mind a substantial amount—they could rely on being able to use other methods of revenue raising to smooth out those problems. Your proposal is that we place all the risk on just one tax—income tax—and that does not seem very sensible.

Michael Moore: There will certainly be a transfer of risk—that is inherent in increased financial accountability. However, that will be done on the basis of half of the existing income tax base—which is roughly 15 per cent of the overall spending of the Scottish Government—and the rest of the block grant will still be there. Most of the risk will still be taken by the UK Exchequer, not by the Scottish Government.

Stewart Maxwell: Virtually every person who has come before us to discuss the income tax proposal has said that it would always be better to have a basket of taxes in order effectively to protect yourself from any errors or substantial changes caused by one tax shifting around. Do you not accept that evidence?

Michael Moore: We are not devolving just income tax; there is also stamp duty, land tax and landfill tax and, we propose, an aggregates levy and air passenger duty—the way in which we do it is still under consideration. There is a provision in the bill for the devolution of further tax powers in the future if the case is made and we do it by agreement. We have not turned our back on further taxes being devolved but, at this point in time and in terms of achieving our objectives around giving this Parliament greater financial accountability and ensuring that more economic powers are available to the Scottish Government, I think that we are getting the balance right. There will be a substantial increase in the powers here in Edinburgh. As I have said many times—I am glad that it has been picked up—it is the biggest single transfer of tax powers from London since the act of union.

Stewart Maxwell: I know that you have said that; I am not sure that that means that everybody agrees with it.

I want to take you back to the responses that you gave to Mr Ingram. I am struggling to follow the logic of your argument, which is that the income tax powers should come into force and into play before the detail is worked out and agreed. Will you explain that to me one more time, because I struggle to understand why you want to put the cart before the horse? I have never seen a clearer example of it than that.

Michael Moore: It has been put to us that there should be joint commencement over agreement to the block grant adjustment. The block grant adjustment does not happen until we have built up a body of evidence about income tax receipts and forecasting expertise. That evidence cannot be built up before we start collecting income tax in Scotland under the new proposals. That is why we propose that the income tax powers will be available to this Parliament from 2016 and that after two years minimum—three, if that is what is judged appropriate—an adjustment will be made.

That adjustment will be made on the basis of the principles that I alluded to—or even directly referred to—earlier on. That will be done with the agreement of the Scottish Government through the Joint Exchequer Committee, scrutinised by this Parliament and by Westminster.

Stewart Maxwell: To be absolutely clear, when you say that it will be agreed by the Scottish Government, are you saying that if there is no agreement, the Scottish Government has a veto, in effect?

Michael Moore: I do not want to get into the territory of talking up conflict, disagreement or possible vetoes.

Stewart Maxwell: Neither does any of us, but I want to clarify exactly what the position would be.

Michael Moore: I am in the business of ensuring that we have a constructive, good-faith process, which I believe that we have embarked on successfully, which will reach agreement. In those respects, I am satisfied that we have a process that will deliver what is acceptable to the Scottish Government and to the Scottish Parliament and Westminster.

Stewart Maxwell: We all want agreement—there is no argument about that. You said specifically—not two minutes ago—that it would be done with the agreement of the Scottish Government. I just want to clarify—

Michael Moore: I am anticipating that it will agree.

Stewart Maxwell: I understand that and I am sure that we are all hoping that that is the case and that there is no disagreement between the Scottish Government and the UK Government. However, if you are saying that the Scottish Government will agree or has the right to agree, it must also therefore have the right to disagree. If there is a disagreement, is it the case that these proposals would not go forward?

Michael Moore: I have explained already how at a very early stage we agreed the principles.

Stewart Maxwell: It is the detail that I am asking about.

Michael Moore: Yes, I know, but the principles are fundamental to how we will go about it. From those principles will flow a range of mechanisms. We have set out in the command paper the one that we expect to be the most appropriate, but we have said that we will listen and we will look at that. I am sure that this will be modelled over the years to come. We will be looking to get agreement with the Scottish Government—I anticipate that we will—and that will be the basis on which the adjustment is made.

Stewart Maxwell: You do not seem willing to answer the question about what the outcome would be if there was disagreement.

Michael Moore: I do not want to anticipate that.

Stewart Maxwell: I do not want to anticipate it, either, but surely you must think about it.

Michael Moore: You keep tempting me into that territory, but I am perhaps a little more optimistic than you are, Mr Maxwell.

Stewart Maxwell: Not at all. I am asking for your opinion.

Michael Moore: I will keep my sunny disposition.

Stewart Maxwell: I always have a sunny disposition, but I must push you on the issue. Two minutes ago, you said that the Scottish Government has, if you like, the power to agree, so it therefore must have the power to disagree.

Michael Moore: I did not put it that way. I said that I anticipate that there will be agreement and that I want agreement. We will work to achieve that. It is unhelpful to talk about vetoes or to anticipate disagreements and an inability to come to a successful conclusion. We could talk about a veto power or, at the other extreme, an imposition power. Each of those is deeply unhelpful to constructive engagement on the principles, which we have had, and on the detail. In the same way that we were able to agree the principles, I am confident that we will be able to work through the detail.

Stewart Maxwell: That will be after the measures are implemented.

The Convener: If the sunshine boys are finished, I will come in. Secretary of state, you said that you are not persuaded on the joint commencement. I find it difficult to understand why you cannot see why such a simple mechanism as joint approval of commencement of a particular part of the bill is not the right of the Scottish Parliament. It has a right to make a decision on the issue and to do so once the facts are known.

Michael Moore: I have continued to listen carefully to the arguments that you and others have made, and I will of course look carefully at the committee's conclusions. We have introduced a package of measures in the bill that were honest to the proposals that the Calman commission set out. In the bill and the command paper, we have produced a good package for Scotland. We want to move forward and have it commenced as soon as possible, on the basis of careful and close working together. On that basis, I do not believe that joint commencement powers are necessary. I am happy to repeat and to highlight the fact that the income tax proposals must be implemented

first before we get to the adjustment proposals. The commencement must be right at the outset to let us get on with the work on income tax receipts, otherwise there is no discussion to be had about the adjustment mechanism.

The Convener: I am sure, secretary of state, that you are a clever chap, as is Mr Swinney, so you could sit down and work out a way to give this Parliament the respect that it deserves, while giving Westminster its place. I hope that you will take that on board and will look to do that.

Michael Moore: I have heard clearly what you have said and I know that you have listened carefully to me. I hope that, in the spirit of the discussions that we have entered into, not just here but elsewhere, we will continue to work towards an agreement that is acceptable to everybody.

The Convener: Before I bring in John Mason, I want to ask about something else that struck me in your loving spat with Mr Maxwell. You said that, because taxes other than income tax are involved, there is therefore a basket of measures. Given that the income tax take is £4.5 billion and landfill tax is likely to raise £75 million, that is not really the kind of basket of taxes that others have suggested would be good to have to give a degree of fiscal autonomy.

Michael Moore: I was not seeking to make those equal; I just did not want the point to be lost that other taxes are part of the package. There is a mechanism for further devolution of taxes by agreement in future.

John Mason: I admit that I admire Mr Moore's optimism that we will all agree. I am just glad that he does not run the football authorities, because otherwise there might be no referees, on the assumption that all the sides would agree with one another.

I will press you on joint commencement. I understand that some things will be fluid and that forecasts will have to be looked at—that is a difficult issue. However, there are other aspects. Some of the professional institutes spoke to us about residence; they do not always agree with the UK Government as to how residence is defined. At what stage would the question of who is and is not resident in Scotland be decided? It is all very well to say that it has to be fair, but somewhere along the line someone will have to decide who is resident and who is not. What happens if there is disagreement?

16:15

Michael Moore: That is defined in the bill.

John Mason: I am not sure that it is defined in that much detail.

Michael Moore: The pair of us have to admit to being chartered accountants, and our institute, the Institute of Chartered Accountants of Scotland, looked carefully at that. It is closely involved in the high-level implementation group that is looking at all the detailed aspects. The minutes of those meetings are publicly available and the technical groups that HMRC has set up to look at all the different proposals are working away. There is broad agreement and clarity on residence and the definition of Scottish taxpayers.

John Mason: You are saying, though, that some of that is still being worked through.

Michael Moore: Some technical details to do with the legislation are; yes, of course.

John Mason: There are a lot of technical details about residence—how long people are in one place, how long in another place and other such things.

Michael Moore: I refer you to section 80D of the bill, which defines Scottish taxpayers. They will be deemed to be UK-resident—residency will remain a UK issue—but whether or not they are Scottish taxpayers within that is defined in the bill.

John Mason: We are told that in Canada every taxpayer has a tax return and has to state where their residence is. That is not the case in Scotland, however, so there is a question whether the information as to where people are taxpayers is available.

Michael Moore: The system will be based on the PAYE software, in which people will be flagged as being Scottish taxpayers. The Institute of Payroll Professionals has been doing a lot of work on this and they believe that the adjustments that need to be made to the payroll software, which was introduced for the Scottish variable rate, will be reasonably minimal, subject to agreement on the precise forms of information required by the Scottish Government and others. Yes, there are practical aspects to that which we have to look at with care, but we continue to work that through with the technical groups and will publish the outcomes as quickly as we can.

John Mason: My point on that—there may be other examples, but we will stick to that one—is that, assuming that that is not decided or finalised before we get to the end of the legislative process, somebody will have to decide. Would it not be fair to have joint commencement, or whatever you want to call it, so that both the Scottish and UK Parliaments would agree the detailed provisions on where each taxpayer is, how much of their year is in one place and how much in another?

Michael Moore: I ask you to go back to the bill, which is clear and helpful in defining that. It is obviously not for me to speculate on the work of

the committee, or anybody in this Parliament, and how much work they want to do, but detailed implementation, beyond what is in the bill, is usually left to HMRC and others, with appropriate scrutiny from select committees and others as they see fit. So that there is plenty of facility to ensure that we work this through carefully, there will be an additional accounting officer in HMRC who will be responsible for the Scottish income tax and, as we show with UK tax as a whole, we will respond to difficulties if they arise. We are flexible about that and will continue to be so.

John Mason: Again, I admire your optimism, but the institutes who gave us evidence were a bit more pessimistic.

Switching to the 10 per cent rate, we have heard evidence since you were last here from Sir Kenneth Calman about how the figure of 10 per cent came about and he suggested that it was fairly arbitrary. Why have you gone for 10 per cent?

Michael Moore: It is a simple and straightforward measure. I think that Professor Muscatelli gave you evidence on the subject—

The Convener: No, he didn't.

Michael Moore: I am sorry. I must be attributing to this committee evidence that he gave elsewhere. Professor Muscatelli was the chair of the expert panel that looked at this issue, which was all about getting a simple, straightforward measure that met the broad test of sharing the tax base, providing additional accountability for the Scottish Parliament and ensuring that the allocation of taxes between the tax bands is retained at a consistent level as we go forward. I think that our proposals honour those aims.

John Mason: The reality is that although 10 per cent is easier than 9 per cent or 11 per cent there is no particular reason for choosing the figure of 10 over nine or 11.

Michael Moore: You have to make a judgment. We judged that the best way was to make things straightforward and simple and have a level that gave accountability to the Scottish Parliament, was straightforward to implement and could be understood. We have achieved that with this decision.

John Mason: Would it not be clearer to the public if all income tax came to the Scottish Parliament and Government? After all, it would let them know that the Scottish Government was definitely responsible for its going up or down. Do you not think that if it is split the public might get confused about whether Westminster or Scotland is responsible?

Michael Moore: We always have a duty to explain to our constituents and people across the

country the basis of our decisions and what comes from where. I think that people already understand these things. After all, they get tax bills from their councils as well as from the UK Government and I expect that when they get their P60s at the end of the year they see the line showing the tax they have paid in Scotland or to the UK Treasury. That information can be made perfectly clear—it is up to the Scottish Government to decide in time the amount of information that it wants to put out there and share. I suspect that that will be the subject of very lively political debate both here and elsewhere in the country.

Willie Rennie: I do not remember the First Minister campaigning against the 3p rate during the 1997 referendum. I am not sure what the rationale behind the proposal was, but it seems to have been acceptable at that point—10p seems reasonable to me.

Earlier this afternoon, Mr Swinney said that he had answered all of Mr Gauke's 40 questions on corporation tax. Is that the case?

Michael Moore: As I said earlier, neither I nor my Treasury colleagues have had a chance to study the letter in detail. My first impression is that the letter does not set out 40 questions with answers pinned beside them, but I will double-check that.

Willie Rennie: Mr Swinney has also talked about the need for a basket of taxes; indeed, the point was made again this afternoon. However, my understanding is that corporation tax is one of the more volatile taxes; that, instead of mitigating things, it could exacerbate volatility; and that although it might be considered as part of a basket of taxes, it is not really a mitigation measure. What is your understanding of how corporation tax works and could it mitigate in these circumstances?

Michael Moore: The point about volatility is entirely fair. No matter whether it is changed, the devolution of corporation tax comes with significant costs; for example, there are compliance costs and other costs for business. After all, the tax is a hugely significant part of what they are about.

Another big factor that must be considered is that reducing the tax rate will reduce the Scottish Government's spending power, and there will be direct costs attached to the reduction in the tax take. We also need to take into account behavioural impacts as businesses relocate either in a positive way to Scotland from abroad, which will increase the tax take, or from other parts of the UK to Scotland, which will reduce the tax take. There are very clear rules governing the consequences of such a move and there will be no option but to reflect that in adjustments to the

block grant. What I have seen so far addresses neither those issues nor the many questions that the CBI and others have raised about the challenges that having different rates in the UK will present. However, we are looking carefully at that. We are considering the issue and how it affects the situation in Northern Ireland, which is quite different. We are looking carefully at what the issues are there as well as in Scotland and, as I have mentioned, we will continue to have dialogue on that.

James Kelly: All the arguments for and against the devolution of corporation tax have been well rehearsed within and outwith the committee. You have spoken about the process. The Scottish Government has made representations to you and we know that other representations have been made. What is the process for looking at the evidence and coming to a conclusion on whether the devolution of corporation tax should be included in the bill?

Michael Moore: For now, the process involves the exchanges of correspondence that we have been having and the discussions that we have in different ministerial meetings as part of the everyday business of the Scottish and UK Governments. We have only just received the latest response from Mr Swinney, and we owe it to him, the committee and the Parliament to look at it carefully. We will do that. As I said to Mr Rennie, my sense is that I do not think that all the questions have been dealt with in detail. As you say, the evidence in both directions has been well rehearsed in front of the committee. We are looking to have those questions answered and, if they are not, we will ask them again.

James Kelly: So the evidence base for reaching your decision is simply the correspondence from the Scottish Government.

Michael Moore: If you remember, we said at the outset that detailed proposals had to be made. If I am right, from the opportunity that I have had to look at the correspondence so far, Mr Swinney has talked about modelling evidence that has been produced. My sense is that I do not think that that has been provided to us, although I cannot say so for sure—I will check. That is the kind of stuff that we need. We need to see more of the detail. We need to see the different contingencies and scenarios being worked through, and I look forward to getting that information.

The Convener: Nigel Don has a quick point.

Nigel Don: Going back to the election results, which we are well aware of, do you recognise that there is rather less appetite for things to be re-reserved to Westminster than might have appeared to be the case before the election? Have you reflected on the areas that the bill seeks to re-

reserve and whether those proposals remain sensible? I think that most of us do not feel that powers should be going back to Westminster.

Michael Moore: There are areas that we are seeking to re-reserve. I am happy to bring David Mundell in at this point, because he has had closer involvement with that aspect of the bill. The principle behind re-reservation is that we want to ensure that we get powers in the appropriate place. For example, it seems to me pretty important that we deal with healthcare professionals and the like on a UK-wide basis, given that people move around the UK to do different jobs. We will listen again and reflect on the evidence that has been put before the committee when it reports, and we will, of course, also deal with the issue when the House of Lords considers the bill, which I anticipate will be in the new year.

David Mundell: I certainly accept that there is an issue of principle for Mr Don's party. We had an extensive debate with the previous Scotland Bill Committee on the principle that there should be no re-reservation. However, the Calman commission was quite clear in its deliberations on the settlement that there were areas in which re-reservation would bring benefits, and that is the basis on which we have proceeded. I respect the fact that there are members of the committee who, as a matter of principle, will not accept that, and that there is nothing that I or the secretary of state can say to persuade them.

Nigel Don: Thank you for that recognition, which I think might be a start.

I would like to take you back, briefly—

The Convener: Very briefly, Mr Don.

Nigel Don: —to some comments that were made by Jim and Margaret Cuthbert.

I am sure that you will be familiar with the Cuthberts' comments on the income tax proposal: they told us that it would offer "perverse incentives" to overtax. I understand that that is very much one for the mathematicians, but it nonetheless seemed to be a fair point that was borne out by algebra. Have you and your technical experts reflected on whether that proposal is still the appropriate way to go forward on tax?

16:30

Michael Moore: We believe that it is. I will ensure that I—or perhaps more importantly, my colleagues in the Treasury—look very carefully at the observations that have been made. However, for all the reasons that we gave in our previous evidence session, I think that the proposal is the right basis on which to proceed and the most appropriate thing to do.

The Convener: You do not look very content, Mr Don, but are you finished?

Nigel Don: When algebra says one thing, it is very difficult to disagree with it. It would be nice to see that issue dealt with mathematically by the economists, of whom I am not one.

The Convener: Okay. We are coming to the close of the session, but there are quite a few things that I would like the secretary of state to be clear about. First, what is the connection between Sir Ming Campbell's commission and the current bill?

Michael Moore: The commission has nothing to do with the bill. I am here as Secretary of State for Scotland; you are presumably asking me as a Liberal Democrat—

The Convener: Feel free to answer if you wish to shed some light on the matter.

Michael Moore: I am very happy to do so. As a party, we have championed home rule for well over 100 years, and we have been right at the heart of all the processes that have led to the devolution of power to Scotland. Those include the creation of the Parliament back in 1999—if I may say so, convener, your party chose not to be part of the convention that created the Parliament—and the Calman commission, in which the parties came together, again without the SNP, and brought forward the proposals that we are debating this afternoon.

As a party, we have always set out our stall and argued the case, and we have then sought to find common ground and consensus. Not every last proposal that the Liberal Democrats put forward from Gladstone onwards was embodied in the Scottish Constitutional Convention, but we found common ground with the Labour Party and others, and delivered the Parliament in 1999.

In the past we have taken part in the Steel commission, which considered the principles that might apply to tax and some of the issues around that, without coming to particular conclusions. The Steel commission informed the debate that we had in the Calman commission. Once again, we found common ground with other parties and we have legislated on that basis. I am proud to be the person who is leading the legislation through Westminster.

Our intention as a party is, through the home rule commission, to examine once again what we think is appropriate for Scotland in the 21st century. I do not anticipate that the results will simply be handed down and delivered; we anticipate that the commission will stimulate debate and, we hope, involve other parties, although I do not know whether the SNP will be

interested in taking part. We will then see where it goes in terms of future legislation.

All parties need to keep the situation under review and bring forward their own proposals. We then get the debate, followed, I hope, by agreement and then legislation.

The Convener: Of course, the SNP did not participate in any of the things that you mentioned because independence was not allowed to be discussed.

Do you accept that the discussion on independence—ergo a referendum—is the right of the Scottish people and the Scottish Parliament?

Michael Moore: I believe that the First Minister has been very clear that he intends to bring forward a referendum. I would like to see that happen sooner rather than later, and I would like there to be some clarity about what the question will be—indeed, how many questions there will be.

We hear suggestions that there will be something called devo max on the table, which I do not believe has been particularly well defined, if it has been defined at all.

It would be very helpful if the SNP was to come forward with its proposals early on—let us engage in the same way that we are engaged here this afternoon and get on with that debate.

The Convener: You mentioned the word “clarity”. There is certainly some discussion about a clarity clause that may well be inserted in the Scotland Bill. Are you saying to me that that will not be the case?

Michael Moore: Nobody has brought forward that proposal to me. From my perspective, the Government has a mandate for and a strong commitment to the Scotland Bill. I intend to continue to see that it passes through Parliament. My friend and colleague Jim Wallace will take it through its committee stages in the House of Lords in the near future. A number of issues will be debated there, as I am sure you are aware, but I am looking to deliver the package that we are describing to you here this afternoon.

The Convener: Are you saying, then, that if someone did bring forward such a clarity clause your Government would vote against it?

Michael Moore: What I am saying is that the clarity needs to come from the Scottish Government. The First Minister needs to bring forward his proposals. I have invited him to do so. At one of the recent meetings that David Mundell and I had with the Cabinet Secretary for Finance, Employment and Sustainable Growth and Mr Crawford, we invited them to publish a bill, to show us the basis for the legal view that the Parliament has the competence and is ready and able to have

a referendum, and to show us exactly what the questions will be and how the process will be run. I am very disappointed that we have not got that. Irrespective of the dispute about when the referendum takes place—I think that it needs to take place sooner rather than later—the debate in Scotland would be greatly enhanced by having the proposals published, which is surely owed to the Scottish people, so that we can get on and debate them.

The Convener: That is all very well—I am sure that that will happen in good time, as the Scottish Government has pledged. However, I am asking you to ensure that there is nothing in the Scotland Bill that interferes with the right of the Scottish Government, representing the Scottish people, to set the timing and wording of the questions for the referendum.

Michael Moore: The referendum plays no part in the bill. What we are interested in is getting this package of measures on to the statute book and implemented.

The Convener: So if it plays no part in the bill, are you saying that it will not be in the bill?

Michael Moore: I do not anticipate that it will be. It is not what this Government is bringing forward. It is the First Minister who should be bringing it forward, and I hope that he will.

The Convener: We are discussing a Westminster bill. If someone else brings such an amendment forward, are you telling me that your Government will vote against it, because you respect and recognise the rights of the Scottish Parliament, the Scottish Government and the Scottish people?

Michael Moore: You are inviting me to respond to a hypothetical. We do not intend to bring forward any such proposition. You in this Parliament are invited to do so. The First Minister has said that he will do it. I respectfully suggest that the questions on this are for the First Minister and the Scottish Government to answer. I hope that the uncertainty that has been caused by the lack of detail will be recognised and that the proposals will be brought forward sooner rather than later.

The Convener: There is a great deal of uncertainty about what you are saying just now. I am asking a very straight question: are you saying that the issue will not be in the Scotland Bill, that you respect the right of Scotland to take these decisions and that you will not put anything in, or allow anything to go in, the Scotland Bill in relation to the matter?

Michael Moore: A range of issues will come forward to us through the House of Lords. What I am saying is that my priority is to get the Scotland

Bill through. I think that the Scottish Government's priority should be to lay out its proposals for its own referendum and let us get on with that debate. I fully respect the right of the First Minister, the Scottish Government and this Parliament to bring forward those proposals.

The Convener: Yet you will not guarantee that there will be no fixing the timing and questions through the Scotland Bill.

Michael Moore: Those issues are not part of my bill, nor do I intend to bring them forward. I humbly suggest that this Parliament ought to be scrutinising the Scottish Government's proposals to have a referendum. Let us get that debate out there and let us all be part of it as Scots, whether we are in this Parliament or not. Let us have the debate and resolve the question.

The Convener: So if someone brings forward an amendment in the terms of the Canadian clarity clause, for example, you will reject it as a Government.

Michael Moore: Nobody has done so. I am not getting drawn into hypotheticals when I am concentrating on getting the Scotland Bill through with this package of measures, which we have considered in some detail this afternoon and previously and which you have looked at with a great deal of care over the past few months.

The Convener: I am disappointed that you will not give that clarity to the Scottish people. However, I thank you for coming and for saying that you have not ruled out joint approval of measures in the bill and that you will look at that. If we have any further questions, can we write to you and get a written response?

I ask you once more, just for the record: will you guarantee that you will not interfere with the workings of the Scotland Bill in relation to the rights of this Parliament?

Michael Moore: I think that I have answered that question consistently plenty of times. However, I thank you and your colleagues for the opportunity to be here this afternoon. I absolutely agree that we will provide any further answers that you require in considering the evidence that we or my colleagues in the UK Government have given, or any evidence from others on which you wish us to give you a perspective.

The Convener: You said earlier this year that your Government would

"proceed with the Bill only with the formal and explicit consent of the Scottish Parliament."—[*Official Report, House of Commons*, 27 January 2011; Vol 522; c 477.]

Do you stand by those words?

Michael Moore: I have no reason to change that opinion, but, if I may say so, I remain

optimistic that we will be able to listen to the points brought forward by this committee, deal with the issues still being raised in the Houses of Parliament and produce a bill that is acceptable to the people of Scotland.

The Convener: Thank you very much, secretary of state. I also thank David Mundell and your assistants.

That almost brings this meeting to a close. It is the last public meeting of the committee, so as convener I would like to thank all the witnesses who have come along and given of their time to enlighten us. It has been a long process. I also thank all the members of the committee for the very constructive way in which the committee has moved forward in its evidence taking, and the clerking team for all the help that we have had from them.

We will meet again next Tuesday in private.

Meeting closed at 16:41.

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