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Official Report

MEETING OF THE PARLIAMENT

Wednesday 16 September 2015

Session 4

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Scottish Parliament

Wednesday 16 September 2015

[The Deputy Presiding Officer opened the meeting at 14:00]

Portfolio Question Time

Justice and the Law Officers

The Deputy Presiding Officer (John Scott): Good afternoon, everyone. The first item of business this afternoon is portfolio questions. In order to get in as many members as possible, I would be grateful for short questions and answers whenever possible.

Police Scotland and Scottish Fire and Rescue Service (Business Cases for Establishment)

1. Margaret McDougall (West Scotland) (Lab): To ask the Scottish Government whether it will publish the business cases that were prepared in advance of the establishment of Police Scotland and the Scottish Fire and Rescue Service. (S4O-04578)

The Cabinet Secretary for Justice (Michael Matheson): The outline business cases that were prepared for the reform of the police and fire services were published in September 2011 and are available on the Scottish Government's website.

Margaret McDougall: Would it not have been better to have published a fully fleshed-out business case at the outset than to have published an outline one, given the situation that we are now in with Police Scotland?

Michael Matheson: The outline business case set out in considerable detail both the financial and non-financial benefits that would come from police reform. It was also used to inform the financial memorandum that accompanied the Police and Fire Reform (Scotland) Bill. As the Scottish Government indicated to the Public Audit Committee, it was important that we moved forward with the reform in order to realise the savings as early as possible, given the budget cuts by the United Kingdom Government that we were experiencing.

It is worth keeping in mind the views of the Auditor General, who stated:

"Given the stage of reform"

of the police service,

"it is my view that the financial strategy is the more important document for SPA and Police Scotland to now focus their time, effort and resources into developing."

That is exactly what Police Scotland is doing as part of the corporate strategy that it produced in March and the work that it is now undertaking in its financial planning for the long term, which will be informed by the comprehensive spending review when it is published later this year.

Graeme Pearson (South Scotland) (Lab): It was before the cabinet secretary's time in office, but he might be aware that we were promised a detailed business case. Given the events of the past two years, there is no doubt that such a detailed business case would have been helpful, as we would now know where we stand in terms of the savings.

Michael Matheson: I understand that the request from the Public Audit Committee, which went back to December 2013, related to the work that Police Scotland was undertaking on its corporate strategy, which includes its long-term financial planning. It was the Government's view that delaying the reform of the police and fire services while a full business case was developed would have limited the time over which some of the financial savings could have been achieved, given the financial pressures that existed at that time. As I mentioned, the Auditor General stated that, at this stage in the reform, the priority is the financial strategy, which is the work that both the police and the fire service are undertaking now. That work will be informed by the comprehensive spending review when it is published later this year.

Chief Constable of Police Scotland (Meetings)

2. John Pentland (Motherwell and Wishaw) (Lab): To ask the Scottish Government when the Cabinet Secretary for Justice last met the chief constable and what they discussed. (S4O-04579)

The Cabinet Secretary for Justice (Michael Matheson): I regularly meet the chief constable and other senior officers from Police Scotland to discuss matters relating to policing and public safety. I last met the chief constable on 9 September.

John Pentland: Stephen House recently said, in a newspaper article dated 28 August, that he could

"pull together an option that would completely balance the budget"

but he questioned whether it would be "politically acceptable" to the Scottish Government and the Scottish Police Authority. Will the cabinet secretary tell us what the chief constable meant by that and what specific measures he is considering that might not be "politically acceptable"?

Michael Matheson: To be frank, the member would have to ask the chief constable, as he has not shared that information with me.

Margaret Mitchell (Central Scotland) (Con): Is the cabinet secretary concerned about the high level of assaults on police officers, as reported by the Scottish Police Federation, which comments that many of those prosecution charges appear to be downgraded or dropped? Will he confirm whether he has discussed the matter, or intends to discuss it, with the chief constable and the Lord Advocate?

Michael Matheson: It is important that we consider those matters. The Lord Advocate is in the chamber to hear Margaret Mitchell's concerns on the issue. If there is an issue that she wishes to pursue further, I would be more than happy to discuss it in more detail.

Roderick Campbell (North East Fife) (SNP): Does the cabinet secretary agree that one of the chief constable's greatest achievements has been the continued decrease in knife crime, as the recently published crime statistics disclosed that crimes of handling offensive weapons have decreased 67 per cent since 2006-07?

Michael Matheson: It is worth keeping in mind the fact that recorded crime in Scotland is at a 40-year low. Rod Campbell makes an important point on the significant drop in the number of people handling offensive weapons. We should not lose sight of the correlation with the incidence of homicide in Scotland, which has reduced.

There is no doubt that we have made significant progress in recent years. On the progress that we have made on offensive weapons, it is very telling that statistics showed last week that the number of young people under 19 who were convicted of handling an offensive weapon fell from 812 in 2006-07 down to 165 in 2013-14. That is a very significant drop of nearly 80 per cent. It reflects the proactive work that Police Scotland has undertaken, and the legacy forces undertook, to underline the risks and concerns around carrying offensive weapons.

Neil Findlay (Lothian) (Lab): When the cabinet secretary met the chief constable, did he discuss the disappearance of coins worth more than £1 million from the national museum of Scotland that, it transpires, may have occurred when management opened the museum without adequate staffing as staff were on strike over weekend allowances? Does he know whether Police Scotland was involved in any risk assessment of a decision that has apparently resulted in national treasures being nicked?

Michael Matheson: No, our conversation did not involve those matters.

Sheku Bayoh (Investigation into Death)

3. Gil Paterson (Clydebank and Milngavie) (SNP): To ask the Scottish Government whether it will provide an update on the next steps in the process of the investigation into the death of Sheku Bayoh. (S4O-04580)

The Lord Advocate (Frank Mulholland): The Police Investigations and Review Commissioner has now submitted an interim report to the Crown and, as a result, further inquiries have been instructed. There remains further work for PIRC to do, particularly in relation to the cause of death, before its investigation is complete.

The family of Sheku Bayoh have been kept advised throughout the investigative process and, together with their legal adviser, met me and Crown Office officials on two occasions, the last being on 26 August 2015. That meeting gave me the opportunity to update the family on the progress made to date and the further work that requires to be carried out, as well as to listen and respond to a number of issues that they raised.

I have reassured the family of my previously given undertaking that the inquiry will be thorough and completed as soon as possible.

Gil Paterson: Does the Lord Advocate agree that it is important that the investigation is thorough, completed as quickly as possible and retains the confidence of the family of Sheku Bayoh? Will he comment on the role of the Police Investigations and Review Commissioner in the investigation?

The Lord Advocate: I whole-heartedly agree that the investigation must retain the confidence of the family of Sheku Bayoh. Regardless of the outcome of the investigation, who can fail to sympathise with them for their loss? Having met them on two occasions, I know the effect that the tragedy has had on them. They have borne their loss with great dignity. They are right to demand answers and they deserve a thorough, impartial and objective investigation. It is my job and that of PIRC to deliver such an investigation expeditiously without compromising thoroughness, and I am confident that that can be done.

Kate Frame, the head of PIRC, and Sir Stephen House, the chief constable, have recently met the family. I welcome that and I note the positive welcome of that on behalf of the family. I also note that Kate Frame has stated publicly that she has listened to the concerns of the family and will involve them in the appointment of experts for the further work that has to be done in attempting to establish a cause of death. I welcome that, and I have full confidence that PIRC will do that.

Finally, as I have confirmed to the family personally and in correspondence, regardless of a

decision on criminal proceedings, there will be a fatal accident inquiry. An FAI is mandatory, Sheku Bayoh's death being a death in custody. An FAI will allow all the evidence to be presented in a court that is open to the public and the media and to be rigorously tested by all parties represented at the FAI, including the family. An FAI will also allow the sheriff to make findings in fact and recommendations in relation to Sheku's death in a judgment that will be available to all.

Claire Baker (Mid Scotland and Fife) (Lab): I have met the Lord Advocate and corresponded with him on this issue, and I thank him for his willingness to reply.

I ask the Lord Advocate to investigate why it took more than a month for officers who were involved in the incident to speak to PIRC. The cabinet secretary has repeatedly said that he does not believe that that was due to a lack of powers on PIRC's behalf. Does the Lord Advocate think that the time delay was acceptable, and does he understand why it took so long?

The Lord Advocate: That is a matter that PIRC is looking into and forms part of its interim report. As indicated, we are still waiting for a final report. There are evidential reasons for that. Given that it is a live inquiry, it would not be appropriate to go into that at this stage. However, I am aware of the member's concern about the issue; I am also aware of the family's concern about the issue, and it will certainly be addressed.

Local Court Closures (Net Financial Savings)

4. Iain Gray (East Lothian) (Lab): To ask the Scottish Government when it expects net financial savings from the closure of local courts. (S40-04581)

The Minister for Environment and Climate Change (Paul Wheelhouse): The final phase of court closures was completed in January 2015. By the end of 2014-15, the closures had already delivered net annual recurring cash savings to the Scottish Courts and Tribunals Service of more than £600,000 and time-releasing savings of more than £100,000. The closures also resulted in a reduction in the outstanding maintenance backlog of more than £2.8 million.

The SCTS is on track to deliver the estimated savings that were given during the public consultation process. The savings are being reinvested by the SCTS, allowing targeted investment in a smaller estate to improve both facilities and technology. The SCTS focus is on building a stronger court service that improves access to justice, reduces delays and costs and maximises the use of technology to improve services.

Iain Gray: The truth is that, in the case of Haddington, which closed in January, many months have passed. The court is still on the court service books and the commensurate maintenance costs continue to be a cost against the court service.

The truth is that savings—if any—that have already been made and any that can be made will be dwarfed by lost business in Haddington High Street and by extra costs incurred by the police—

The Deputy Presiding Officer: And your question is?

Iain Gray: —by social work and by individual citizens who are trying to access justice.

The justice secretary has made something of a reputation for himself by reversing the dafter decisions of his predecessor. Will the minister not ask his colleague to reverse this decision too?

Paul Wheelhouse: It is worth stressing that, as Mr Gray knows, these are operational matters for the SCTS, but I recognise the points that he has made. I heard them myself in the course of the debate around the future of Haddington sheriff court.

The SCTS is working with the local authority on legal issues in relation to the building itself. I hear Mr Gray's point about maintenance savings, but clearly this is a long-term decision about the future shape of the delivery of court services in Scotland and the intent is to dispose of the premises and to move on.

I reassure Mr Gray that, based on the evidence that I have seen, the court business that has transferred from Haddington is being dealt with efficiently in the Edinburgh sheriff court.

Gordon MacDonald (Edinburgh Pentlands) (SNP): Can the minister outline any measures that the Scottish Government has introduced to help deal with any additional pressures that may have been put on the remaining courts?

Paul Wheelhouse: Gordon MacDonald raises a fair point. The cases of domestic abuse and sexual crimes that have been dealt with have led to an increase in activity in Edinburgh sheriff court and in other sheriff courts. The Crown Office and Procurator Fiscal Service and the SCTS have been given an additional resource of £1.47 million to provide sufficient cover to ensure that the human resources are there.

It is worth stressing that that resource would have been necessary even without the court closures. It is not a consequence of the closures but a result of the efforts that Police Scotland and the Crown are making to encourage women and others to come forward to report cases of domestic abuse and to ensure that those cases

can be dealt with in our courts. I reassure Gordon MacDonald that resources, when they are required, are being provided.

Firearms Licensing (Restructuring and Centralisation)

5. Alison McInnes (North East Scotland) (LD): To ask the Scottish Government what its position is on Police Scotland's restructuring and centralisation of the firearms licensing function. (S4O-04582)

The Cabinet Secretary for Justice (Michael Matheson): The Scottish Police Authority approved Police Scotland's proposals for the restructuring of its firearms licensing section at the SPA's meeting on 27 August. Such decisions are rightly for the police and the SPA. However, the Scottish ministers have received assurances that public safety remains a fundamental part of Police Scotland's considerations.

Alison McInnes: Until now, dedicated firearms inquiry officers carried out in-depth inquiries into licence applications, with their key role being to identify applicants who might pose a risk to public safety or to themselves.

The new centralised model involves the substantial loss of civilian expertise and the transfer of functions to police officers, who are to undertake the role on a part-time ad hoc basis as part of their other duties.

I ask the cabinet secretary to address two areas of concern. First, when there are spikes in police activity as a result of major events or major incidents, will the firearms work be sidelined? Secondly—and perhaps more importantly—I understand that the training that is being offered to police constables who are taking over the role is at best minimal.

The Deputy Presiding Officer: I ask the member to come to the point, please.

Alison McInnes: A few days in the classroom are no substitute for decades of experience. Is the cabinet secretary absolutely confident that the new arrangements and the training provision will not compromise public safety?

Michael Matheson: As I said to Alison McInnes in my previous response, we have sought assurances from Police Scotland that public safety remains a central focus of the way in which it handles firearms certificate applications, and it has assured us that that remains the objective.

One of the aims in moving to a much more streamlined and centralised approach to the matter is to ensure that it is handled in a consistent way across the country. There were different approaches in the eight legacy forces in dealing with such issues.

I understand that, since the turn of the year, approximately 350 police officers have gone through a specific training programme to enable them to undertake work on firearms certificate applications and renewals. Additional administrative staff are also being provided to support the work.

It is worth noting that the training is, as I understand it, not a one-off but part of an on-going training programme that those officers will undertake to ensure that their skills are sufficient for the role that they carry out. It is important to recognise that the move is about getting a more consistent, effective and flexible approach.

On the issue of spikes in the demands on police time, I would expect that, given that public safety continues to be a key part of how Police Scotland delivers the firearms certificate process, it will continue to be a priority in dealing with these issues.

Aberdeen Police Control Room and Service Centre (Additional Resource)

6. Lewis Macdonald (North East Scotland) (Lab): To ask the Scottish Government how much additional resource it plans to spend on the police control room and service centre in Aberdeen in the current financial year. (S4O-04583)

The Cabinet Secretary for Justice (Michael Matheson): On 3 September I announced that the Scottish Government will immediately make £1.4 million available to Police Scotland to support the implementation of the recommendations arising from the interim report on call handling by Her Majesty's inspector of constabulary in Scotland.

It is for Police Scotland, with the oversight of the Scottish Police Authority, to decide how that money should be allocated to the various activities that are required to implement the HMICS recommendations.

Lewis Macdonald: Will the cabinet secretary confirm that almost half the highly trained call handlers have left the service centre in Aberdeen since the beginning of last year? Does he accept that the report requires him to replace those staff?

Will the cabinet secretary explain whether the provision that he has made assumes that those staff will be replaced by recruiting and training civilian staff for the Police Service; by taking police officers off the front line to answer calls; or by using a recruitment agency to fill positions on a temporary and casual basis?

Michael Matheson: Police Scotland is presently reviewing its plans for the handover to the call centres, including the changes that were proposed in Aberdeen, in order to evaluate how it can most effectively deal with the recommendations from

HMICS. I understand that Police Scotland intends to accelerate the recruitment of between 70 and 75 staff in order to support that transfer process.

In the meantime, while Police Scotland is recruiting additional staff for the Govan and Motherwell centre and for the Bilston Glen centre, as well as staffing up the new Dundee centre, the Inverness and Aberdeen centres will remain in place. Only after Police Scotland has completed that transition plan—and HMICS has considered the plan—will it consider whether the final transfer will be completed within the existing timeframes that have been set.

As HMICS has outlined, a very thorough transition plan needs to be put in place, which will be considered by the SPA and by HMICS before the final transition takes place involving the staff at Dundee and Aberdeen.

The Deputy Presiding Officer: That concludes portfolio questions on justice and the law officers. I regret not being able to call more members.

Rural Affairs, Food and Environment

Bee Population (Reported Decline)

1. James Dornan (Glasgow Cathcart) (SNP): To ask the Scottish Government whether it will provide an update on discussions it has had regarding the reported decline in the bee population. (S4O-04588)

The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead): We are working closely with the honey bee sector on a strategy that aims to achieve a sustainable and healthy population of managed honey bees. In recent years, we have seen an increase in managed stocks in Scotland.

James Dornan: Recently, Marco Giannasi, who owns the Battlefield Rest, which is a local restaurant in my constituency, installed beehives on its roof, and I was presented with a petition that was put together by five-year-old Conrad House, who is a pupil at Merrylee primary school. Conrad managed to get more than 150 signatures from friends, family and neighbours for his petition, which brings attention to the importance of bees to the food chain. Will the cabinet secretary join me in welcoming that recognition by my constituents of all ages of the role that bees play? Will he accept my invitation to come to my constituency to meet Conrad and his family to discuss the petition further?

Richard Lochhead: I am delighted to hear that restaurants in Battlefield are installing beehives on their roofs. Indeed, Presiding Officer, the Scottish Parliament has also installed beehives.

There is increasing awareness across Scotland and the world of the role that bees play in delivering food security. I understand that about a third of our food relies on pollinators, which is why I congratulate young Conrad House, Mr Dornan's constituent, who has carried out good work in his community to highlight the importance of our bee populations and gather support for saving bees.

We tried to set up a meeting when Conrad House handed in the petition, but I was unavailable. I would of course be happy—indeed, delighted—to meet him if the opportunity arises. Should I be visiting Mr Dornan's constituency in the near future, I will ensure that that is arranged. In the meantime, I am sure that we all congratulate Conrad and all other young people in Scotland who take such a close interest in bee health.

The Deputy Presiding Officer: As I said earlier, brief questions and answers will be welcomed.

Jayne Baxter (Mid Scotland and Fife) (Lab): The University of Stirling and the University of Sussex have conducted research into planting wild flowers rather than grass on roundabouts and verges and have found that it results in a spectacular increase in bumblebees and hoverflies. What might the Scottish Government do to support other such initiatives to help to sustain and increase our bee population?

Richard Lochhead: The initiative that the member highlights illustrates the fact that work to promote bee health by a number of organisations and academic institutions is increasing across Scotland. The Government is supporting a bee health strategy but, if we could be doing more, I would be delighted to hear about projects that perhaps require support. A number of support mechanisms are in place already.

Community Broadband Scotland

2. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Government what input its agriculture, food and rural communities directorate has into the work of community broadband Scotland. (S4O-04589)

The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead): The agriculture, food and rural communities directorate and the digital directorate helped to shape the design of the broadband scheme that community broadband Scotland is delivering under the Scottish rural development programme for 2014 to 2020. The First Minister launched the broadband scheme in Oban on 24 August.

Kenneth Gibson: Broadband is essential for rural and island communities and businesses. Only yesterday, the internet on Arran in my constituency was down for most of the day. Next

summer, 97 per cent of Arran will receive superfast broadband but, as things stand, the 150 or so people in Machrie will not. What steps will the cabinet secretary and his colleagues take to ensure that Machrie is included in Arran's superfast broadband roll-out?

Richard Lochhead: Kenny Gibson rightly highlights the importance of broadband to rural communities and to rural development. It is great news that so many people in Arran are benefiting from the latest investments.

The purpose of community broadband Scotland and the rural broadband scheme, which is a separate scheme worth £9 million through the rural development programme, is to reach out to communities in harder-to-reach areas that might not benefit from the wider programme. The investment is significant. The broadband scheme brings various communities together to find their own solution and supports that. Community broadband Scotland is for individual community schemes. I hope that Mr Gibson's constituents can take advantage of those two significant funds so that all people on our island communities can connect to fast broadband.

Margaret McDougall (West Scotland) (Lab): Does the Scottish Government intend to assess the number of online applicants for the single farm payment who are forced to use library and college broadband facilities because of slow broadband speeds or a total lack of access to broadband? Will the cabinet secretary give a reassurance that the Scottish Government will give appropriate support in the future to those who are affected?

Richard Lochhead: Additional support was made available at local regional offices for farmers and crofters who were applying online for farm payments and did not have adequate broadband in their homes. I am willing to send the member statistics on those who applied online through the new system but, if I recall correctly, the overall figure for online applications was at least the same as, if not higher than, that in the old system, despite all the doom and gloom that many people expressed. Applying online is the way forward, and I believe that we are giving adequate support to ensure that people can access broadband to apply online for farm payments.

Tavish Scott (Shetland Islands) (LD): I note the cabinet secretary's answer regarding the online applications that are increasingly being asked of crofters and farmers. What will he do with community broadband Scotland to reach the areas that Kenny Gibson mentioned, given that there are still many parts of the Highlands and Islands where no such broadband is available at all?

Richard Lochhead: As Tavish Scott is aware, there was enormous frustration in Scotland's rural

communities for many years over the lack of progress in broadband availability. The substantial investment that has been made available over the past couple of years, which is making a huge difference to mainland and island communities, is therefore very welcome. That is why we also set up the specific funds in community broadband Scotland to target the harder-to-reach areas that would not benefit directly from the main investments. We are working hard with the new broadband scheme, which is worth £9 million, as well as the existing community broadband scheme, to allow bespoke solutions to be found in our rural and island communities.

Japanese Knotweed (Control of Growth)

3. George Adam (Paisley) (SNP): To ask the Scottish Government how the growth of Japanese knotweed is controlled. (S4O-04590)

The Minister for Environment, Climate Change and Land Reform (Aileen McLeod): Scottish Natural Heritage is the lead agency for advising on the management of Japanese knotweed. Much of that control work is undertaken by owners of land on which the plant is growing. SNH encourages and co-ordinates action by other groups or bodies. For example, the Tweed invasives project has been delivering comprehensive control of Japanese knotweed across the Tweed catchment since 2003. SNH also has advice on its website for householders, much of which focuses on long-term solutions that people can carry out for themselves.

In Scotland there is little prospect of eradication at present. Our strategy is to use public funds, where appropriate, to control the plant in priority areas and to encourage landowners or householders to tackle the issue by providing them with good advice on control methods.

George Adam: It may surprise the minister that many of my constituents have Japanese knotweed growing on land around their properties. Unchecked, it has the potential to cause serious damage. In many cases, the situation is that the minute Japanese knotweed appears, no one seems to own the land where it is growing. Should the owner of the land on which the Japanese knotweed is growing have to deal with the weed before it causes serious damage to private property?

Aileen McLeod: I have great sympathy for those whose property is being affected by Japanese knotweed. I acknowledge that it can damage property, although I caution that some of the stories of its destructive force appear to be a bit exaggerated. The Great Britain non-native species secretariat, for example, has no evidence that the plant has ever been recorded growing

through concrete—a claim that seems to be a favourite in some parts of the press.

It is important to know that Japanese knotweed can be controlled. Advice is available and there are companies that provide that service. There may also be recourse in the courts for people whose property is damaged by the weed spreading on to it from elsewhere. However, it is not practical or reasonable to expect every landowner in Scotland to clear their land of Japanese knotweed. That would be extremely costly and it would be unlikely that they could eradicate it.

Jackie Baillie (Dumbarton) (Lab): The minister might be aware that mortgage lenders have refused to lend on the basis that Japanese knotweed is in the vicinity of certain houses. Local authorities have no powers of enforcement, so they leave the matter to the landowner. Should that change and should we give local authorities the power to enforce eradication?

Aileen McLeod: The Council of Mortgage Lenders website states:

“Lenders determine their individual policies on this issue and take into account a range of factors when considering whether to lend.”

I have no reason to believe that that is not an accurate representation.

Some contractors can offer guarantees that some lenders will accept but, ultimately, lenders determine their own policies. Entering into a dialogue with them about the assurances that they will accept is the way to find a solution.

To make sure that we are taking a sensible approach, I have asked the Scottish biodiversity committee to prioritise the species on which we need to take action. Japanese knotweed is being assessed alongside other plants that we might have concerns about, such as giant hogweed and Himalayan balsam.

I cannot emphasise enough the fact that we need to be a lot more organised and strategic in dealing with such problems. We cannot afford to carry out control measures when the effort will be wasted. I am confident that prioritisation will help us to take such an approach.

Farming Industry (Effect of Low Prices)

4. Cameron Buchanan (Lothian) (Con): To ask the Scottish Government how it plans to address the reported concerns of NFU Scotland regarding the effect of low prices on the farming industry. (S4O-04591)

The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead): We are supporting a number of initiatives to mitigate the

pressures currently faced by our farmers and crofters, and I have written to farming ministers elsewhere in the United Kingdom to stress the need for urgent steps to safeguard the industry. There is an unprecedented opportunity for UK ministers to agree a list of commitments that supermarkets and the food service sector can sign up to in order to support our food producers. The aid package proposed by Commissioner Hogan at European level is appreciated and we are assessing what the package means for Scotland.

Cameron Buchanan: Low prices have an effect on farmers' cash flow. Will the minister confirm that all single farm payments that are due in December will be made in December?

Richard Lochhead: I appreciate that, along with other factors, the low prices that are being paid in the agricultural sector cause cash flow issues. That is why we are working flat out to do our best to ensure that payments will begin during the formal payment window, which is before the end of December. We will continue to work flat out to achieve that.

The system is brand new and very complex. Other UK Administrations face the same obstacles that we face in Scotland, but I recognise the importance of giving the issue my full attention to help our farmers with their cash flow problems.

Sarah Boyack (Lothian) (Lab): I certainly hope that we will see those payments being made before December. In the meantime, on dairy prices, what has the cabinet secretary been doing to accelerate the implementation of the dairy action plan? What is being done in particular to support dairy farmers to use fresh milk in other dairy products and so get paid good money for it? Many of our dairy farmers face financial difficulties because of the lack of action. I wrote to the cabinet secretary about this last month and have yet to receive a response.

Richard Lochhead: I say to members and to the people of Scotland that, as consumers, we should get behind Scottish produce and help our farmers and food producers in their hour of need. Our food service companies and retailers should do a lot more to show loyalty to our home producers and get behind them.

On specific help for the dairy sector, we are trying to help our dairy farmers at a number of different levels. As Sarah Boyack mentioned, there is the dairy action plan and we have already offered support to the Campbeltown creamery and First Milk to help to provide it with a viable future. We are also working with retailers to increase the sourcing of Scottish dairy produce. We are launching the international dairy brand for Scotland at the Anuga 2015 event in Cologne next

month, and we are taking a number of other measures.

However, I urge other United Kingdom ministers, particularly Liz Truss, the Secretary of State for Environment, Food and Rural Affairs, to inject a lot more urgency into the situation. If we can jointly persuade the food service companies and retailers in the UK to source a lot more home produce, that will help the industry greatly in the short term. We could do that quickly, if only we had a lot more political will from Liz Truss.

Tavish Scott (Shetland Islands) (LD): The minister mentioned low prices, and he will be aware that the first store lamb prices in the far north, including in Shetland, have been around £5 a head below last year's averages. Will he undertake to use some of the €500 million package from Commissioner Hogan to assist those crofters and farmers, particularly in areas where additional freight costs have had an impact because people have had to bring in more fodder as a result of the poor summer?

Richard Lochhead: I wish that the €500 million package from Commissioner Hogan was just for Scotland, but unfortunately that is not the situation. To be frank, it is likely that it will make only a modest contribution to helping us tackle the issues that face Scottish agriculture.

That said, Tavish Scott makes two good points. First, we have to discuss with the industry how to target any aid that comes to Scotland; secondly, we have to recognise that the current problems are faced not only by daily farmers but by the sheep sector. The Scottish Government has been at great pains to persuade Europe of that, as well as the UK Government.

I am also making the point to the UK Government that, given that Scotland got a raw deal in relation to the overall European Union farming budget, and that the UK Government kept the uplift that was given to the UK because of Scotland's payments, it is vital that we get a fair share of the help that comes to the UK to help tackle the crisis. It would be a complete travesty if, once again, Scotland did not get its fair share and we were let down by the UK Government, which failed to recognise the importance of agriculture to Scotland and the case that we have for a good share of that aid package.

Inverness Veterinary Laboratory (Planned Closure)

5. Rob Gibson (Caithness, Sutherland and Ross) (SNP): To ask the Scottish Government what discussions it has had with Scotland's Rural College regarding plans to close the Inverness veterinary laboratory since the Rural Affairs,

Climate Change and Environment Committee meeting on 2 September 2015. (S4O-04592)

The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead): There has been contact at official level between Scotland's Rural College and Scottish Government staff since the Rural Affairs, Climate Change and Environment Committee meeting on 2 September 2015. I congratulate the committee, of which Rob Gibson is convener, on taking evidence on this subject.

SRUC provided an update on its appearance at the committee and outlined its initial plans for veterinary surveillance. The Scottish Government now awaits a more detailed update from SRUC on its proposals on the change to the network of veterinary disease surveillance centres and the future of its private business.

Rob Gibson: Does the cabinet secretary agree that nothing should be done by SRUC to undermine the services or the excellent skills that are offered by the staff at Drummond Hill vet lab in Inverness? Will he seek agreement from SRUC to stop any move of work such as serology from Inverness to Edinburgh, which is planned for October, until a final decision has been taken by ministers on the SRUC plans to retrench in Edinburgh and close the Inverness site?

Richard Lochhead: Given the importance of having a proper and robust veterinary disease surveillance system in Scotland, I urge SRUC to take seriously the concerns that have been expressed about the proposals, as I am sure that it is doing.

Of course, the Scottish Government funds part of SRUC's work, and there is a strategic management board that oversees its proposals and will continue to oversee the amended proposals that we expect to receive shortly. The purpose of the management board is to reassure ministers that any new system that is put in place, with any changes to it, is adequate for Scotland's needs.

The serology work is a private commercial business that the college runs for its scheme members. As such, the Scottish Government has no influence on how that scheme operates. On that subject, of course, I urge SRUC to heed the concerns that have been expressed about that service as well, and to ensure that it gives an adequate response on that issue to MSPs and stakeholders.

Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): The cabinet secretary will be aware that the Auchincruive facility in my constituency is also under threat from SRUC's proposals. That matter was also raised at the committee's meeting.

Can the cabinet secretary inform Parliament of any discussions that Government officials might have had with the University of Glasgow's school of veterinary medicine? That is important because, in addition to Auchincruive providing an important facility to local farmers, it is a key facility in the training of Scotland's vets and has played a crucial role in disease prevention in the past.

Richard Lochhead: Although I await SRUC's formal amended proposals, I know from my officials that conversations are taking place between Glasgow vet school and SRUC in response to some of the concerns that local stakeholders and, indeed, Adam Ingram and others, have expressed. Until I have seen the final proposals, I am unable to give any further details to Parliament. However, I will keep a close eye on the matter. I urge Adam Ingram and others to continue to make their representations.

The Deputy Presiding Officer: I offer my abject apologies to those members whom I have not been able to call.

Scotland's Future, Democracy and Devolution

The Deputy Presiding Officer (John Scott): The next item of business is a debate on motion S4M-14252, in the name of John Swinney, on Scotland's future, democracy and devolution.

14:40

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): I welcome the opportunity to have this constitutional debate one year on from the referendum on Scotland's independence, which took place on 18 September 2014. It is clear that the referendum has had a profound and positive effect on our nation and our democracy. We have seen a level of informed and engaged debate that has reinvigorated politics and has involved people—old and young alike—across our country.

It is worth recalling that more than 3,600,000 people turned out and cast their votes—a turnout of more than 85 per cent—which is higher than for any previous election. The result may not have been what I wanted, but we must celebrate the level of democratic engagement in the process.

There has been a real legacy from the referendum, into the bargain. The turnout in the recent general election was 71 per cent in Scotland, compared with 66 per cent across the United Kingdom as a whole. That was also an increased turnout on previous UK general elections. In addition, 80 per cent of people in Scotland have discussed politics since the referendum compared with 67 per cent in the United Kingdom.

The engagement and the reinvigorated politics continue, as does the close interest of the people in how we are governed, who makes the decisions, and who decides who makes the decisions in Scotland.

The first and critical test that we face in honouring the democratic renewal is in fulfilling the undertakings to strengthen the powers of this Parliament that were made during the referendum campaign by those who were opposed to independence and successful in the referendum.

Today is exactly one year since "The Vow" was made on the front page of the *Daily Record*. On 16 September, the Prime Minister, Ed Miliband and Nick Clegg jointly promised "extensive new powers" for the Scottish Parliament. The vow also said:

"People want to see change. A No vote will deliver faster, safer and better change than separation."

That was not the first promise of further devolution that had been made during the campaign. Danny Alexander said:

“Scotland will have more powers over its finances, more responsibility for raising taxation and more control over parts of the welfare system—effective Home Rule”.

The Prime Minister said:

“The status quo is gone. This campaign has swept it away. There is no going back to the way things were. A vote for No means real change”.

He also said:

“If Scotland says it does want to stay inside the United Kingdom then all the options of devolution are there and are possible”.

Gordon Brown, the former Prime Minister talked of

“nothing less than a modern form of Scottish Home Rule”.

He also said:

“We’re going to be, within a year or two, as close to a federal state as you can be in a country where one nation is 85 per cent of the population.”

On the back of those undertakings—with the legitimate expectation of proposals that could be accurately described as a form of home rule or near-federalism—my party and every other party in the Scottish Parliament took part in the Smith commission that was set up by the UK Government.

The Scottish Government had some misgivings: in particular, we had misgivings about the process. Political parties trying to reach an agreement in a room seemed to be about as far away from the participative, open and engaged democracy of the referendum campaign as it was possible to get. However, we accepted and respected the outcome of the referendum, so both my party and the Scottish Government played a full and constructive role in the Smith process.

We made no secret of our view that the Smith commission’s final recommendations did not go far enough; neither do we believe that the Smith commission’s proposals met the undertakings of the UK parties that set it up in the first place.

Alex Johnstone (North East Scotland) (Con): The cabinet secretary has been speaking for nearly four minutes, and I interpret his argument as being that he signed up to the Smith commission reluctantly and that he would still like to hark back to the discussions that took place at the end of the referendum campaign. Is his ambition that the Smith commission’s proposals be fully implemented, or does he wish to centre his argument on a previous point on the timeline?

John Swinney: In the course of my comments, I will answer directly the point that Mr Johnstone has made, but I do not think that he could arrive at

the conclusion that anything that I have said or done since publication of the Smith commission’s proposals in November last year could be interpreted as indicating that I do not want the proposals to be fully implemented. My problem, as I will come on to discuss, is that I think that we are a way away from full implementation of the Smith commission’s proposals that were set out last November.

A settlement that would leave under Westminster control more than 70 per cent of Scottish tax receipts and 86 per cent of Scotland’s welfare spending cannot remotely be described as home rule or near-federalism, but my judgment was that the proposals—had the UK Government implemented them in full, which I will come to shortly—offered enough enhancements of Parliament’s powers to allow us to support the final report.

Gavin Brown (Lothian) (Con): Why does John Swinney only ever refer to a percentage of welfare spending instead of a percentage of spending, as most commentators would do?

John Swinney: The reference to welfare spending is part of a clearly expressed argument about welfare spending. As far as total spending is concerned, the Smith commission’s proposals do not give us more than 50 per cent control over total spending in terms of the revenue that is raised here. Those points are well charted by what the Scottish Government has said in the past.

I turn to the issue that Alex Johnstone raised about implementation of the Smith commission’s recommendations. If we reflect on the efforts of the UK Government since their publication, it is clear that the current approach will not implement the commission’s recommendations in full—either in spirit or in substance. Last week, the architect of the vow, Gordon Brown, described the UK Government as

“falling short on the delivery of the recommendations of the Smith Commission on Scottish Devolution”.

In May, the unanimous report of the cross-party Devolution (Further Powers) Committee, which was supported in this chamber, provided the authoritative analysis of the UK Government’s draft clauses. Its overall conclusion was that

“In some critical areas, the then UK Government’s draft legislative clauses fall short”

of the Smith recommendations. In considering the Scotland Bill that was introduced in May, the committee found that only one clause had been changed to reflect the committee’s findings, 12 were completely unchanged and a further eight had been changed but in a way that left it unclear whether the committee’s findings had been reflected. The clauses in question included clauses on key areas of social security,

employment programmes, the Crown Estate, borrowing and the Sewel convention. That position is a considerable disappointment to the Scottish Government.

I say in response to Mr Johnstone—it is one of the material points in today's debate—that it is clear that despite having the necessary information and the submissions from the Devolution (Further Powers) Committee and the Scottish Government, the UK Government is

“falling short on the delivery of the recommendations of the Smith Commission on Scottish Devolution”.

That is what former Prime Minister Gordon Brown is now telling parliamentary committees. I think that we would all describe him as one of the key players in terms of the outcome of the referendum; I readily accept that he was a fundamental player in the conclusion of the referendum campaign and in the success of the no campaign, by virtue of the promise that was made. It is a point that I think Parliament must take very seriously.

Lewis Macdonald (North East Scotland) (Lab): Mr Swinney correctly describes the conclusions of the Devolution (Further Powers) Committee, and I accept the points that he has made; I was a member of that committee. However, does he accept that what he describes should not be conflated with the commitment that was given by Ed Miliband and other party leaders on the provision of extensive new powers, which are in the Scotland Bill—albeit that they might not be all the powers that we might desire?

John Swinney: The person who is in danger of conflating is Lewis Macdonald. The point that I am making is that, at absolute face value, when judged by the Devolution (Further Powers) Committee, which is an all-party committee and so is pretty neutral, and by the Scottish Government, which has—although I accept that we are not neutral—approached the matter in an utterly dispassionate fashion—

Gavin Brown: Come on!

John Swinney: In this matter, we have most definitely done that. Even Gordon Brown, the former Prime Minister, is saying that the Scotland Bill does not deliver on the commitments that were made in the Smith commission. That, to me, is crystal-clear evidence that the United Kingdom Government has got to move, and to move significantly, during the remaining passage of the bill, to which we will turn shortly when that UK bill returns for its report stage in the House of Commons.

We know clearly the areas in which the bill needs to be improved. They include the restrictive definitions of “carer” and “disability”; the absence of new powers to create benefits in areas of

devolved responsibility; the restrictions on the length of employment-support programmes that can be delivered; and restrictions on the type of people who can be offered help. The bill needs clarity on the Crown Estate provisions and future economic assets such as Fort Kinnaird; it needs a provision that protects this Parliament's interests by including clearly the full scope of the Sewel convention, including its need for the Parliament's consent to changes to its own competence and that of Scottish ministers; and it needs to respect the spirit of devolution by removing vetoes for UK ministers in the crucial areas of universal credit and energy schemes. Those are among the issues that require to be addressed when the bill's report stage is reached in the House of Commons.

I therefore invite Parliament to join me in urging the Secretary of State for Scotland to engage closely with the Scottish Government to produce amendments that we have already suggested to the UK Government, that accurately reflect the Smith commission report and have the support of both Governments.

We know that the powers of the bill fall short of both the vow and the recommendations of the Smith commission; we will continue to demand that those promises be delivered. At the same time, the Scottish Government is acting with pace and with creativity to be ready to use the limited powers that are proposed, and we will do so in consultation with others.

In the programme for government, we set out some early policy priorities. They include: a social security bill in the first year of the new session, to give effect to our new social security powers; the abolition of the bedroom tax as soon as possible when we have the powers to do so; improved support for people to move into employment through reform of the work programme and of the work choice scheme; improved access to priority business and tourism markets by reducing air passenger duty by 50 per cent from 2018; early action on gender balance on public boards; the abolition of fees for employment tribunals; and management of the assets of the Crown Estate in Scotland, in order to maximise benefit to the Scottish economy and to local communities. Those are some of the early priorities that the Scottish Government will take forward through utilisation of the powers that will come to us as a consequence of the passage of the Scotland Bill.

I want to say a few words about the fiscal framework that will govern financial relationships between the Governments in the future. The fiscal framework must give the Scottish Government the flexibility that it needs to create a fair and prosperous Scotland and to use the powers that we have effectively. We know that that must be done in a responsible and sustainable manner,

which is how we have always used our fiscal powers.

In my evidence to the Finance Committee's inquiry, I have set out some of the key elements that we need to see in the fiscal framework. We need block-grant adjustments for devolved taxes that reflect receipts at the point of transfer, based on an agreed methodology and data. We need transfers for social security that reflect the full cost of the benefits that will be devolved, we need changes to the block grant that reflect the full cost of administering the new powers, and we need the ability to increase the amount of capital spending materially through capital borrowing powers.

Most fundamentally, we need a well-designed fiscal framework that ensures that further devolution provides the right incentives and increases accountability, and links the Scottish Government's budget to Scottish economic performance. We should retain the rewards of our success, as we will bear the risks. When the Scottish economy outperforms that of the rest of the UK, our spending power should increase, so it is absolutely essential that the fiscal framework provide the Scottish Government with genuine flexibility and choice to pursue our own distinct policies.

The framework will be agreed jointly by both Governments and we are aiming to conclude negotiations by the autumn. I am currently involved in discussions with the Treasury, in that respect. However, I want to make it clear to Parliament, as I have told the Finance Committee before, that the Scottish Government will not recommend that this Parliament give consent to the bill without an agreed fiscal framework that is fair to Scotland. I would have no hesitation in refusing to recommend a proposal that did not provide us with the ability to use our powers properly and flexibly to support the people of Scotland, to address our own priorities and to improve our economy.

I want to bring my remarks to a close by reflecting on what the Scotland Bill tells us about the condition of democracy in Scotland today. The driving force for what became the Smith commission process was the clear momentum for change that was generated during the referendum campaign, but since then we have seen a return to business as usual. That graphically illustrates the mismatch between democracy and devolution in this country.

The Smith commission was, in the end, a party-driven exercise. The people were given little say in its process and none in its conclusions. We missed many opportunities in that process—perhaps because of the lack of public pressure in a closed process.

The Scottish Government therefore proposed, with the support of the Scottish Trades Union Congress, full devolution of employment law. That was not supported in the Smith commission. We have seen the consequences of that in the Trade Union Bill this week. The Scottish Government, with the support of many stakeholders across Scottish society, proposed that social protection be devolved in full. Again, that was not supported by other parties, and the consequences of that can be seen in the cuts to welfare that have been driven through Whitehall today.

That demonstrates that the Scottish Parliament must be equipped with the powers and responsibilities to enable us to take decisions that meet the expectations, needs, priorities and choices of the people of Scotland, and that is what the Scottish Government will argue for.

I move,

That the Parliament notes the establishment of the all-party Smith Commission following the 2014 referendum on independence and the commitment of the UK Government to legislate to implement the recommendations of the commission in full; further notes the findings of the Devolution (Further Powers) Committee that the Scotland Bill in its current form does not deliver the recommendations of the commission in full; further notes that no amendments to the Bill were accepted at its committee stage in the House of Commons; urges the UK Government to bring forward amendments at the Bill's report stage to give effect to the Smith Commission recommendations and in particular to meet the standards set by the Devolution (Further Powers) Committee, and recognises the need for a satisfactory and fair fiscal framework to allow the Scottish Parliament and the Scottish Government to make effective use of the powers in the Bill.

The Deputy Presiding Officer: I call Claire Baker to speak to and move amendment S4M-14252.2. You have 10 minutes, please. We are tight for time today.

14:56

Claire Baker (Mid Scotland and Fife) (Lab): In the week of the one-year anniversary of the referendum, it is understandable that a lot of the focus in today's debate will be on reflecting on that historic day last year. Many column inches have already been filled on that this week, and I am sure that more words will be written about it before the week is out. It is also understandable that many people may wish to reflect today on their personal experiences. The day of the vote—18 September—was a truly remarkable one in Scotland's history, and it will live long in everyone's memory.

However, it is important that we use the opportunity to look forward. Last year, the voice of the majority of Scotland was clear, and we all need to accept the result, which was to stay as part of the United Kingdom. However, it was also

clear that people wanted politics and democracy to change.

The Smith commission and, from that, the Scotland Bill are to be vehicles to deliver that change, although I caution that they are not the only vehicles. The change will be achieved if we—politicians from across all the parties—change the way we think about politics and how it is delivered. As our amendment states, devolution is not about concentrating powers in the Scottish Parliament; it must be about empowering our communities and local authorities.

I like the title of the debate, which promises more than the motion does—democracy and devolution. It is not just about securing new powers; it is also about how we use those new powers. Labour's amendment highlights the work programme as an example of how we can use new responsibilities to gain more effective results. Labour believes that local communities and organisations are best placed to deliver that programme, and we encourage the Scottish Government to look at that way of delivering.

Similarly, we must push for the extension of the powers over the Crown Estate. Those powers should then be maximised to make local decision making meaningful.

In giving evidence to the Devolution (Further Powers) Committee, Dave Moxham of the STUC said:

"it is not enough for Parliament to have a relationship with existing civil society organisations and then think that it has done its job. That links in with the idea that we and others have raised about citizen juries and other ways of creating a representative democracy".—[*Official Report, Devolution (Further Powers) Committee*, 15 January 2015; c 37.]

As the cabinet secretary said, the referendum was a great example of civic participation. We should not miss the opportunities to use the Scotland Bill to build on that.

However, let me be clear. As things stand, the Scotland Bill does not meet our expectations. It needs to be stronger and more reflective of the agreement from the Smith commission. That it is not is disappointing, and I hope that the Conservatives will address that in their speeches. Although I agree with much of their amendment, it glides over the reasonable concerns that exist about the Scotland Bill; we did have cross-party consensus on the Devolution (Further Powers) Committee.

We are left with two options as a result. One is to continually complain about the bill and undermine what has been achieved. More constructively, we could propose changes and not just enact the Smith commission proposals in full, but possibly go further.

I make it clear that Labour is committed to ensuring that the Parliament becomes one of the strongest devolved legislatures in the world. We want new powers to be delivered and we will do all that we can to make that happen. We have a record of bringing powers to the Parliament when we have believed that that is in the best interests of the Scottish people. Like other members, we have no interest in seeing the Scotland Bill fail. We want to take this opportunity to deliver the modern devolved Parliament that the cross-party Smith commission set out the blueprint for.

To make that progress we must return to the consensus that was built around the Smith commission. I welcome John Swinney's statement that the Parliament should be united on that. It will take effort from all sides, particularly the two Governments. One of those Governments almost immediately began talking down the agreement as soon as it signed up to it and the other has seemingly closed shop and refused so far to accept amendments from other parties. It is time to put those agendas aside and work together. If the Governments truly want the Scotland Bill to succeed, they need to strengthen it. I hope that Conservative members will join us and lobby their counterparts in Westminster—in either house—to ensure that reasonable and proportionate amendments are accepted when the bill returns to the House of Commons following the conference recess.

Today the Labour Party has unveiled new amendments to the Scotland Bill, which would devolve a further £5 billion of revenue, along with extended powers over welfare to design a new social security system in Scotland. MSPs would be in greater control than ever of raising money that we are to spend.

Mark McDonald (Aberdeen Donside) (SNP): I note the Labour Party's call today for full rather than partial assignment of VAT. Does Claire Baker accept that that is not a revenue-raising power, as it would be an assignment rather than a power? Is the Labour Party's view that the assignment should be based on production or consumption? That is an important distinction.

Claire Baker: I anticipated that intervention, as I saw that Stewart Hosie had lined it up for MSPs this afternoon.

The SNP will know that the tax-raising powers on VAT are restricted by the European Union. However, we believe that our amendments would give more powers to this Parliament and more control of the money that we have to spend. They include measures that would devolve all revenues from VAT, whereas the level is currently set at 50 per cent. Our amendments would also give the Scottish Parliament powers to top up welfare

benefits, create new benefits and remove a UK Government veto.

Those are substantial changes, with which we can build a better, stronger and more progressive Scotland. I hope that when the amendments come before Parliament, they will gain the support of the SNP, the Liberals and the Conservatives.

It is clear that we must move beyond any doubt on the idea of Westminster maintaining a veto over this Parliament on welfare powers. Such a veto is unacceptable and something that we have moved to stop. The UK Government must respond more fully than it has done so far to the work of the Devolution (Further Powers) Committee and to organisations' concerns about the bill's effectiveness.

We must ensure that there is full transparency as we move forward, and that is as true for the Scottish Government as it is for the UK Government. We are seeing—or rather not seeing—intergovernmental discussions at the joint exchequer committee, of which the Deputy First Minister is co-chair. On 4 September, the JEC met for its second meeting, yet no minutes for either that or its first meeting have been made public and there has been no clear statement from the Scottish Government of a preferred outcome. Considering that discussions centre on the substantive elements of the fiscal framework that will underpin the financial provisions of the Scotland Bill—the very fiscal framework that the Deputy First Minister references in the motion—it is unfortunate that fuller details have not been forthcoming.

I appreciate that there will be a need for sensitivity and space for frank exchanges during certain points of JEC meetings. However, given that all members in the chamber subscribe to the notions of transparency and accountability, will the Deputy First Minister commit to publishing the meeting minutes and keep Parliament—and, most important, people—informed throughout negotiations? I see from Bruce Crawford's letter to David Mundell this week that the Devolution (Further Powers) Committee supports those principles.

The stakes that the Scottish Government is playing for are high. The First Minister has expressed the view that she will recommend consenting to the bill only if the accompanying fiscal framework is fair to Scotland, and the Deputy First Minister has reiterated that claim in today's debate. If the Government is prepared to risk all that can be gained, there must be greater transparency and scrutiny of the decisions.

John Swinney: Will Claire Baker clarify the Labour Party's position on the fiscal framework?

Does she think that I should sign up to a fiscal framework that she does not believe to be fair to Scotland?

Claire Baker: Of course not, but we have no involvement in the negotiations. What I am asking for is greater transparency and accountability. At present, we have to rely on the Deputy First Minister's interpretation of whether the fiscal framework is fair for Scotland. We are caught between his interpretation and that of the Conservatives. I am arguing that everyone should be involved, that there should be transparency and that we should be able to make a proper judgment.

Alex Johnstone: Will the member give way?

Claire Baker: I am sorry, but I am short of time.

The Scottish Government claims that that important issue might lead to the rejection of powers. The public must be aware of the negotiations as they proceed and be able to make a judgment. Otherwise, we risk finding ourselves in the scenario that Professor Jim Gallagher warns against, where the fiscal framework becomes a private agreement between the two Governments.

As the Deputy First Minister will be aware, my colleague Ian Murray has written to ask that the papers that are published reflect, among other things, the adjustment of the Scottish Government's block grant in relation to the new tax and spending powers, and set out the discussions around fiscal scrutiny and the current role of the Scottish Fiscal Commission. I hope that, in his closing remarks, the cabinet secretary will take the opportunity to confirm that he will seek to publish details of the meetings through the Finance Committee, as has been the procedure previously. Decisions of such importance to the people of Scotland should not be made behind closed doors.

I suspect that, if we were to ask a family at a food bank what their major concern was, it would not be the constitution. If we were to ask a patient who was waiting in an accident and emergency department for treatment or a bed what his major concern was, it would not be the constitution. If we were to ask a single parent who is struggling to find a place at college but cannot afford the childcare anyway what her major concern is, it would not be the constitution. Looking to the future, we have the opportunity to use the engagement that the referendum brought to the people of Scotland to deliver change in how we do politics not just in Scotland but throughout the United Kingdom.

The Labour Party has listened to voters and to our members and we have a bold, fresh and exciting new leadership that will be pursuing a radical new agenda for Scotland and the UK.

Excitement in Scottish politics should not constitute itself just around the constitution. It should be about changing communities, embracing opportunities and changing futures. That is why the devolution settlement that we pursue and achieve will not stop at Holyrood.

I move amendment S4M-14252.2, to insert at end:

“, and believes that devolution should not stop at the Scottish Parliament but go on to create more effective delivery of public services, for example through the devolution of the work programme to local communities and empowering people in greater local decision-making”.

15:06

Annabel Goldie (West Scotland) (Con): I am delighted to take part in this debate. I am stimulated and encouraged by the Scottish Government's chosen title for the debate, “Scotland's Future, Democracy and Devolution”, because, if the Scotland Bill is about anything, it is about our future—a future confirmed by the democratic decision of voters last September to reject independence, to stay within the United Kingdom and to give more powers to this Parliament.

As someone who believes that Scotland benefits from the partnership of the United Kingdom but who recognised the need for enhanced powers for this Parliament, I was delighted to serve on the Smith commission with Mr Swinney and others from across the parties and to achieve the united position reflected by the Smith agreement.

Over the years, it has been a genuine pleasure to work with Mr Swinney, whether on the Enterprise and Lifelong Learning Committee under his convenership or while engaging with him on his important ministerial roles in government. I acknowledge and respect his undoubted commitment to this Parliament and his wider service to Scotland. I was therefore wounded when, on the publication of the Smith agreement, Mr Swinney appeared to have been seized by an onslaught of simultaneous amnesia, fickleness and inconstancy. Never did I think him capable of such frailties. Suddenly, this much discussed, carefully crafted and painstakingly drafted document disassembled in Mr Swinney's mitts. It was not enough. It was not good enough, big enough or brave enough. I think that the Smith agreement was a pivotal contribution to devolution and was historic in its own right.

John Swinney: I am glad that Miss Goldie set out those words carefully. I thought that she was in danger of accusing me of something else as she expressed them. However, I say to her that she should not have been so surprised by my reaction to the Smith commission report given that she had

to put up with listening to what I was saying within the commission for a full 10 weeks. In that time, I was arguing for more and greater powers and wider responsibilities than were secured in the Smith commission report.

Annabel Goldie: As ever, that was an adroit and gallant attempt by the cabinet secretary to exculpate himself.

In fairness to Mr Swinney, I say that I of course understand that, from the Scottish National Party's perspective, the Smith agreement does not bring forward proposals for independence for Scotland, but that was never the job of the Smith commission. The referendum endorsed enhanced devolution and rejected independence. That is why I lodged the amendment in my name. I wanted to put into context the referendum result, the Smith agreement, the draft clauses and the Scotland Bill.

The Scotland Bill is an extremely important piece of legislation and it is entirely right that it be scrutinised at Westminster and by a committee of this Parliament. In response to the initial attack from Mr Swinney and his SNP colleagues that the bill reflects some faint-hearted, peellie-wally attempt to deliver a minimal extension of powers, let me remind members that the Scottish Parliament information centre has produced a fascinating analysis of the Smith agreement proposals. The Scottish Parliament will have more tax and spending powers than the majority of states in federal countries such as Australia, Germany and the United States, and in a league of sub-national legislatures across the world, Scotland will be near the top.

I appreciate that the SNP wanted to devolve responsibility for a range of issues, including employment law, national insurance contributions and the minimum wage, but a range of bodies from very different perspectives, such as the Confederation of British Industry, the STUC and the TUC had profound concerns, so those matters did not form part of the Smith agreement or the Scotland Bill.

Mark McDonald: Will the member give way?

Annabel Goldie: I want to make progress, if the member will forgive me.

In the more detailed analysis of the Scotland Bill by the Devolution (Further Powers) Committee, the committee was principally concerned about four primary issues: the permanence of the Scottish Parliament; the Sewel convention; the welfare provisions; and the Crown Estate.

The statutory recognition in the bill of this Parliament as permanent, together with the obvious cross-party sentiment that the Scottish Parliament is permanent, means that the

permanence of the Scottish Parliament is the political reality. To pretend otherwise is to dance on the head of a pin.

The Sewel convention has operated effectively and flexibly as a principle by practice and convention but, as is often the case with constitutional rules and protocols, it would be wrong to try to include in the Scotland Bill the process of legislative consent. That was not recommended in the Smith agreement, and in my opinion that was the right decision.

On welfare, which I accept is a sensitive issue, I argue that the provisions, which have been extensively altered since the draft clauses were published, reflect the Smith agreement. If there are constructive suggestions about how to clarify or improve on the welfare provisions, let us see the detail.

On the Crown Estate, the issue was always recognised as technically complex. I am sure that Mr Swinney and I agree that in the Smith commission the issue was regarded as particularly challenging, involving the Crown Estate—the body itself—the UK Government and the Scottish Government, all of which will require to co-operate and agree on the new arrangements. The bill is the enabling legislation for that to happen.

Let us be clear. The Scotland Bill does what it says on the tin. It is a major extension of powers to this Parliament, enacting what all parties signed up to in the Smith agreement. Should we close our minds to improving the bill? No, but we must first identify what changes are proposed and then be satisfied that they are improvements. The Secretary of State for Scotland has indicated that changes will be made at the report stage of the bill and has expressly said that he will reflect on Opposition amendments.

The real debate in Scotland has moved beyond the constitution. We cannot be hogtied and pulled back by the separatists to a question that was answered a year ago. We cannot get bogged down in the separatists' neverendum, because their efforts to stay stuck in the past are pulling Scotland down and holding Scotland back. Instead of remaining divided over the constitution, we should be united about forging a new Scotland.

This is the big question for the Scottish Government. How do we use the powers that we have got and the ones that we will get to give Scotland an exciting, stable future in an increasingly uncertain and competitive world? We can rise to that challenge, but only by looking forward, not by looking back.

I move amendment S4M-14252.1, to leave out from first "further" to end and insert:

"regrets that the Scottish Government's immediate

reaction to the Smith Agreement was to criticise and disparage its recommendations; notes that the Smith Agreement proposes a very significant transfer of powers to the Scottish Parliament that will make it one of the most powerful sub-national legislatures in the world; considers that, in the context of rejection of independence by voters in Scotland in the 2014 referendum, the Smith Agreement and the Scotland Bill, reflecting changes to the original draft clauses, deliver on pledges to provide more powers for the Scottish Parliament; recognises that extensive constitutional change is best brought about by building a broad consensus between political parties and governments; calls on the Scottish Government to respect the result of the referendum by repeating its assurances that such a poll would be a once-in-a-generation event, and urges continuing objective and constructive scrutiny of the Scotland Bill so that where any improvements to the legislation can be identified appropriate changes can be made."

The Deputy Presiding Officer (Elaine Smith): Thank you, Miss Goldie. I look forward to checking the spelling of "peelie-wally" in the *Official Report*.

We are just about where we should be with the debate timing, so in the open debate I would be grateful if members could stick to their six minutes, please.

15:14

Bruce Crawford (Stirling) (SNP): Like many members, I have been reflecting on the events of the independence referendum. In the immediate aftermath, the decision left me utterly crushed, yet, strangely, a year later I find myself almost celebrating that historic occasion.

Perhaps that is something to do with my being a card-carrying member of the tartan army, which has enabled me to find some joy in glorious defeat. However, the referendum was also a remarkable democratic process, as John Swinney said, which led to Scotland becoming a different and better place, with the most extraordinarily engaged people and with the bar of expectations on what Scotland is capable of achieving raised to hitherto unforeseen heights.

It is in that context that we consider the now-infamous vow, which suggested home rule and near-federalism, and the Smith commission recommendations that we debate today.

I do not want to re-rehearse what many individuals and organisations have said about the Smith process being too rushed or about the bill not containing significant additional powers, although I sincerely hope that the UK Government responds to those calls. The Scotland Bill that is before the UK Parliament will soon enter its report stage, so we must do all that we can to persuade a Tory Government to implement Smith in full and to deal with the positive criticisms that are laid out in the constructive letter that was sent from the Devolution (Further Powers) Committee to David Mundell on Monday.

I strongly believe that, when we come to decision time, we should all support the Scottish Government's motion because our speaking with one voice will provide the Parliament with its best opportunity of seeing the bill get as close as possible to delivering Smith in full, ensuring that there is clarity of intent and ironing out any potential dangers.

There are those—including the Prime Minister today at Prime Minister's questions—who argue that the bill, in its current state, delivers Smith in full, but they know perfectly well that it does not. To pretend otherwise is to do this Parliament and, more important, the people of Scotland a disservice. The very reasonable letter that was sent to the Secretary of State for Scotland earlier this week outlined in considerable detail the scale of the job that remains to be done by the UK Government, which John Swinney has alluded to. I will concentrate on three key aspects.

First, I believe that there is, at the very least, potential for dispute over whether the Scottish Parliament will have the competence to create new benefits in devolved areas. There is a significant body of evidence that Parliament will be able to create new benefits only in a much narrower area because the legislative mechanism that the bill uses devolves responsibility for certain specific benefits through a series of new exceptions to the existing reservations in the Scotland Act 1998. It is argued that, if a new benefit is not provided for in the bill, it will remain explicitly reserved, with no exception.

That could have the perhaps unintended effect of limiting the policy flexibility of a future Scottish Parliament despite the fact that the Smith report makes it abundantly clear that it intends no such limitations, stating simply:

"The Scottish Parliament will have new powers to create new benefits in areas of devolved responsibility".

As Professor Aileen McHarg said in her compelling evidence to the Devolution (Further Powers) Committee, it would be prudent to put the matter beyond doubt through the inclusion of an express provision in the bill. We should ask the UK Government to do just that.

Secondly, on the issue of risk and reward balance, many people, including Professor David Bell, have argued that the limited basket of tax-raising powers in the bill may not produce sufficient receipts to increase tax in proportion with future liabilities such as an ageing population. It is therefore imperative that the fiscal framework that is agreed between the two Governments deals with the specific detail of how such matters will be balanced out in future funding settlements. I say that because I cannot see any circumstances in which the Scottish Parliament can safely agree to

any bill unless those matters are appropriately and transparently addressed in the fiscal framework.

Thirdly, and in conclusion, I will dance on the head of a pin on the matter of the permanency of this Parliament. We all know the difficulty in that area. In theory, no Parliament can bind in law its successors, and no rule suggesting that a particular institution be a permanent constitutional fixture can guarantee that. Therefore, whatever provisions are finally agreed in the bill, they are likely to be largely symbolic—I accept that. However, I believe strongly that symbolism and a statement of intent are hugely important as far as this institution is concerned.

The Scottish Parliament was brought into being through the consent of the people in a referendum; surely it goes without saying that it can be disestablished only with the consent of the Scottish people voting in a referendum. Such a provision must find its way into the bill. Yes, it would be highly symbolic; nevertheless, it would be a statement of intent recognising the sovereignty of the Scottish people.

I believe that all members of this Parliament are signed up to that concept. Therefore, it is up to us to put as much pressure as we can on the UK Government in the coming weeks to lodge appropriate amendments to ensure that the Smith commission's proposals are delivered in full in the areas that I have outlined and in the areas that the Devolution (Further Powers) Committee has outlined in a wider context. I recommend that all members support the Government's motion. We should unite behind it to make sure that we get the job done.

15:20

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I agree with what Claire Baker said on decentralised powers, but I will focus on the immediate issue of the Scotland Bill.

I hope that the Parliament will unite in supporting the Government motion. I think that all members support the Smith agreement. Clearly, the SNP members want to go a lot further; I would like to see Smith plus, but surely nobody in the Parliament wants to see Smith minus.

On social security, there are several concerns on unnecessary detail and definition, to which I will come the moment, but there are three fundamental problems apart from that.

First, the bill is silent about the power to create new benefits in devolved areas. That issue must be addressed.

Secondly, the bill should be amended to place it beyond doubt that top-up payments create new Scottish entitlements and are not discretionary in

the sense that the social fund is. That is not clear in the bill at present.

Thirdly, we have to get rid of the veto—perhaps some would call it a perceived veto—in relation to social security. The Scottish Parliament should inform the UK Government about its decisions on social security, not seek approval from it. That embodies what is in reality now the shared competence between this Parliament and the UK Parliament on social security.

The unnecessary detail and definition could be described as micromanagement by the UK Government of devolved social security powers. There are concerns about the definition of disability in the bill and what is said about carers, employability programmes and discretionary housing payments. Andrew Tickell, who gave evidence to the Devolution (Further Powers) Committee last week, said that some of those issues were likely to lead to litigation. For example, the bill mentions “significant” disability. What does “significant” mean in a court of law? He also posed the question:

“What interest does the Westminster Government have in defining carers benefits as being payable only to people over the age of 16 who are not in work and not in education?”—[*Official Report, Devolution (Further Powers) Committee*, 10 September 2015; c 6.]

Why does the UK Government have to narrow down the definition of carers in that way?

There are also concerns about the fact that the employment programmes are restricted to a particular type of person who has been employed for a particular length of time. There ought to be far more freedom in that as well. Again, I agree with Claire Baker about the implementation of those programmes at a local level.

A final example of that micromanagement concerns discretionary housing payments, on which the bill says that the recipient must be in receipt of housing benefit and not being sanctioned. That, too, constrains the freedom of the Scottish Parliament on an area that we were said to be getting autonomy in relation to—I am sorry: that is rather a clumsy sentence.

There are two Sewel issues—named after my former ministerial colleague, Lord Sewel. The first issue is the wording of the bill, which says:

“the Parliament of the United Kingdom will not normally legislate with regard to devolved matters”.

We do not like the word “normally”. I would not die in a ditch over it, because there could be emergency situations, but it still sends out the wrong message. The phrase “devolved matters” is slightly odd because that wording is not used in the Scotland Act 1998, but that is a bit of a techie detail, which I shall move on from.

More substantively, our current arrangements on legislative consent—or Sewel—motions are governed by devolution guidance note 10, which talks not only about legislation in devolved matters but the Scottish Parliament giving consent to anything that alters

“the legislative competence ... or the executive competence of the Scottish Ministers.”

There is nothing in relation to that in the bill. That is serious, because it means that the Parliament would have no locus to discuss the Scotland Bill, which alters our legislative competence. The same would be true if the executive competence of ministers was being changed positively or negatively.

There is also no clarity on equality issues. The words in the bill—again, I think that I quote accurately—“except to the extent that provision is made in the Equality Act 2006 or the Equality Act 2010” mean that the proposals on quotas will all be governed by those acts, in which there is no clarity at all about quotas.

What needs to happen is that David Mundell—given his commitment to quotas in a letter—ought to make sure that it is explicitly stated in the bill that Scotland should have the ability to legislate for quotas, including those for 50 per cent of candidates being women in elections to the Scottish Parliament, public bodies and local authorities.

Finally, Labour has put forward a proposal on VAT. I totally agree with the cabinet secretary that the budget should be related to economic performance. Albeit it is an assigned tax, having VAT, as proposed, would enable this Parliament to reap the benefits of improved economic performance. Again, that ought to be explicitly stated. I do not know whether the VAT issue is going to be in the bill or just in the fiscal framework.

I agree that the fiscal framework is absolutely fundamental and I agree that we should not consent to the bill if we do not have a fair fiscal framework because the whole future of devolution hangs on a fair fiscal framework. Crucially, if we cannot get the block grant adjustment right, devolution will fail because we will end up worse off than we are at present, so that is absolutely central. Obviously I agree about increased capital spend as well.

I agree on all those issues, but I also agree with Claire Baker that everything has to be transparent and there has to be a full discussion.

The fiscal framework is central, but I hope that we can unite around the Government’s motion. We come from different positions, but I think that we can all unite around the words of the motion.

15:26

Tavish Scott (Shetland Islands) (LD): I must say that, when Malcolm Chisholm said that there were two issues with Lord Sewel, I thought that he handled the issue very delicately indeed.

I had forgotten that, as the Deputy First Minister reminded us, we were 10 weeks in that hot room, sweating over something that just does not seem to be loved, so I do not quite know where I will ever get that time back again.

The Government's motion appears to be a straightforward endorsement of the Devolution (Further Powers) Committee's work on the current Scotland Bill, so I have been a little surprised that the SNP appears to have wanted to use such an endorsement as a trigger to veto the bill in radio interviews that have been taking place this week, and indeed as a condition for a second independence referendum.

I am puzzled by that because Mr Swinney's Government threatened the Scotland Act 2012 with a veto but ultimately the Government accepted more powers, which the act devolved. I cannot see the circumstances in which the nationalist Government here in Edinburgh would veto more powers for this Parliament. I totally accept the Deputy First Minister's point on the fiscal framework—that is a separate matter—but I struggle to imagine circumstances in which this Parliament would not gain by having more powers.

John Swinney: Perhaps I can help Mr Scott in his analysis by pointing out that what convinced the Scottish Government to support a legislative consent motion on the Scotland Bill in 2012 was the fact that the UK Government changed the mechanism for block grant adjustment to the Holtham mechanism, which was then acceptable to the Scottish Government. The mechanism proposed by Calman would have been damaging to the fiscal interests of Scotland.

Tavish Scott: I accept that point and that is why I made the point about the fiscal framework. However, my wider point is about the powers that this Parliament can gain, which other members have talked to in the context of the debate.

I want to enter into the constitutional spirit of the debate, in this week of all weeks. After all, Labour has a new leader—a genuine socialist. Politics is black and white again, and it is certainly not Blair. Neil Findlay is now the most influential Labour politician in Scotland, with the ear of the leader.

I want to make a constitutional suggestion to team Corbyn, although team Corbyn may be a concept that takes Labour unity a little far, judging by what we have been watching. However, Labour should go back to the future, as it did in the past,

and embrace devolution within England. I believe that that is important for Scotland as well.

I fear that that will not happen because command and control socialism does not sit easily with decentralisation, so I doubt that there will be a Labour policy shift towards the obvious and only alternative to the constitutional morass of the UK—a federal country where the nations of England, Wales, Northern Ireland and Scotland figure out a coherent way of working together. That is why I believe that the work of the Devolution (Further Powers) Committee on intergovernmental relations is arguably the most important part of the work that is taking place at the moment.

A federal system creates a positive, unifying future for Scotland and the rest of the UK. Such a system is completely normal around the world for modern, complex democracies such as ours. It would be good for Scotland, and it is a pity that we cannot ask Parliament to support such a move with a vote this afternoon on the amendment that I lodged.

I doubt that nationalist friends in the chamber will embrace the progressive approach of a federal UK—not in Scotland, anyway. In Wales and Northern Ireland, nationalist parties recognise—and openly articulate—that future because they see the interdependence of their nations and the benefits that would flow.

The cabinet secretary mentioned last year's referendum; it would have been a surprise were that not to have been raised this afternoon. I now read that Angela Constance and Richard Lochhead are leading lights of the campaign for a second referendum: "Yes 2". I gently say to my friends on the SNP benches that most of us genuinely thought that when people said, "Once in a lifetime" they absolutely meant it. For many Scots, suggesting that we should go down the same route that we went down last year will be a considerable ask indeed.

The politics of today will be about the SNP's short-term political positioning in making a judgment on how left wing to be. Jeremy Corbyn's success in becoming Labour leader, and his socialism, can bring lost voters back to Labour. I suspect that Ms Sturgeon will not want to lose west central Scotland to the auld enemy, so Scotland can expect a battle on who is more left wing.

That matters in terms of what we are to look at in terms of the constitution and the future. It also leaves empty the centre and the right of British and Scottish politics. The Tories move ever more to the right, bringing to the UK Parliament a vindictive Trade Union Bill that not even Mrs Thatcher would have introduced. The bill is also

bad politics: far from dividing Labour, it seems to have completely united the party, so it has not worked.

The issue that is every bit as important for our constitution in Scotland as for our future in Europe. We are about to witness, as we have all seen in the past, a Tory civil war. I heard Bill Cash on the radio the other morning, and I thought that we are indeed going back to the future.

That matters because the European question is an SNP condition for a second referendum on Scottish independence. The SNP has said that it would not work with other pro-European parties to face down the arguments for leaving Europe. That is disappointing, but hardly surprising. After all, just as the First Minister wanted David Cameron to win in May, so she wants England to vote to leave the EU because that helps the SNP and the case for Scottish independence.

All that makes the liberal, radical, progressive centre of politics essential. It is the gaping political hole, and there is a great opportunity not just in the UK but in Scotland. As I say openly to my party, that is why the Liberal Democrats will recover from the trauma of the past five years.

It is increasingly clear that there are only two future courses for Scotland—*independence or federalism*—and that federalism is the only viable future for the UK. Scotland is well placed to provide the drive and the route map towards a new future: a federal UK with a stable and lasting written constitution that honours the democratic decision of the people of Scotland last year.

Now is the time for that new start. It is time for a federal UK, and it is time to find people who want a lasting, progressive settlement for our nation amidst other nations.

The Deputy Presiding Officer: I have been generous with the first three speakers, but I must now ask everyone to keep to their six minutes, please.

15:33

Mark McDonald (Aberdeen Donside) (SNP): With regard to Tavish Scott's remarks, I will say only that I certainly never used the phrase, "Once in a lifetime," mainly because I hope that I will have quite a long lifetime yet. Beyond that, it is important that we look at the genesis of today's debate and where we have got to.

It was interesting that Lewis Macdonald said that we should not judge the vow on the basis of what is in the Scotland Bill. If we took the progression from the vow giving birth to the Smith commission to the Smith commission giving birth to the Scotland Bill, we could argue that a longer gestation period would perhaps have been

beneficial. We cannot rub out the very clear lines between those processes.

As my colleague Bruce Crawford said, the UK Government is today asserting again that it is delivering on its promises to Scotland. Most objective analyses of the legislation that is before the Westminster Parliament would tend to disagree with that.

I note the comments from the Tories and Labour about Scotland having one of the most powerful sub-national legislatures. I point them to the graph on page 26 of the unanimously agreed Devolution (Further Powers) Committee report on the UK Government's proposals, which demonstrates that around 38 per cent of the taxes that are raised in Scotland will be devolved or assigned to Scotland. The figure for the Basque Country and Navarre is over 50 per cent, for Quebec it is over 70 per cent and for the other Canadian provinces it is over 60 per cent. We should bear in mind that comparison when members make such statements.

Lewis Macdonald: Will the member take an intervention?

Mark McDonald: I want to make progress on the issues that I want to highlight, which have been highlighted in the discussions and deliberations on the two committees that I sit on—the Finance Committee and the Devolution (Further Powers) Committee.

There is a question about the completeness of the taxation elements and the suite or basket of taxes that are being devolved. The Parliament is to receive powers over income tax, but there will not be powers over national insurance contributions, which strike me as something that would provide completeness.

We are not being given powers over the personal allowance, but we will—apparently—be able to set a zero rate of income tax, which seems to be a bit of a faff when, in essence, that is an instrument through which personal allowance alterations can take place. A zero rate will apply if Scotland wishes to increase the personal allowance beyond that which Westminster sets. However, if Westminster decides to increase the personal allowance, that will have an impact on tax income for the Scottish Parliament. It will be interesting to see how that issue will be resolved should such a decision be taken. It would have a material impact on the Scottish Government's projections of the income that will be available to it.

Another issue is dividend income. The Institute of Chartered Accountants of Scotland said that, if a decision was taken in the Scottish Parliament that resulted in individuals moving income into dividends, that would reduce the tax income for the Scottish Parliament but boost the tax income

for the UK Exchequer, which would receive the benefit of the dividend income. That is another issue that needs to be examined, particularly in terms of how it relates to the no-detriment principle.

On the breadth of options that are available, the Royal Society of Edinburgh said that the taxes that are being devolved are

“a narrower basket of taxes than is usually the case”.

The Chartered Institute of Housing in Scotland said that, although

“the Scottish Government may appear to have the power to make changes to the social security system”,

it would

“lack sufficient fiscal levers to put changes into practice.”

Those comments are worth noting.

Labour has called for full assignment of VAT. I caution it against saying that that would result in additional revenue, because it would result in a block grant adjustment. There would simply be an offset, and there would not be revenue over and above what Scotland would otherwise receive.

That is why the point that I have made about production versus consumption is important. Attaching VAT to production would create an incentive to boost economic activity in Scotland, because we would see the benefits of that. Attachment to consumption would not necessarily carry the same incentive. If, as the Labour Party suggests, we want benefits from increased economic activity, that should perhaps be pursued by attaching VAT to production.

Borrowing and the fiscal framework are critical elements. We need detail on exactly what the borrowing powers will entail. There has been talk that the borrowing powers will replace the powers that are in place in the Parliament, which raises the question of how effective the new powers can be if they are replacing rather than supplementing what the Parliament has available to it.

There is also a wider consideration. When the Secretary of State for Scotland came before the Devolution (Further Powers) Committee on 25 June and was asked about the flexibility for the Parliament within the fiscal framework, he said:

“it is not the intention that the fiscal framework should constrain the powers that are being devolved in the bill.”—*[Official Report, Devolution (Further Powers) Committee, 25 June 2015; c 33.]*

However, paragraph 2.2.5 of the command paper from the UK Government states:

“In the context of Scottish devolution, the fiscal framework must ensure that Scotland contributes proportionally to the overall fiscal consolidation pursued by the UK Government.”

Those two statements do not tally. Either the Parliament will have flexibility—that has a knock-on effect on the definition points around welfare, which some of my colleagues will speak about—which is what devolution should entail, or it will be constrained. That will be the acid test of whether the fiscal framework matches the aspirations that were outlined in the vow and the Smith commission report and which the Scottish people expect to be met.

15:40

Drew Smith (Glasgow) (Lab): Like John Swinney, I think that the country is in a reflective mood, even as we hear of concerns about the detail of the legislative provisions that will deliver the conclusions of the Smith agreement. He was right to say that last year’s referendum was an exciting time for all of us. The jury is out on whether that unprecedented engagement with politics will be sustained into other issues and ideas, but we can certainly hope and act to ensure that it is.

On one level, Annabel Goldie was right to highlight that the referendum result was a vote of confidence in devolution as a process and as a way of doing things that, at its very best, represents a partnership with our closest neighbours and respects the principles of good government. Such an approach is closer to people and based on sound rationales for where power should lie and, crucially, for the routes that we all have to achieve the changes that we each believe in.

However, the referendum was never going to be an endorsement of the status quo for the powers of the Scottish Parliament versus those of local government—which Claire Baker highlighted—or versus powers at the UK level. Neither, thankfully, could it ever be an endorsement of the current order of who holds power, wealth and the most opportunity in our society. Those are the big questions of modern Scottish politics, just as they were throughout the past century. They are constitutional questions, but they are also fundamental. For Labour, the questions remain who has power, in whose interest do they wield it and how is power obtained by those who are excluded.

The tests that should be applied to the Scotland Bill are how it matches up to the commitments that were made last year and whether it is consistent with how Scotland voted in the referendum. For Labour, the Smith agreement went beyond the proposals that we made as a party; for the SNP, it fell short of the party’s demands. That is as it should be, because the majority of Scots chose union over independence.

The Scotland Bill's purpose is to give effect to the agreement that was reached, so for Labour—as for the SNP—the bill as drafted is not quite there. I pay tribute to Ian Murray in his role as the shadow Secretary of State for Scotland for the work that he has done in pushing amendments to the bill that go beyond the position from which my party started and beyond the position that the UK Government has taken. Equally, I commend the cross-party work of the Devolution (Further Powers) Committee in this Parliament, of which I was previously a member, and of the Scottish Government. I respect the fact that the SNP's victory in the general election gives it the duty to ensure delivery of the agreement and, more generally, to articulate the desire of its supporters to go further.

Bruce Crawford: I welcome some of the things that Ian Murray has done and I welcome the idea of full assignment of VAT. However, does Drew Smith accept what was described last week by Professor Iain McLean, one of the architects of the Calman commission? He said that

“where we could assign—not devolve—the whole of VAT receipts in Scotland to the Scottish Government ... it would make not a blind bit of difference to the policy levers that the Parliament can pull”.—[*Official Report, Devolution (Further Powers) Committee*, 10 September 2015; c 18-19.]

All that it would mean at the end of the day is a reduction in the block grant.

Drew Smith: That takes us back to why the fiscal framework is important. We accept the Deputy First Minister's argument about the importance of that framework, provided that there is transparency and that it is not just the case that, because the Scottish Government does not like it, we should all reject it.

In the current environment, consensus is a worthy aim in what we are trying to achieve, particularly in constitutional politics, but it should not be the be-all and end-all, because we all reserve the right to argue our own positions, even when we are in the minority—as people who supported independence were after the referendum and as my party found itself after the general election.

We have to face up to the fact that in the Scottish political debate the constitution is a contested issue. That presents a significant challenge, not just to those of us who supported the result last year but to all of us who are involved in Scottish politics. The SNP might not particularly feel that challenge just now, but it is a challenge for all of us, because constitutional arrangements are simply rules that govern power, and since power is always capable of being challenged, true consensus will never be possible, although it should always be sought.

As other members did, I enjoyed last year's referendum experience and some of the debates that we had here. For the most part, they were good natured and respectful. We all have friends, family members or people we respect who reached a different conclusion from us on independence.

The same issue applies to the Scotland Bill. We need to get beyond the cynicism that has damaged the process to some extent. On one side, we have cynicism about what can be achieved, and there is some lack of interest from others in achieving as much consensus as possible. That troubles me. Scotland did not just provide an opinion about powers for the Parliament or constitutional status; it provided an instruction. The challenge that faces us is to deliver on what was promised and instructed. That is about the greatest possible devolution that is not to our detriment. We also need to respect the views and aspirations of the minority.

During the past year, we could have taken the opportunity to build a new framework for devolution that would have respected the outcome of the vote, delivered on the promises that were made and commanded as much support as possible. I regret that we do not appear to have reached that outcome. There might be lessons in glorious defeat that have their attractions, not least to Labour members, but I hope that we arrive at a better resting place than glorious defeat.

I also hope that the UK Government moves from its current position and supports some of the amendments that we have talked about. I will be happy to support the Labour amendment and the Government motion at decision time.

15:46

Linda Fabiani (East Kilbride) (SNP): I start with a direct reference to paragraph 17 of the Smith commission report, which comes under the heading “Heads of Agreement: Introduction”. It says clearly:

“The parties believe that Scotland's devolution settlement should be durable but responsive to the changing needs and aspirations of the people of Scotland within the United Kingdom. As a result, it may be appropriate to devolve further powers beyond those set out in the heads of agreement where doing so would aid the implementation of the consensus reached by the parties in this report.”

That is so important. It reflects the speed at which the Smith commission was obliged to work following the Prime Minister's announcement on 19 September last year and given the timescale. It reflects the spirit of the Smith agreement, which goes beyond the substance, and it sets out a starting point for additional powers—a floor rather than a ceiling—in the interests of cohesion.

From the commission's discussions, I have no reason to doubt that, although there were many disagreements on the powers that are to be devolved, there was consensus that those powers should make sense and be cohesive. The order of reporting in the resultant Smith document reflects that desire for cohesion.

Pillar 2 of the heads of agreement is

"Delivering prosperity, a healthy economy, jobs, and social justice".

That chapter combines welfare, employment, equalities and social affairs. It takes a cohesive approach with points of agreement for further discussion. It is a floor, not a ceiling.

However, here we are with a Scotland Bill that does not even reflect the starting point. That has been confirmed by the cross-party Devolution (Further Powers) Committee's report and by witnesses who have given evidence, such as academics, practitioners and neutral commentators.

The clauses in the bill do not even open the starting gate, let alone move along the track to cohesion. Pillar 2 calls for the devolution of all employment support services that are provided by the Department for Work and Pensions, but the bill includes a restriction that the support must last for at least a year, which is a significant limitation. Pillar 2 calls for the creation of new benefits in devolved areas and flexibility in universal credit, but the bill gives no explicit power, the definitions in relation to carers are restrictive and there is still a veto clause on universal credit. On the equalities issues, the Devolution (Further Powers) Committee has received strong advice that the Smith recommendations are not being met and that the clause in the bill is confused, to say the least. There is no fulfilment of pillar 2 of the Smith agreement, let alone a more cohesive approach or a settlement that is

"responsive to the changing needs and aspirations of the people of Scotland",

as outlined in paragraph 17 of the introduction to the heads of agreement in the Smith agreement.

Cohesion would mean listening to practitioners and others about sensible welfare devolution. It would mean giving serious consideration to employment issues, meeting the commitment of devolving all employment support services and considering whether further devolution, such as the devolution of Jobcentre Plus, would give a more cohesive system. It would mean the ability to use equality legislation to make our system fairer. Cohesion plus, which would be responsive to aspiration, would mean capitalising on all that and having, for example, the full devolution of powers over the minimum wage, employment law, health and safety and trade union law.

Trade union law is particularly worthy of discussion now, and I hope that the Labour Party will join the SNP and the Scottish Trades Union Congress in asking for full power over trade union law to be devolved. Given what is being proposed in Westminster, surely we can reach agreement on that in order to protect and promote the rights and responsibilities of workers in Scotland.

Cohesion means pulling all the strands together, but we have to have control over the strands before we can knit them together to create something sensible. We should all aim for that.

I am aware that the Scotland Office is punting messages on social media and other places that say, "We are meeting the terms of the Smith agreement," but that is clearly not the case and it is disingenuous to pretend that it is. On 15 July, the Secretary of State for Scotland stated in the House of Commons that he intends to make substantive amendments to the Scotland Bill at report stage. It is clear that the bill does not meet the Smith agreement at the moment. From the evidence that we have heard in committee, it does not seem that there is an intention to get there, let alone go beyond that.

I will finish by going back to the Smith report. In his foreword, Lord Smith of Kelvin said:

"I took on the job in the knowledge that the three leaders of the main UK parties had committed to take the recommendations set out in the agreement and turn them into law—fulfilling their commitment to strengthen the powers of the Scottish Parliament within the UK."

It is clear to me that that commitment is not being met, and I call on the three main parties in the UK to meet their own commitment and work together with us to achieve the best for Scotland.

15:52

Anne McTaggart (Glasgow) (Lab): I am pleased to have the opportunity to speak in today's debate on democracy and devolution. On Friday it will be a year to the day since Scotland voted decisively to stay part of the United Kingdom, with a strong Scottish Parliament armed with more powers to strengthen the present constitutional arrangements and serve Scotland better, in a way that would meet the aspirations of the Scottish people for a strong Scottish Parliament and strengthen the United Kingdom.

Scottish Labour is a party of devolution and the union. For more than 100 years, we have led the argument for Scottish devolution within the union, and it is a cause that we have advanced out of deep-seated conviction. Devolution can and should be strengthened, where that is in the interests of the people of Scotland. That is why I believe that Scotland needs the full powers that were promised by the Smith commission, so that it

is able to create its own welfare powers, and that the Scotland Bill must go further and give the Scottish Parliament more control over the welfare state.

At Westminster, we have tabled more than 80 amendments to the Scotland Bill, including amendments that would devolve housing benefit and also remove the veto of UK ministers over welfare powers. Indeed, last week's report by Professor Jim Gallagher, which stated that the Scotland Bill must go further to give the Scottish Parliament more control over the welfare state, is yet more evidence that the UK Government should accept Labour's amendments.

As my colleague Claire Baker said, we have today announced new amendments to the Scotland Bill that would see the Scottish Parliament take control of a further £5 billion of revenue and the powers to design a new social security system for Scotland. The amendments include measures to assign all revenue from VAT, to ensure that the Scottish Parliament can top up welfare benefits, even where individuals have been sanctioned, and to give the Scottish Government the power to create any new benefit. Amendments have also been tabled to investigate the concerns that have been raised by many charities across Scotland on the impact of new income tax powers on the gift aid system.

Our amendments would increase significantly the powers in the Scotland Bill and ensure that our Parliament is one of the most powerful devolved legislatures in the world. The bill is an opportunity for people across Scotland, and we want to make sure that they get the powerhouse Parliament at Holyrood that they were promised. However, as Claire Baker's amendment states, we must recognise

"that devolution should not stop at the Scottish Parliament but go on to create more effective delivery of public services".

We know that Scotland is one of the most centralised nations in Europe, with our local authorities' powers decreasing in recent years. I believe that responsibility over key policy areas needs to be handed back to regional government, and the new powers that are coming to our Parliament will be a perfect opportunity to do that.

In our devolution commission report "Powers for a purpose—Strengthening Accountability and Empowering People", we recommended the full devolution of responsibility for delivery of the work programme to local authorities on the basis that they are better placed to meet the requirements of local labour markets. That would enhance democratic accountability and empower people in greater local decision making. However, it is essential and right that the Scottish Parliament

play a key role in providing strategic oversight of local authority delivery of that service.

The Scottish Labour Party is focused not just on making sure that the Scottish Parliament gets the powers that it needs, but on how we will use those powers to improve the lives of people across the country. It was never the intention of devolution to devolve power to the Scottish Parliament only for it to accumulate powers upwards. We must use the new powers that are coming to strengthen devolution, increase accountability and better meet people's needs.

The Deputy Presiding Officer: I am afraid that the extra time that we had has gone, so I must ask members to be strict with themselves and keep to their allocated six-minute speaking time.

15:58

Stuart McMillan (West Scotland) (SNP): I warmly welcome the debate. On 21 May, we had a debate on the Devolution (Further Powers) Committee report "New Powers for Scotland: An Interim Report on the Smith Commission and the UK Government's Proposals", which considered the draft clauses that were published in January by the former UK Government. As we all know, the report was signed off unanimously by all parties on the committee, which was no mean feat. All the credit must certainly go to my colleague, Bruce Crawford, for achieving that.

On that day, I spoke about two issues: fixed-odds betting terminals and employment programmes. I intend to discuss fixed-odds betting terminals for a few moments as that issue, like many other parts of the Scotland Bill, is unfinished business. I have consistently raised the issue of FOBTs because of my concerns about how damaging they are; I have campaigned for powers to come to this Parliament so that we can do something about those machines. At the time, I warmly welcomed the Smith recommendations that powers be given to the Parliament, even though those powers were to be limited. However, what we have in the Scotland Bill is an outcome that will create confusion for all.

As the bill stands, the new powers will deliver a system whereby a premises with FOBT machines—or class sub-category B2 machines, to give them their proper legal title—will be governed by legislation from the UK Parliament and legislation that is made here. The relevant clause in the bill will give us powers over new machines but will leave existing machines to the UK Parliament. I think that that is an incredibly silly and convoluted way to deal with an issue that is blighting communities across Scotland.

The Law Society of Scotland proposed amendments to improve that part of the bill, and I

encourage the Secretary of State for Scotland to think again on the issue. If he is serious and is in listening mode, as he indicated that he was when he appeared before the Devolution (Further Powers) Committee in June, he needs to clear up this FOBT mess. I also encourage him to explain where the £10 limit in clause 45 came from. That figure seems arbitrary, and I can decipher no clear rationale for it.

The second issue that I want to raise is that of the definitions of carers, disability and new benefits. Paragraph 54 of the Smith commission's report was clear on the creation of new benefits and the ability to top up reserved benefits, but the Scotland Bill falls short on the provision of powers to create new benefits in devolved areas, not to mention its restrictive definition of carers. Clause 23 of the bill lacks clarity on the matter.

The secretary of state's letter to the committee of 26 August explains the position of the UK Government. It says that

"The Welfare provisions in the Bill fully deliver the Smith Commission Agreement"

but goes on to say in the next paragraph that

"There is no power in the Bill to create new benefits in areas of devolved responsibility because the UK Government believes the Scottish Parliament already has this power."

If that were the case—I will give the UK Government the benefit of the doubt just for this point—why did the Conservative and Liberal Democrat members who were on the Smith commission sign off on paragraph 54 of the commission's report? That paragraph says:

"The Scottish Parliament will have new powers to create new benefits in areas of devolved responsibility, in line with the funding principles set out in paragraph 95."

Surely the Conservative and Liberal Democrat members would have been aware of the position that is now proposed by the secretary of state, who said in his letter:

"By definition, if the area is one of devolved responsibility then the Scottish Parliament has full legislative competence to enact legislation in that area (as long as this does not also relate to a reserved matter) including the provision of new benefits should it wish to do so."

Therefore, either the members on the Smith commission displayed an ignorance of the so-called facts—I do not believe for one minute that they did—or there is now a sense that Dover house is backtracking on the issue.

A further thing that I genuinely find bizarre is the inclusion of a restrictive definition of carers. If this Parliament is to have the limited additional powers that are to come through the bill, why has a restrictive definition of carers been included in the bill? That will surely limit the ability of future

Scottish Governments to introduce measures to assist with carers.

The secretary of state explained his position in the letter of 26 August by highlighting the fact that under-16s are not normally supported by the benefits system and that those in education are normally supported through grants, bursaries or education maintenance allowance. However, the life of a carer is hard. There are many carers in Scotland and, I expect, across the UK who are under 16. For many of them, any additional assistance would be hugely beneficial and might allow them to continue their education with a little bit of the stress alleviated. Who knows? If we can remove the proposed narrow definition of carers from the bill, that might provide a further tool for the present Scottish Government and future Governments to deal with educational attainment, which is an issue that has been widely discussed in recent months. Tying the hands of future Scottish Governments by enforcing such a restrictive definition does the UK Government no credit, and it will mean that young carers will continue to face the same difficulties.

The Presiding Officer (Tricia Marwick): You need to bring your remarks to a close.

Stuart McMillan: As we have heard, some members believe that the Scotland Bill goes far enough and some believe that it does not go far enough. In my view, it falls far short of the Smith recommendations.

I think that all members of the Devolution (Further Powers) Committee have done a tremendous job in showing that we can work together to get the best outcomes for our constituents. As the bill stands, it does not do that by any manner of means, and the secretary of state needs to listen and act at the report stage.

16:04

Rob Gibson (Caithness, Sutherland and Ross) (SNP): I would like to comment first of all on a couple of items that have cropped up in the debate, arising from the Labour and Conservative amendments. There was a hint that there would be agreement that local communities and empowering people in greater local decision making were something that Labour believed in and that, somehow or other, the SNP was opposed to having more decentralisation. Nothing could be further from the truth. Indeed, when it comes to the Crown Estate, we talk about having decentralisation not only to local authorities and harbour trusts but to other local bodies, and that is an example that shows the decentralisation tendency. However, I would like to know whether references to local communities actually mean local authorities in Labour's mind, or whether they

mean local communities. Labour members had better explain that in their closing speeches.

The second point that I suggest needs to be looked at is one in which the Conservatives talk about making the Scottish Parliament

“one of the most powerful sub-national legislatures in the world”.

Do the Tories actually think that it is acceptable for the Scotland Bill to include vetoes over universal credit and energy schemes, despite there being no mention in Smith of the UK having the ability to veto the Scottish Government’s decisions? That clearly falls far short of the Smith conditions, and represents a lack of good faith, in my view.

The Crown Estate is an area in which I and the committee take a great interest. The drafting of the clause relating to the Crown Estate is complex and much of the detail is to be set out in the statutory scheme, a draft of which has been laid in the House of Commons. The assets to be transferred under the bill exclude the Crown Estate’s stake in Fort Kinnaird business park, which could be worth more than £100 million. The bill also includes major caveats relating to defence, national security and electricity distribution, as I hinted in my previous discussion about the Tory position.

The Crown Estate as such is perhaps one of the areas that this Parliament has spent longest trying to get devolved. Indeed, some of us have been involved for the past 20 or 30 year in efforts to get aspects of it devolved. That devolution has been slower than glaciers melting, although the glaciers are speeding up now, and perhaps the bill will speed up the process a little bit, too. My point is that, if the Crown Estate Act 1961 is to apply properly to the new managers, the Scottish Government and the Scottish Parliament have to be able to put our own legislative arrangements in place. However, we are faced with a Treasury that is intent on giving with one hand and caveating with another. Clauses 31(2) and 31(6) allow us to transfer assets and contain detail about that, but clause 31(10) potentially stops the Scottish Parliament from taking those actions. The provision appears to undercut the freedom granted by clauses 31(2) and 31(6) to modify the way in which the Crown Estate in Scotland is currently managed.

What kind of devolution of powers is that? We have to ask ourselves exactly what we should expect. Professor Aileen McHarg, when giving evidence to the committee, was asked about clause 31(10) and agreed that it should be struck off and removed from the Scotland Bill. We look to the Conservatives to tell us their position on that.

A further problem with the way in which we might apply ourselves to the use of the Crown Estate facilities and assets was raised by

Professor Iain McLean, who gave the example of us perhaps passing some of the assets to social enterprises and thereby reducing, to some extent, the potential actual value of the Crown Estate. He said that

“under the Smith no-detriment principles,”—

another vague area—

“the rest of the UK could play hardball and say, ‘You have reduced the revenue that comes to you from the Crown Estate, so you must bear the risk of that.’ I am simply pointing out that that is a risk to the Parliament of using the powers in that way. That is not to say that it is the wrong thing to do; it is just a risk.”—[*Official Report, Devolution (Further Powers) Committee*, 10 September 2015; c 23.]

Why would we have to face a risk in attempting to devolve the powers of the Crown Estate?

Those are the kinds of issues that bedevil the whole process and show that the bill has made the process of devolution much more tortuous than the draft clauses did. The Treasury’s reluctance shows very bad faith in its relationship with Scotland. I hope that we can get that sorted out in the next while, and I hope that the other parties, of which I have asked questions, will answer those questions in the debate.

16:10

Michael McMahon (Uddingston and Bellshill) (Lab): In the run-up to the referendum last year, I was a member of the Welfare Reform Committee and the Finance Committee, so I heard a number of eminent academics discuss a wide array of fiscal issues in the contexts of both independence and devolution. As members might imagine, when it came to discussions about devolution of powers, there was a fair spread of opinion on what the complexities of that process might entail, especially when it came specifically to welfare issues.

One of the SNP’s favourite go-to academics, Professor John Kay, boiled down the argument quite simply by saying that it is difficult to unpick welfare issues from everything else. He suggested that we are faced with a choice of all or nothing as regards what to devolve. Other academics had some sympathy with his position, but the overwhelming majority were of the opinion that the difficulty is not simply that the benefits system is complicated, but that all changes—whatever they are—run considerable risks that some of the most vulnerable and disadvantaged people in our society will be further disadvantaged, so we have to approach whatever is done with great care.

The benefits system is complex, and there are many interactions. Benefits interact with each other, with the tax system and with other social services—most notably healthcare and social care services. We must always be aware that there will

be implications for whatever other parts of the system benefits are tied to. Therefore, before we start to unpick bits of the settlement and ask which benefits should be devolved, we need to think about the tests that we might apply to ensure that further devolution is feasible and affordable and will help with addressing issues including poverty reduction, which should be our primary purpose. Will further devolution help to achieve those ends?

There was, overall, some consensus that, at the very least, devolution of housing benefit would be beneficial, but in any debate on the implications of some powers but not others, the sorts of problems that could arise in relation to financial co-ordination must also be considered. Most important, before we start to ask which benefit may be devolved, we need to think about the tests that we might apply to ensure that further devolution is feasible. As a principle, if there is to be devolution of benefits, we need to accept that the terms of benefits will have to vary. There is not much point in devolving benefits if the terms do not vary and they remain completely uniform.

That leads us to almost the opposite of the parity principle that is used in Northern Ireland. Northern Ireland works on the principle that what happens in its system must be close—if not identical—to what happens in the rest of Britain. That is not really a principle of devolution. If we are to look at any form of devolution, we need to talk about the opposite approach, which is the presumption that it is legitimate and even desirable for benefit conditions to be different.

Different levels of social security in Scotland and the rest of the United Kingdom are not new. Before the creation of the welfare state, Scotland's poor law was certainly different from that of the rest of the United Kingdom. It has to be recognised in going back to such a situation that, irrespective of any difficulties between benefits and the tax system, any new system will have a cost. There is no question about that.

Ultimately, further devolution needs to be financed in a way that means that the savings that would flow from better programme performance in Scotland would stay in Scotland. Any additional costs, through higher expenditure or poorer performance, should also be within that core part of the Scottish budget. That is a grown-up approach to further devolution.

In arguing against Professor Kay's all-or-nothing position, it should be noted that the Scottish Parliament has already varied the social security system in three important respects: in respect of the bedroom tax, the council tax rebate scheme, and the abolition of the social fund.

Labour amendments to the Scotland Bill that have been tabled to date would mean the Scottish

Parliament taking control of a further £5 billion of revenue and having the powers to design a new social security system for Scotland. It is absolutely right that we pursue that continuation of the devolution process.

The referendum outcome said to me that the people of Scotland want to remain in some kind of social and economic union with the UK, but also that they want that union to change and they want further devolution in social security to be a reasonable and feasible part of the change process. It is clear that differences in attitudes to social security have caused enormous friction and tension in Britain, but there should be a general presumption that in a political union we share a common social security system for, among other things, mobility of labour and social solidarity. That is what the people of Scotland voted for and what this Parliament should focus on delivering.

We must keep our eye on the ball and accept that what is on the table is not exactly what we set out to achieve. The amendments that Labour is tabling will take us closer to that. The Scottish Government has a responsibility in whatever actions it takes to address the complexities with which I know the cabinet secretary is grappling—we have seen them in the problems around land and buildings transaction tax and the landfill tax. Even with small taxes such as those, complexities make change difficult. I ask the cabinet secretary to focus on that whenever he makes the fiscal responsibility argument, and to take us all with him.

16:16

Nigel Don (Angus North and Mearns) (SNP): I will address clause 1 and 2 of the Scotland Bill. I make it clear that I am not attempting to rehearse constitutional arguments. At this point I am entirely concerned with the practicalities of the drafting of what we have before us and the evidence that has been heard, particularly by the Devolution (Further Powers) Committee, about what the bill's proposed amendments might mean in law.

Clause 1(2)(1A) says:

"A Scottish Government is recognised as a permanent part of the United Kingdom's constitutional arrangements."

The evidence is that that phraseology does not help. The phrase "is recognised" does not do anything in law and it does not add anything. Our law and legal systems work on the basis that the law is the law for the time being. Only last week, I think, we changed the law on disclosure. We know that we will have to reconsider that as time goes by. If necessary, we will change it and what we change it to will become the law again for the time being. We know very well that no Parliament can bind its successors, so it may be that the issue in

clause 1(1)(1A)—and every other issue—is revisited by the next Parliament. There is nothing to be gained by saying that something is “recognised”. The bill might as well say, “the Scottish Government is a permanent member of the United Kingdom’s constitutional arrangements,” or say nothing at all.

There is another permanence issue. Despite constitutional theories that say the opposite, article 19 of the treaty of union says, in effect, that it is understood that the Scottish legal system will remain for all time. That has yet to be proved to be the case, but several centuries have passed. There is no reason why we should not say that something is permanent.

In clause 2 we have the same problem with the phrase “it is recognised”, in the context of Sewel. I will deal with that in a different way. Baron Sewel set out the Sewel motion policy in a policy statement on 21 July 1998. In a speech in a debate in the House of Lords he included the text of the amendments to which he was speaking. I find it astonishing that the UK Government’s response to Smith’s recommendation that the Sewel convention be in statute is literally to put it into statute in Lord Sewel’s words. That is naive and facile, and, to be quite frank, a first-year student would know better than to draft such legislation. If we were to draft legislation like that the rest of the time we would simply put policy memoranda annotated with section numbers before committees.

The reality is that the Sewel convention is laid out in a Government document: “Devolution Guidance Note 10”, which was published in 1998. The latest version has been around since 2005 and, as I understand it, the convention has never been breached. The terms in that document say what the convention really is, so if we are going to put something in statute, it should be them. The guidance tells UK Government departments not what they “may” do, but what they “will” do. It is entirely clear that they have to consult, and paragraph 9(II), in effect, says that agreement must have been reached before the final decision-making process at Westminster. It does not say that it “may” be done; it says that it “will” be done.

The guidance note also covers emergency and exceptional circumstances. The Scotland Bill does not cover that, nor does it cover the full range of the Sewel convention, which is the fundamental point to which I would now like to return. Sewel covers three issues—legislation on the issues on which we may legislate, the powers of this Parliament and the powers of ministers. What we have before us in clause 2 of the bill potentially does not cover all those, and it might cover only the first issue. The Scottish Government has brought forward proposals. They are in the public

domain, and they clearly address precisely that issue.

The bill is, at least, badly drafted. What we have in it about the Sewel convention is nothing more than a naive statement on a piece of policy that was set out by Lord Sewel. The convention itself is clearly on paper in the Government guidance, so if it is going to be legislated for, that is what should be in the legislation—complete with exceptions, which are not disputed. If that is done, the bill will clearly cover the powers of this Parliament and the powers of Scottish ministers, as well as the ability of the UK Government to legislate on issues on which we could legislate.

16:22

Alison Johnstone (Lothian) (Green): In preparing for today’s debate, I reread the vow—the historic signed joint promise that was made by David Cameron, Ed Miliband and Nick Clegg and which was carried by the *Daily Record* exactly a year ago today. I am firmly of the view that those three Westminster party leaders felt compelled to sign that promise to the people of Scotland following polling on the referendum question, because—let us face it—signing a joint pledge promising “extensive new powers” would not have been on their week-by-week referendum planners.

Whatever our view, however, what we witnessed was people and politics meeting on the front page of a popular national newspaper, and the vow can be considered to be symbolic of an incredible shared experience in which people and politics came together. Within that changed dynamic, which is needed and welcome, people are involved and are taking part and sharing views rather than simply having politics done on their behalf by a few representatives.

In its briefing for today’s debate, the Electoral Reform Society Scotland asks:

“One year on, have we honoured the legacy of this ‘energised and enthused’ nation?”

The ERS, I suggest, thinks not, and I am inclined to agree with it. The ERS and witness after witness at the Devolution (Further Powers) Committee commented on the haste with which this part of the devolution process has progressed. Aileen McHarg, who is a professor of public law at the University of Strathclyde, said that

“It is hardly an original observation to say that the process that has been followed so far has been unsatisfactory.”

It is important to remember what it was like in Scotland in the lead-up to the referendum—how people packed out public meeting halls, how passionate were the pub and kitchen table conversations that were had around the country, and how it felt like we were all part of an important

decision. We were learning to discuss and debate issues that matter. That is not divisive; it is empowering.

Today, we will support the Government's motion and Labour's amendment. We cannot support Annabel Goldie's amendment. It asks that we continue to scrutinise the Scotland Bill in an "objective and constructive" way in order to allow the identification of "appropriate" improvements, yet it would delete the reference to the unanimously agreed, objective and constructive finding of the Devolution (Further Powers) Committee that the bill does not fully deliver the Smith commission's recommendations.

The Conservative amendment also says:

"extensive constitutional change is best brought about by building a broad consensus between political parties and governments".

That is important, but the amendment excludes—or at least forgets to mention—the people of Scotland. Participation takes time and effort, but it leads to a better outcome. I do not think that any considered body of experts charged with securing optimal outcomes for people would have designed the devolution of welfare powers that is currently on offer. I do not dismiss the powers that will be devolved, but there is concern that they are not sufficient or broad enough to help us to make the system work.

The Crown Estate is another area in which the devolution proposals seem to have been designed by someone who really did not want such devolution to happen. When the Smith commission report said that

"Responsibility for the management of the Crown Estate's economic assets in Scotland ... will be transferred to the Scottish Parliament",

people understood that to mean pretty simple devolution of everything. However, that is not what we are offered. We will have a double-stream Crown Estate and complex transfer scheme, and Scotland will see no financial benefits from assets such as Fort Kinnaird.

In the vow, David Cameron, Ed Miliband and Nick Clegg agreed that

"The Scottish Parliament is permanent".

As we members of the Devolution (Further Powers) Committee know, the drafting on that important provision has provided academics with many challenges, and continues to do so.

The Smith commission was hurriedly convened. It delivered its report, and now we debate whether the Scotland Bill delivers the report's intent and the change that was agreed by the people who represented Scotland's people on the commission.

We need to insist on and be part of a new type of politics. The people I speak to are not concerned about whether a party leader is wearing a tie; they want to debate the need for the ermine-clad members of the House of Lords. They think that we need devolution of gender politics to this Parliament. Surely that is essential to a new politics.

The further devolution of powers that we are discussing, and the way in which powers are being devolved, mean that positive intergovernmental relations are essential. In evidence to the committee, Jim McCormick said:

"Smith observed that we have weak intergovernmental working"—[*Official Report, Devolution (Further Powers) Committee*, 19 February 2015; c 4.]

He focused in particular on the impact that that might have on welfare devolution. The sharing of power in relation to universal credit demands a mature relationship and a commitment to work for the greater good. The Scottish Federation of Housing Associations agreed that the interconnections would be complex, and pointed out that the people who rely on benefits are often vulnerable.

We look forward to progress at the Scotland Bill's report stage in the UK Parliament, and we hope that the bill will match the spirit and substance of the Smith commission recommendations. If that is to happen, we need clarity on the Sewel convention, the Crown Estate, welfare benefits, definitions of carers and disability, employment programmes and much, much more. The Westminster Government has much to do to deliver a Scotland Bill that matches the intent of the Smith commission.

16:27

Jim Eadie (Edinburgh Southern) (SNP): I am grateful for the opportunity to speak in what has been an interesting debate on Scotland's democracy.

The institution of the Scottish Parliament is a direct reflection of the democratic will of the people of Scotland, and Bruce Crawford, as a veteran of the first parliamentary session who was elected in 1999, was quite right to raise the issue of the Parliament's permanence as an institution. The question is surely this: are we a subordinate legislature and an underling of Westminster, or are we a sovereign Parliament that is accountable to the people of Scotland?

Part of the answer to the question was provided in the motion that this Parliament passed by 102 votes to 14 when we debated the claim of right on 26 January 2012:

"That the Parliament acknowledges the sovereign right of the Scottish people to determine the form of government

best suited to their needs and declares and pledges that in all its actions and deliberations their interests shall be paramount.”

I believe that the people of Scotland know where they stand. They want the Scottish Parliament to be a powerful Parliament, a sovereign Parliament and a permanent Parliament. It is therefore incumbent on the UK Government to heed the calls from the Devolution (Further Powers) Committee and to set out the steps that it intends to take to give practical and legislative expression to the clear aspiration that the committee set out.

Alex Johnstone: Is there not at least an equal and opposite requirement for the Scottish Government to acknowledge the outcome of last year’s referendum and understand that the process is not a means by which to continue to campaign endlessly for the independence that the Scottish people rejected?

Jim Eadie: The member is entitled to put forward that point of view. All of us in the chamber respect the democratic will of the people of Scotland. However, it is not democratic to deny the people of Scotland the right to determine their own future.

It was Mrs Thatcher—a heroine of Alex Johnstone—who famously was able to abolish the Greater London Council, not quite by the stroke of a pen but by parliamentary diktat, precisely because it was a creature of statute. As Nigel Don set out compellingly, there is nothing in the Scotland Bill that would prevent a future UK Government that was hostile to the Scottish Parliament from abolishing it as an institution. That potential threat to the Parliament exists because, as A V Dicey stated in 1885,

“There is no power which, under the English constitution, can come into rivalry with the legislative sovereignty of Parliament.”

Therefore, the suggestion that an amendment should be lodged that would require a referendum of the Scottish electorate to be held if the issue of the Parliament’s permanence were ever in question, as well as a vote of the Scottish Parliament and the UK Parliament, seems sensible and constructive. I hope that the UK Government will respond to that suggestion positively.

In taking that step, the UK Government would be respecting the will of the people of Scotland and the wishes of this Parliament. It would also be showing due respect to the Scottish concept of popular sovereignty resting with the people—a concept that we can trace back to the declaration of Arbroath. That concept is in stark contrast to the unlimited sovereignty of Westminster, which Lord President Cooper famously referred to as being

“a distinctively English principle which has no counterpart in Scottish constitutional law.”

The cabinet secretary set out in some detail the fact that the vow has not been fulfilled, and a number of members underlined the view of the Devolution (Further Powers) Committee that the Scotland Bill does not fulfil either the spirit or the content of the Smith commission’s recommendations.

Lewis Macdonald rose—

Jim Eadie: Lewis Macdonald warned us not to conflate the two—we all heard his contribution.

The cabinet secretary and Malcolm Chisholm both highlighted the importance of having a fair fiscal framework, which is an issue that has been the subject of expert analysis by two of my constituents, the highly respected economists Margaret and Jim Cuthbert. They warn that

“income tax is an unsuitable choice as the primary vehicle for giving the Scottish Parliament greater fiscal responsibility”.

They state:

“The Scottish Government is being given responsibility for living within its tax resources, without being given adequate powers to grow the economy, and hence its tax base.”

We would do well to heed their warnings in relation to the proposed fiscal arrangements.

Linda Fabiani lamented the lack of a cohesive approach to welfare, employment and job creation, highlighting the need to secure further powers over those matters in order to meet the aspirations of the people of Scotland.

Malcolm Chisholm highlighted the lack of clarity on new benefits and top-up payments, as did other members including Stuart McMillan.

Mark McDonald dealt with the issue of dividend income accruing to the UK Exchequer possibly undermining the principles of no detriment.

Tavish Scott, in an excellent speech— notwithstanding the cynical blip mid-speech— made the perfectly reasonable case that we are seeking a progressive and durable settlement within a family of nations. He is absolutely entitled to argue that federalism is one way of achieving that. I agree with his conclusion that, in the medium to longer term, we are looking at a federal solution or independence. That will be the democratic will of the Scottish people, regardless of the final outcome.

The publication of the Scotland Bill should have been a democratic milestone—a chance for the Scottish Parliament to gain further powers to take Scotland forward. We must ensure that it does not become a fiscal and political millstone and a barrier to further progress in the years ahead.

16:34

Gavin Brown (Lothian) (Con): We have had a lot of positive contributions to the debate, and I will reflect on a number of them. We heard excellent speeches from Malcolm Chisholm, who talked about welfare, and from Nigel Don on the slightly technical issue of the Sewel convention, which was nonetheless well covered. Although I might not agree with all the conclusions that they and other members reached, their speeches contained food for thought and things that I will reflect on.

The Scotland Bill is not perfect as it is. Of course parts of it could be improved and parts of it are badly drafted. However, the UK Government is certainly adhering to the spirit and substance of the Smith agreement and will continue to adhere to it so that we have the best possible bill for an enduring settlement in Scotland and the rest of the United Kingdom.

The approach that was taken by members who made positive suggestions and did not overegg the pudding will be far more effective and do the Parliament a far greater service than that taken by members who try to traduce everything that the UK Government does and challenge its intentions along the way.

Mr Swinney gave a more measured speech, but I was disappointed in his press release today, which said:

“The Bill takes every opportunity to constrain and limit new powers and utterly fails to deliver the spirit of the Smith Commission.”

I do not know whether he actually believes that statement, but nobody who is being fair minded, reasonable and genuine about the process can believe that it is true. Why does Mr Swinney not put his undoubted energy and ability into getting the best possible Scotland Bill instead of taking swipes like that? I genuinely do not think that he believes it to be true, but he may disagree and respond in his closing speech.

Mark McDonald: I hear what Gavin Brown says, but he will be aware that the Scottish Government is writing repeatedly to the UK Government and is engaged in discussions with it to precisely that end. Does he agree with the Prime Minister, who has said on more than one occasion at the dispatch box that the Scotland Bill delivers the Smith commission recommendations in full?

Gavin Brown: Yes, and it will continue to do so, but to say that does not mean that it cannot be improved. As I acknowledged at the start of my speech, it can be improved: wording can be tightened up and there are areas in which it is not perfect. By the time the process is complete, we will be in a better position.

However, it is unfair to say that the bill “utterly fails to deliver” because many of the headline issues that were front and centre when the Smith agreement was published have barely merited a mention in the debate. There has been almost nothing about income tax, which is the biggest tax in the country; there was something, but almost nothing, on VAT, which is the second-largest tax; there was almost nothing on air passenger duty; and there was absolutely nothing on 16 and 17-year-olds being given the vote. Those are some, not all, of the headline issues of the Smith agreement that have not been mentioned. Why is that? It is because the Scottish Government and the UK Government have got on with the job and done what they are supposed to do. There is no doubt that, if we give our attention in a similar way to the remaining issues, we can get similar results.

Rob Gibson: Will Gavin Brown give way?

Gavin Brown: Not at this stage.

I come back to a point that Annabel Goldie made. It is easy to say, as many nationalist members have, that the Smith agreement does nothing—that it transfers powers that do not add up to much and are worth little. I refute that. It has become something of a cliché to use the expression “powerhouse Parliament” but I genuinely think that the Scottish Parliament is that. It is quite hard to measure in cash terms but, if we look at the laws for which we have responsibility, we find that there are few devolved Parliaments that have greater legislative reach than we have and will have once the Scotland Bill is enacted.

There are few devolved Parliaments on the planet that have greater spending power than we do. That is one reason why the Scottish Government talks only about our spending responsibilities in welfare. The SNP is the only political party in the world that, in looking at spending and tax, talks only about the percentage of spend on welfare. Why is that? It is because the percentage of spend that we have as a whole is a big figure and does not suit the SNP’s narrative and argument. According to Scottish Government figures in “Government Expenditure & Revenue Scotland” this year, we are responsible for 65 per cent of all Scottish spending—65 per cent of it is devolved—which puts us right at the top of devolved nations.

In relation to tax, there was a big weakness. Most analysts said that there was a vertical fiscal imbalance and they were right. However, post-Smith, we will be responsible for approximately 40 per cent of taxes in Scotland, according to GERS.

We are spending more than 65 per cent, we are responsible for the collection of 40 per cent of taxes and, as David Bell, who has been quoted by others, said at the time,

“Implementing Smith will mean that, in terms of fiscal federalism, Scotland will be closer to Canadian provinces and Swiss cantons, which are at the extreme end of the spectrum of devolved fiscal powers among OECD countries.”

Yes, there will be one or two places that are slightly higher, but we will be ahead of almost all of them. For that reason, I support Annabel Goldie’s amendment and urge the Scottish Government to do all that it can from its side.

16:40

Lewis Macdonald (North East Scotland) (Lab): The debate has been about the process of devolution and about its purpose. Among other things, devolution decentralises the governance of Britain and modernises the British state. Promoting Scottish devolution does not weaken the United Kingdom; it does not disadvantage other parts of the union. David Cameron’s big idea of English votes for English laws is divisive and ultimately self-defeating because he misunderstands the nature of Scottish devolution.

Devolution is firmly compatible with the ideals of the European Union. It derives from the principle of subsidiarity—devolving powers and responsibilities to the most local level that is practically possible. That principle is essential if a union of states on the scale of the European Union is to remain democratic and locally accountable, but it is just as relevant at the level of the United Kingdom and within Scotland. That is why our amendment calls for double devolution: the transfer of powers to this place from Westminster and the transfer of powers from here to a local community level. Our amendment also calls for people to be empowered by greater local decision making, reversing the centralisation of Scotland’s public services that has been a feature of the past eight years.

Devolution is about democracy and accountability, but that is not the whole story. Devolution in the present day is also about enabling social and economic change. Those things have not always gone together. Some of the most far-reaching social and economic reforms in Scottish history were delivered in the context of a unitary British state, from the nationalisation of the railways to the creation of the national health service.

However, the Labour Party has embraced devolution as a means to further progressive social and economic change, not as an end in itself. That is how we see the Smith agreement and the Scotland Bill and that is how we have approached today’s debate.

The Smith agreement covers a wide range of policy areas. Its most important provisions are to transfer tax powers to the Scottish Parliament and

to provide for powers in the field of social security to be shared between Holyrood and Westminster.

The tax changes increase our accountability as members of the Scottish Parliament by making us responsible for raising revenue as well as spending it. The combination of tax and welfare powers gives us an opportunity to create a distinctive and progressive system of social security in Scotland in the context of the wider British welfare state—an opportunity to improve the lives of those who have the least.

It is simply wrong to say that the Scotland Bill has failed on all fronts or that it does not fulfil the vow to devolve extensive new powers to the Scottish Parliament in any way. Indeed, the Devolution (Further Powers) Committee’s interim report concluded that the bill fully reflected Smith in a number of areas but required amendment or clarification in a number of others. Those were conclusions to which all parties agreed, although many of us wish to go further.

It is, of course, true that the bill falls short in the area of welfare, as Michael McMahon and others have said. It is also true that the Tory Government at Westminster has yet to accept any of the many amendments to the Scotland Bill moved by Labour, the SNP or the Liberal Democrats and indeed it has made few concessions to the issues raised on a cross-party basis by the Devolution (Further Powers) Committee here.

Alex Johnstone: Does the member agree that there is a certain irony in the use of the issue of welfare, particularly by the Government and the Government’s back benchers, who demand additional expenditure while apparently ignoring the taxation responsibilities that that would bring with it?

Lewis Macdonald: I think that the point was well made by Gavin Brown that income tax is an important part of the devolution package and should be highlighted. Of course, that does not mean that the approach of the Conservative Government on social security is supported by other parties. It is disappointing that the Westminster Government has not seen fit to accept any of such a wide range of positive and helpful amendments to improve the package.

Those of us who do not agree with the Tory approach to social security should not be deterred just because a Conservative Government digs in its heels and resists amendments that are aimed at achieving social and economic reform. After all, Mr Cameron’s ministers are undermining the welfare state and the rights and freedoms of working people daily, so it is hardly surprising that they are resisting changes to the Scotland Bill that have been proposed by those who want to use it to create a fairer and more equal society.

If the Conservatives at Westminster persist, so should the Opposition parties, and so should we. Devolution is a process, not an event, and what one Scotland act fails to deliver, another Scotland bill can propose to make happen. That has been the history over the past 18 years, and if all parties cannot agree in the next few months, it may well be the case again.

Devolution is not a transitional demand. The failure of the Conservatives to accept Opposition amendments should not be seen as an alibi that allows any other party to walk away. It would simply not be credible to sign the Smith agreement and commit to a scheme of further devolution and then to use the imperfections of the bill as an excuse to abandon the process of devolution in order to do something radically different instead.

Mark McDonald: I am interested in the point that Lewis Macdonald is articulating. Is he saying that, if the fiscal framework results in something that would be detrimental to this Parliament, we should still agree to it because we would otherwise not meet the aspirations that we signed up to as part of the Smith agreement, or does he believe that such a fiscal framework should be rejected?

Lewis Macdonald: What I said was that the imperfections in the Scotland Bill as it is currently drafted and as it proceeds through Parliament should not be used as an excuse to walk away from the process.

Mark McDonald is right to mention the fiscal framework, because there are parallel processes under way with a view to implementing Smith. One is open and public: the process of seeking to amend the Scotland Bill in the democratic forum of the House of Commons. The other is hidden and is taking place behind closed doors: the process of negotiating the fiscal framework to underpin the future sharing of power between the Scottish and United Kingdom Governments. That process of negotiation requires good will on both sides, as it will succeed only if both Governments want it to. There is little point in MPs seeking to improve the bill in Parliament if ministers are unwilling to negotiate in good faith with a view to making the Smith agreement work.

John Swinney has always rightly emphasised the importance of getting the fiscal framework right. He has described the process as a negotiation, which implies that both sides must be willing to compromise and that the end result is unlikely to be perfect from either point of view. We are calling today for that process to be made open and transparent so that the people of Scotland and the wider United Kingdom can see what is being said and done in that negotiation on their behalf. It is important that both Governments can demonstrate their good will in the negotiations, so that we can see that United Kingdom and Scottish

Government ministers are seeking the best way to implement the Smith agreement rather than pursuing other priorities at the expense of Scottish devolution.

Next year's election should not be about the Scotland Bill or a second referendum on independence, or about constitutional issues alone. It should be about the funding and provision of public services in Scotland and what this Parliament should do with the powers that we have and those that we will acquire to close the attainment gap, address the crisis in the Scottish NHS and restore local accountability for public services.

Those are the issues that matter to the people of Scotland. Devolution is a means to address those issues, not an end in itself. All parties have signed up to the process, and now all parties need to get on and make it happen.

16:48

John Swinney: The debate in Parliament this afternoon has been outstanding. It has been graced by a number of thoughtful and substantive contributions from a range of shades of opinion in Parliament, and it has helped enormously in expressing Parliament's view on the current status of the Scotland Bill, in a momentous week for our country as we approach the first anniversary of the referendum last September.

I think that all of us, regardless of our perspective, accept that the referendum was a triumph of participatory democracy in our country, despite the fact—as Drew Smith fairly pointed out—that it led to people close to us and in our communities, and those whom we represent, holding differing opinions. Nonetheless, it was an invigorating democratic process of which we should be proud.

Annabel Goldie started her speech by saying that she was somewhat surprised by my reaction to the publication of the Smith commission report in November last year. I do not think that she should have been at all surprised by my reaction, because the poor soul had to put up with me going on and on about it for what I have often described as 10 of the happiest weeks of my life—and those who were in the Smith commission room will realise how much of a joke that is.

Annabel Goldie went on to say that some of the Government's reaction in handling the issues and some of the things that my colleagues say are in the sphere of being equated with angels dancing on the head of a pin. It is wrong to characterise the issues that have been raised by members from across the political spectrum in Parliament today as being somehow trivial in that way because, as we have heard during the debate, they are very

substantial questions about the implementation of the Scotland Bill and its contribution to the process of devolved government in Scotland.

I completely disagree with one of the interventions that Mr Johnstone made, in that we participated in the Smith commission. Linda Fabiani and I, who represented the Scottish National Party, did not go in and argue for Scottish independence; we accepted unreservedly the result of the referendum. We argued for strengthened powers for the Scottish Parliament within the United Kingdom. The Scottish National Party submission to the process made that point explicitly: we accepted the fact that we could not argue for independence through Smith and that we had to argue for strengthened devolution, which is precisely what we did.

Therefore, we have what I think is a reasonable expectation that what comes out of that process should be a strengthened form of devolution that will be implemented. I accepted, in the national museum of Scotland, that Smith represents a strengthened and greater degree of powers for the Scottish Parliament although, as Drew Smith fairly pointed out, it clearly did not reach my expectations.

One of the key issues in the debate has been whether the Scotland Bill has delivered on Smith. This might come down to the kind of stuff that Annabel Goldie thinks is about angels dancing on the head of a pin, but I think that it is important. Just about four and a half hours ago, the Prime Minister said to my colleague Angus Robertson, who is the Member of Parliament for Moray and the leader of the SNP group in the House of Commons:

“You give me a list ... of the things that were promised and ... not delivered, and then we can have a very reasonable conversation. Until then, it is all bluster from the SNP.”

Well, we have heard today in Parliament a whole host of things that have not been delivered. The Devolution (Further Powers) Committee of this Parliament has unanimously sent several letters to the Secretary of State for Scotland, not least of which was sent on 14 September, setting out a range of things that were promised and not delivered, to fulfil the Prime Minister’s request.

Members could fairly ask what the Scottish Government has been doing about that. After the publication of the Smith report in November, we offered jointly to author the clauses that were to be published by the UK Government in January. The First Minister wrote to the Prime Minister on 26 November to do that, but the offer was not accepted. After the publication of the Smith clauses in January 2015, we published the alterations to those clauses that would turn Smith

into reality, but the UK Government did not accept them.

When the Scotland Bill was published after the United Kingdom election, we set out and published on 8 June draft amendments that would make the bill into Smith. We were not trying to build beyond Smith; we were simply saying that, if those changes were made, the bill would be what we think to be Smith.

On 8 June on the “Good Morning Scotland” programme, the Secretary of State for Scotland said:

“I am absolutely clear that the Scotland Bill does fulfil in full the recommendations of the Smith Commission, and I am ... happy to have, as it has been described, my feet held to the fire”.

On 8 June, therefore, the secretary of state said that the published bill does the business—it does it in full—but on 15 July, in response to my colleague the Member of Parliament for Linlithgow and Falkirk East Martyn Day, he said:

“It is my intention to make substantive amendments in the House of Commons when the Bill comes back on Report.” —[*Official Report, House of Commons*, 15 July 2015; Vol 598, c 877.]

The secretary of state, in his answer to Mr Martyn Day on 15 July, is clearly accepting that what he said on “Good Morning Scotland” on 8 June was rubbish.

Why then did the Prime Minister say what he said to Angus Robertson at 12:15 this afternoon? The Prime Minister’s statement, if anything, is what can be described as “bluster” in the House of Commons.

Alex Johnstone: Will the member take an intervention?

John Swinney: I would love to.

Alex Johnstone: I have listened to what the Deputy First Minister has had to say over the last few minutes. Could he tell me clearly whether what he is trying to do today is set out a negotiating position or close that position down?

John Swinney: I think that my negotiating positions have been pretty well publicised. As I have just said to the Parliament, what we published on 8 June were essentially the amendments that we thought would turn Smith into legislation to our satisfaction. That was a complete and utter revelation of my negotiating position. There is nothing left in the cupboard to disclose—that was it.

I would have thought that the UK Government would be interested in such intergovernmental work being done properly and fully—Tavish Scott, quite understandably, always lectures me about

the importance of that. Our amendments said it all; we could have just settled on them.

I will address some of the other issues that have been raised in the debate. To come back to Mr Scott, he said that he could not conceive of the Scottish Government voting down additional powers because of the context of the fiscal framework. I would say to Mr Scott that Parliament has to understand the Government's position that we see the fiscal framework and the bill as one and the same thing. There is no point in having the powers if we do not have the fiscal framework that allows us to exercise the powers without prejudice to the interests of Scotland

Claire Baker made a number of very fair and reasonable points about the transparency of the process. I have gone to the Finance Committee on, I think, two occasions to talk about the fiscal framework. I have set out a lot of the Government's thinking on the issues that we have to deal with. I have also said to the Finance Committee that I cannot see how I can provide a running commentary on the issues that have been discussed within the joint exchequer committee, of which, she quite correctly points out, I am the joint chair.

I can assure Claire Baker that a report will be published after each meeting of the joint exchequer committee, and that has happened on the occasions that it has met. I can also assure her that Parliament will have the ability to have full consideration and analysis of the fiscal framework that emerges from those discussions before we move to any acceptance of the Scotland Bill. I will come to Parliament and recommend the acceptance of a fiscal framework only if I believe it to be fair, in the interests of the people of Scotland, and consistent with what was envisaged by the Smith commission in its report.

Malcolm Chisholm made a couple of very substantial points about some of the elements of the Scotland Bill that are more about micromanagement than they are about devolution. Rob Gibson made the same points in relation to the Crown Estate. We should ignore that issue at our peril. Devolution is about giving power to the Parliament that it can exercise, not stipulating how powers should be used.

I am always wary about praising Labour members, because I feel that it does not do them any good internally, but if Drew Smith will forgive me for saying so, I think that he made a substantial contribution to the debate today in relation to how there is an opportunity to create broader agreement about the further steps that can be taken in empowering this Parliament by dialogue, discussion and debate. That approach has been helped by the debate today, and the Smith commission would have been helped by

having such a process to a greater extent. The Scotland Bill would undoubtedly be strengthened if the UK Government responded positively to the substantive and dispassionate contribution that has been made not least by the Devolution (Further Powers) Committee but also by the Scottish Parliament.

Finally, Linda Fabiani made a key point for the whole debate about the need for the entire package to be cohesive. It must hang together. It must enable us to exercise the type of welfare responsibilities and imagination that Michael McMahon talked about, but also give us the ability to create the stronger economy to fund those provisions as a consequence. That is the bit that we think is substantially lacking in the contents of the Smith commission agreement, and if it is absent from that agreement, it will be absent from the Scotland Bill. That is what we must remedy.

Mr Macdonald might have given us the clue. There was a Scotland Act 1998, a Scotland Act 2012, and there will be a Scotland Act 2015. Who knows? There might need to be another Scotland act into the bargain.

Business Motion

17:00

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-14255, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Tuesday 22 September 2015

2.00 pm Time for Reflection
followed by Parliamentary Bureau Motions
followed by Topical Questions (if selected)
followed by Scottish Government Debate: Building on Scotland's Educational Success
followed by Scottish Parliament (Disqualification) Order 2015 [draft]
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Wednesday 23 September 2015

2.00 pm Parliamentary Bureau Motions
 2.00 pm Portfolio Questions
 Health, Wellbeing and Sport
followed by Scottish Government Debate: Agriculture, Current Challenges Facing the Sectors and the Opportunities
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Thursday 24 September 2015

11.40 am Parliamentary Bureau Motions
 11.40 am General Questions
 12.00 pm First Minister's Questions
 12.30 pm Members' Business
 2.30 pm Parliamentary Bureau Motions
 2.30 pm Stage 1 Debate: Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time

Tuesday 29 September 2015

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions
followed by Topical Questions (if selected)
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Wednesday 30 September 2015

2.00 pm Parliamentary Bureau Motions
 2.00 pm Portfolio Questions
 Infrastructure, Investment and Cities;
 Culture, Europe and External Affairs
followed by Scottish Government Business
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time
followed by Members' Business

Thursday 1 October 2015

11.40 am Parliamentary Bureau Motions
 11.40 am General Questions
 12.00 pm First Minister's Questions
 12.30 pm Members' Business
 2.30 pm Parliamentary Bureau Motions
 2.30 pm Stage 3 Proceedings: Human Trafficking and Exploitation (Scotland) Bill
followed by Business Motions
followed by Parliamentary Bureau Motions
 5.00 pm Decision Time—[Joe FitzPatrick.]

Motion agreed to.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There are three questions to be put as a result of today's business.

The first question is, that amendment S4M-14252.2, in the name of Claire Baker, which seeks to amend motion S4M-14252, in the name of John Swinney, on Scotland's future, democracy and devolution, be agreed to. Are we all agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Wilson, John (Central Scotland) (Ind)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)

Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)

White, Sandra (Glasgow Kelvin) (SNP)
Yousaf, Humza (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 43, Against 75, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that amendment S4M-14252.1, in the name of Annabel Goldie, which seeks to amend motion S4M-14252, in the name of John Swinney, on Scotland's future, democracy and devolution, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
Buchanan, Cameron (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McGrigor, Jamie (Highlands and Islands) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Harvie, Patrick (Glasgow) (Green)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hume, Jim (South Scotland) (LD)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)

Kidd, Bill (Glasgow Anniesland) (SNP)
Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McDonald, Mark (Aberdeen Donside) (SNP)
McInnes, Alison (North East Scotland) (LD)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMillan, Stuart (West Scotland) (SNP)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Rowley, Alex (Cowdenbeath) (Lab)
Scott, Tavish (Shetland Islands) (LD)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (Ind)
Yousaf, Humza (Glasgow) (SNP)

Abstentions

Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Bibby, Neil (West Scotland) (Lab)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Henry, Hugh (Renfrewshire South) (Lab)
Hilton, Cara (Dunfermline) (Lab)
Kelly, James (Rutherglen) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Macdonald, Lewis (North East Scotland) (Lab)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
McCulloch, Margaret (Central Scotland) (Lab)
McDougall, Margaret (West Scotland) (Lab)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Murray, Elaine (Dumfriesshire) (Lab)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)

Smith, Drew (Glasgow) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)

The Presiding Officer: The result of the division is: For 13, Against 73, Abstentions 32.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S4M-14252, in the name of John Swinney, on Scotland's future, democracy and devolution, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
Adamson, Clare (Central Scotland) (SNP)
Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
Allard, Christian (North East Scotland) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Baxter, Jayne (Mid Scotland and Fife) (Lab)
Beamish, Claudia (South Scotland) (Lab)
Beattie, Colin (Midlothian North and Musselburgh) (SNP)
Biagi, Marco (Edinburgh Central) (SNP)
Bibby, Neil (West Scotland) (Lab)
Boyack, Sarah (Lothian) (Lab)
Brodie, Chic (South Scotland) (SNP)
Brown, Keith (Clackmannanshire and Dunblane) (SNP)
Burgess, Margaret (Cunninghame South) (SNP)
Campbell, Aileen (Clydesdale) (SNP)
Campbell, Roderick (North East Fife) (SNP)
Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
Constance, Angela (Almond Valley) (SNP)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
Dey, Graeme (Angus South) (SNP)
Don, Nigel (Angus North and Mearns) (SNP)
Dornan, James (Glasgow Cathcart) (SNP)
Eadie, Jim (Edinburgh Southern) (SNP)
Ewing, Annabelle (Mid Scotland and Fife) (SNP)
Ewing, Fergus (Inverness and Nairn) (SNP)
Fabiani, Linda (East Kilbride) (SNP)
Fee, Mary (West Scotland) (Lab)
Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
Findlay, Neil (Lothian) (Lab)
Finnie, John (Highlands and Islands) (Ind)
FitzPatrick, Joe (Dundee City West) (SNP)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Griffin, Mark (Central Scotland) (Lab)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Renfrewshire South) (Lab)
Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
Hilton, Cara (Dunfermline) (Lab)
Hume, Jim (South Scotland) (LD)
Hyslop, Fiona (Linlithgow) (SNP)
Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
Johnstone, Alison (Lothian) (Green)
Keir, Colin (Edinburgh Western) (SNP)
Kelly, James (Rutherglen) (Lab)
Kidd, Bill (Glasgow Anniesland) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)

Lochhead, Richard (Moray) (SNP)
Lyle, Richard (Central Scotland) (SNP)
MacAskill, Kenny (Edinburgh Eastern) (SNP)
MacDonald, Angus (Falkirk East) (SNP)
MacDonald, Gordon (Edinburgh Pentlands) (SNP)
Macdonald, Lewis (North East Scotland) (Lab)
Mackay, Derek (Renfrewshire North and West) (SNP)
MacKenzie, Mike (Highlands and Islands) (SNP)
Malik, Hanzala (Glasgow) (Lab)
Martin, Paul (Glasgow Provan) (Lab)
Mason, John (Glasgow Shettleston) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West Scotland) (SNP)
McAlpine, Joan (South Scotland) (SNP)
McArthur, Liam (Orkney Islands) (LD)
McCulloch, Margaret (Central Scotland) (Lab)
McDonald, Mark (Aberdeen Donside) (SNP)
McDougall, Margaret (West Scotland) (Lab)
McInnes, Alison (North East Scotland) (LD)
McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
McLeod, Aileen (South Scotland) (SNP)
McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
McMahon, Michael (Uddingston and Bellshill) (Lab)
McMahon, Siobhan (Central Scotland) (Lab)
McMillan, Stuart (West Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McTaggart, Anne (Glasgow) (Lab)
Murray, Elaine (Dumfriesshire) (Lab)
Neil, Alex (Airdrie and Shotts) (SNP)
Paterson, Gil (Clydebank and Milngavie) (SNP)
Pearson, Graeme (South Scotland) (Lab)
Pentland, John (Motherwell and Wishaw) (Lab)
Rennie, Willie (Mid Scotland and Fife) (LD)
Robertson, Dennis (Aberdeenshire West) (SNP)
Robison, Shona (Dundee City East) (SNP)
Rowley, Alex (Cowdenbeath) (Lab)
Scott, Tavish (Shetland Islands) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Drew (Glasgow) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
Stewart, Kevin (Aberdeen Central) (SNP)
Sturgeon, Nicola (Glasgow Southside) (SNP)
Swinney, John (Perthshire North) (SNP)
Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
Torrance, David (Kirkcaldy) (SNP)
Urquhart, Jean (Highlands and Islands) (Ind)
Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
Wheelhouse, Paul (South Scotland) (SNP)
White, Sandra (Glasgow Kelvin) (SNP)
Wilson, John (Central Scotland) (Ind)
Yousaf, Humza (Glasgow) (SNP)

Against

Brown, Gavin (Lothian) (Con)
Buchanan, Cameron (Lothian) (Con)
Carlaw, Jackson (West Scotland) (Con)
Davidson, Ruth (Glasgow) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Goldie, Annabel (West Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
McGrigor, Jamie (Highlands and Islands) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Smith, Liz (Mid Scotland and Fife) (Con)

The Presiding Officer: The result of the division is: For 105, Against 13, Abstentions 0.

Motion agreed to,

That the Parliament notes the establishment of the all-party Smith Commission following the 2014 referendum on independence and the commitment of the UK Government to legislate to implement the recommendations of the commission in full; further notes the findings of the Devolution (Further Powers) Committee that the Scotland Bill in its current form does not deliver the recommendations of the commission in full; further notes that no amendments to the Bill were accepted at its committee stage in the House of Commons; urges the UK Government to bring forward amendments at the Bill's report stage to give effect to the Smith Commission recommendations and in particular to meet the standards set by the Devolution (Further Powers) Committee, and recognises the need for a satisfactory and fair fiscal framework to allow the Scottish Parliament and the Scottish Government to make effective use of the powers in the Bill.

Blue Badge Scheme (Eligibility Criteria)**The Deputy Presiding Officer (John Scott):**

The final item of business is a members' business debate on motion S4M-13357, in the name of Duncan McNeil, on the extension of the blue badge eligibility criteria. The debate will be concluded without any question being put.

Motion debated,

That the Parliament acknowledges that it has been six months since Transport Scotland published the analysis of its call for evidence on extending the Blue Badge scheme to include people with mental health conditions; understands that there was overwhelming support for an extension in the evidence; notes in particular the evidence from Down's Syndrome Scotland that "... some people with Down's syndrome who can walk may still represent a danger to themselves and to the safety of others because they have little awareness of traffic ... The extension of eligibility criteria would thus recognise that their condition may result in compromising their safety and posing a danger to others too"; considers that a discrepancy has emerged whereby children under 16 with Down's syndrome and other conditions, in Greenock and Inverclyde and across Scotland, are assessed for a Blue Badge more strictly than those over 16, who can be assessed under the more flexible personal independence payment system; understands that a working group is to be established to consider the implications of an extension of the Blue Badge eligibility criteria; commends to that working group the understanding that Wales has led the way in Welsh Statutory Instrument 2014/3082 extending eligibility to people who, as a result of a mental disorder, are unable to follow the route of a familiar journey without the assistance of another person, and hopes that the working group can reach a swift conclusion.

17:05

Duncan McNeil (Greenock and Inverclyde (Lab)): I welcome the opportunity to have this debate and I thank the members from across the chamber who have supported the motion and have stayed behind this evening to participate in or to listen to the debate.

It would be useful to set out why I became interested in the issue. In January this year, I was contacted by a worried parent, Mr McLevy, whose son Aiden suffers from Down's syndrome. I had the pleasure of meeting Aiden and Mr McLevy in my office. Aiden is an energetic child and is full of enthusiasm. He might have done a bit of damage to the office that day, but he is forgiven. They were there on a serious matter, which was that Aiden's blue badge, which allowed his parents to park easily and conveniently, has been withdrawn, which means that they have to park some distance away from places such as the local supermarket, the doctor's office and the family centre. As a consequence—as we all realise—they have to struggle with the day-to-day activities that most of us take for granted.

Due to Aiden's condition, he has a lack of safety awareness and can be unpredictable in a way that can pose a danger to himself in a busy car park, and to his parents, who have to chase after him. He also has a lack of co-ordination and can trip easily. As a result, getting from the car to the entrance of a venue can be a daunting experience for his parents.

Aiden had his badge taken away because he does not meet the new strict criteria for the scheme. First, Aiden does not receive the higher mobility rate of disability living allowance, which means he does not automatically qualify when he applies to the local authority. If a young person such as Aiden does not receive the higher mobility rate of DLA, the local authority will then conduct an assessment. However, under the new criteria, if it is to issue a blue badge, the local authority must be satisfied that the applicant is

“unable to walk or virtually unable to walk”.

It is clear from meeting and speaking to Mr McLevy that, although Aiden did not meet that criterion, having a blue badge was essential to allowing his family to go about the day-to-day activities that most of us, as I said, take for granted.

This is not an issue that affects only the McLevys in Greenock. Down's Syndrome Scotland has informed me that it has been contacted by a number of worried parents whose children's applications for blue badges have been rejected. It is also impacting on parents with children who have autism who, due to their condition, can be prone to running off or who have learning difficulties that make it difficult for them to appreciate danger. I will read out an extract from a submission that was made by a concerned parent to Transport Scotland's consultation on extending the blue badge to people with mental health conditions, which was launched in September 2013.

She said:

“my son refuses to walk at any time; unpredictably he also throws tantrums if we are in a strange place with loud noise. We live in an extremely busy place and there is never any parking at the Doctor's or at the shops. My son has irrational fears; he does not speak, so we cannot calm him by talking things through. He literally needs to be handled very physically to stop him either running away into the road or refusing to walk at all.”

I hope that those case examples convey the difference that having a blue badge would make to the lives of those families, and how difficult their lives are made without them.

As I mentioned, Transport Scotland launched a consultation two years ago to gauge views on whether the blue badge criteria should be extended to include people who have, as a result

of a diagnosed mental condition, little or no awareness of traffic or its danger, and are likely to compromise their safety or the safety of others as a result. The analysis of the results was published a full year later in December 2014. There was overwhelming support for such an extension by the 30 groups, individuals and organisations that submitted their views to the consultation. They included Renfrewshire Council, Orkney Council, the National Autistic Society Scotland and Advocacy Western Isles. The list is on the public record.

I understand that the Scottish Government has this month set up a working group to consider whether the blue badge scheme should be extended. We very much welcome that development. However, we cannot ignore the fact that it has been nearly two years since the call for evidence and the consultation began. The time to act is now.

Wales, of course, has led the way on the issue. In December last year, it extended eligibility so that people who, as a result of mental disorder, are unable to follow the route of a familiar journey without the assistance of another person, will automatically receive a blue badge.

As Down's Syndrome Scotland has said, the longer it takes to address the issue, the more families will struggle to cope with everyday activities. The issue is significantly affecting the quality of life of children and adults with Down's syndrome and autism throughout the country, including young Aiden, who has gone nearly 10 months without his blue badge.

I hope that the Scottish Government's working group will agree to a change in the eligibility criteria and to implementing that change as quickly as is realistically possible so that families, such as the McLevys, can go about their everyday lives more easily. I look forward to hearing what the minister has to say on the matter. I hope that he will agree that progress should be made quickly.

17:12

Dennis Robertson (Aberdeenshire West) (SNP): I thank Duncan McNeil for bringing this important topic to the chamber. The member will recall that I was very much involved in blue badge issues through my member's bill, the Disabled Persons' Parking Badges (Scotland) Bill. At that time, we were looking at enforcement. We did not look at the eligibility criteria, but we ensured that reviews were part of the bill, so that local authorities had the power to make sure that reviews were carried out that met certain criteria.

I, too, have dealt with similar cases to the one that Mr McNeil mentioned, as I am sure MSPs in every constituency and region of Scotland have. I

have had occasion to speak directly with families when a badge has been coming up for renewal. Their fear is that the badge will not be renewed, and there are several occasions on which that fear came true. My case was that of a young boy with autism who has, I think, well-recognised individual problems. His badge was refused because his benefits were no longer passported, because he did not receive the higher mobility rate of disability allowance. That decision was appealed. The appeal was assisted by a friend who worked in the local citizens advice bureau. Although that person was very articulate and understood the criteria and the forms, she was aware that the language that we use when we go through an appeal process needs to be highly specific to the appeal in order to be understood and to meet the criteria.

It is sometimes blatantly obvious that a blue badge is required. Often, a young person or even an adult with Down's syndrome, autism or some other condition may not meet the walking criterion, but they still have a need for assistance and they still need to be able to have a parking space close to a facility—whether that is a doctor's surgery or a leisure facility is irrelevant, to some extent—so that they do not have to walk through car parks or across very busy traffic junctions. That is why it is so important that we ask people to use a bit of common sense when they consider eligibility, and to look at the personal circumstances of each applicant.

When I promoted my bill, many people asked us to look at the blue badge criteria. That was outwith the scope of my bill, but it was an issue that I felt very strongly about, so I am delighted that Duncan McNeil has brought it to the chamber this evening.

17:16

Cameron Buchanan (Lothian) (Con): I add my thanks to Duncan McNeil for bringing this important subject to the chamber for debate. The flexibility that the blue badge gives people who have mobility problems should not be underestimated, and the extension of the scheme to include passengers with disabilities means that drivers can take friends or family members to their desired location far more easily. Please excuse my voice—it is a bit croaky today.

The debate rightly focuses on Transport Scotland's findings following its call for evidence on extending the scheme to include individuals with mental health conditions. Duncan McNeil's motion makes explicit mention of Down's syndrome, and I agree with him that parents in particular face huge challenges in everyday life with children who have the condition. Those challenges include, for example, having to park a long distance from shops on a high street that they intend to visit—never mind doctors' surgeries.

Children with Down's syndrome often do not have a full understanding of the dangers that are posed by traffic, and sometimes have a tendency to wander off or to be unfamiliar with routes. It should be emphasised and recognised that, just because a child can walk ably, it does not mean that he or she is not a danger to themselves or others when it comes to passing vehicles. A blue badge would help to address those concerns by allowing parents to park outside, or as near as they can, to the venue that they wish to visit.

The motion also refers to the discrepancy between the assessment process for under-16-year-olds, including young children and teenagers, and people who are over 16. Although I support the Conservative Government's welfare reforms to tackle the culture of dependency, sadly one of the knock-on effects of such measures has been that changes in the rate that is paid in mobility allowance for children with Down's syndrome has led to changes in the issuing of blue badges. I believe that that anomaly needs to be rectified as soon as possible, and I would support Transport Scotland's working group investigating how we can close that loophole, which connects benefits and parents having blue badges for their children with Down's syndrome.

Of course, Down's syndrome is not the only condition that should be covered by the blue badge scheme. Autism alone affects nearly 5,000 people in Edinburgh, including approximately 850 children. Duncan McNeil has already spoken of his constituent, Aiden McLevy from Greenock, who has Down's syndrome. I would like to mention one of my constituents, Owain Martin, whose nine-year-old son Theo has autism and has recently lost his blue badge as a result of changes in assessment. Although Theo can walk 40m, which is the new criterion for assessing eligibility, that does not take into account the fact that, when his father parks, he can no longer use a disabled space. Often, that means that he has to park some distance from their home in Edinburgh, with the consequence that Theo's hand has to be held at all times. Children with autism often have sensory overload issues that can lead to them having what I understand is termed a meltdown, which is caused by noises and sounds such as those from vehicles. As Owain said to me, "You have to hold on to him the whole time, because if you turn round for a second, he'll be off."

Accordingly, I reiterate that this is an important debate that I hope Transport Scotland will take note of in its working group. Although we are all conscious that there are incidences of the blue badge scheme being abused by unscrupulous individuals, it makes perfect sense to me that the blue badge scheme should not be restricted to people with mobility issues. People with mental health problems, especially children, should not be

discriminated against. I therefore wholly support the motion.

17:20

Cara Hilton (Dunfermline) (Lab): I congratulate my colleague Duncan McNeil on securing this important debate to highlight the need for the Scottish Government to extend the eligibility criteria for the blue badge scheme.

I take the opportunity to highlight the case of one of my constituents, Philip, who has autism. He is in his early 20s and has been told that he is not eligible for a blue badge. He was told that the assessment must be based on his walking functionality, not on his autism, yet his autism means that he is unable to negotiate traffic and has little sense of danger. He cannot go anywhere without his parents, who moved up to Scotland from Yorkshire to make a better life for their family but now are virtually trapped indoors. Sadly, as a result of the blue badge decision, my constituent has also had to give up a work placement that he secured.

Philip has been told that he will qualify when he has moved on to personal independence payments, but he is in one of the last groups to be moved over, so he just has to wait. No indication has been given of how long his wait will be. He has already been waiting for more than a year. That is simply unacceptable.

As members will be aware, the Welsh Government has already extended the blue badge criteria in Wales to individuals who cannot follow the route of a familiar journey without another person. If my constituent lived in Wales, he would be automatically entitled to a blue badge now. I know that the Scottish Government has established a working group to look at the issue, but progress has been too slow and the situation is undermining people's quality of life.

As other colleagues have mentioned, having a blue badge is not just about being able to get parked. It plays a vital role in helping people to overcome the many barriers and struggles that they face every day in accessing jobs, services, leisure and social opportunities. Without a blue badge, many people such as my constituent Philip are being forced to become prisoners in their homes.

Duncan McNeil's motion highlights that children under 16 are being assessed more strictly than those over 16; many no longer qualify for the higher rate of mobility allowance, which triggers a blue badge. Many parents and carers are now faced with walking long distances with their children. For the parent of an autistic child, as Cameron Buchanan said, that can be a challenge, especially when a child is prone to running off or

having sudden meltdowns because of sensory overload or when a child has no perception of risk or danger. There is often little public sympathy or support. As a result, many families with children on the autism spectrum feel isolated and cut off from family and friends, from the wider community and from the activities that many of us enjoy and take for granted with our children.

I read an article in *The Scotsman* last week by Sophie Pilgrim of Kindred, which supports families with children and young people who have additional needs. She summed up the difference that a blue badge makes very well. She said:

"Getting a Blue Badge restores some of the 'normal' to family life ... Parking up right next to the shop door can make that dreaded shopping trip just manageable. If you have a child with ASD, you will know that any trip out has to be planned with an 'exit strategy' ... With a Blue Badge, at least you don't have to walk for miles dragging a screaming, hyperventilating child to the wonder of passers-by."

It is time for the Scottish Government to recognise the plight not just of my constituent and of other constituents that members have talked about but of families up and down Scotland. It is time to act. The longer it takes to get this sorted, the longer families will have to struggle to cope.

The Minister for Transport and Islands (Derek Mackay): Will the member take an intervention?

Cara Hilton: No—I have no time. I am sorry.

Families are struggling to cope with day-to-day activities, which affects the quality of life and wellbeing of children in Dunfermline and across Scotland, so it is time for Scottish ministers to follow the lead of Wales. I look forward to hearing what the Minister for Transport and Islands has to say.

Extending blue badge eligibility would transform the opportunities that are available to my constituent, and it would help to transform the lives of many families across Scotland who have children with conditions such as Down's syndrome and autism. The time for action is now. I am grateful to Duncan McNeil for bringing this important issue to the Parliament.

17:24

Mark McDonald (Aberdeen Donside) (SNP): I highlight from my register of interests the fact that I am a member of the advisory committee for the National Autistic Society Scotland, in case I stray into areas that relate to it.

It is really difficult not to bring my personal circumstances into such debates, but I will try my best not to. We have never held or sought a blue badge for my son, so I will not speak from that

perspective. However, I know of many individuals who have held a badge or sought to apply for one.

The points about the challenges that are faced by families with a child or an adult on the autistic spectrum were well made. It is often taken for granted how difficult and challenging it can be for such families to plan a family trip or day out, or even a trip to the supermarket. Although it is possible to use parent and child parking spaces at supermarkets, if they all happen to be full, families can find themselves parking a great distance away from the store. The child might have no concept of danger and be liable to escape. Those who have spent time with families with a child on the autistic spectrum will know that many such children are expert escapologists and that negotiating a car park can be a fraught and challenging experience. Many people would not have cognisance of that.

Dennis Robertson: Will the member take an intervention?

Mark McDonald: I will give way to my friend Dennis Robertson.

Dennis Robertson: I am grateful to my friend and colleague Mark McDonald.

Mr McDonald mentioned families. If a person has an autistic child or a child with Down's syndrome, it is often more than just that child who has to be considered on trips; others have to be considered, as well. We are therefore looking at not just the child's safety but maybe that of other family members.

Mark McDonald: I take on board entirely my colleague's point. I have constituents who have three or four children, one of whom has a complex disability. That means that they often face difficulties in planning trips, for example. They cannot always give their full attention to the child who is on the autistic spectrum or the child with Down's syndrome if they have to look after other siblings at the same time. That point is well made.

I highlight the case of Glyn Morris, who is a good friend of mine. He lives in Moray and is an ambassador for the National Autistic Society Scotland. He has a 16-year-old son named Gregor. He says that Gregor's disability makes having a badge not a luxury but a necessity. Gregor's focus is on getting to where he is going, which means that he has no regard for things such as traffic or people he may come into contact with. Although Gregor might be able to follow the route of a familiar journey unassisted, he might not be able to do so safely. We need to make that important distinction. The question is not just about an individual's ability to walk unaided but about their ability to do so safely.

The point about the extension of the criteria was well made. I note the evidence that was received

from the National Autistic Society Scotland. Perhaps the terminology is crude in its application. Referring to cognitive difficulties might be a better way of expressing something, because many would consider referring to a mental disorder or mental health impairment to be a crude way to describe Down's syndrome or autism. Perhaps that needs to be looked at.

I will flag up one other thing, which probably sits outwith the debate but is worthy of consideration. I refer to the situation that Cameron Buchanan described and the impact of welfare reform. In particular, the reduction from 50m to 20m when it comes to the higher rate of mobility allowance could exclude a number of individuals. The MS Society Scotland has highlighted the potential impact of that. Following the consultation, the minister may want to turn his attention to that issue, because if that follows through into how people are assessed, individuals who currently qualify for a blue badge under the 50m regulation may find their blue badge being taken away from them, as the 20m regulation might not necessarily class them as people who require the higher rate of mobility allowance. I flag that up as a potential future consideration.

17:29

Hanzala Malik (Glasgow) (Lab): I thank Duncan McNeil for securing today's debate.

In my many years as a Glasgow city councillor, many constituents came to me and questioned the fairness of the blue badge scheme. Historically, assessment of eligibility has been based on a person's mobility and their ability to walk a certain distance.

The consultation on broadening the eligibility criteria to include people with mental health issues was welcome. The consultation responses show overwhelming support for broader criteria that look at a person's ability to walk safely and independently, rather than just their ability to walk a certain distance. I wholeheartedly support any changes that will make the system fairer, extend it to those who require blue badges and enhance the quality of life of people who need badges most.

Down's Syndrome Scotland highlights the unfair and unacceptable anomalies between children aged under 16 receiving disability living allowance and those receiving personal independence payments. One of the reasons why the Smith commission recommended the devolution of powers over benefits for people who are ill or disabled—which is welcome—was so that the Scottish Parliament could identify and respond to such issues.

I have one note of caution. When we broaden the criteria to include a wide range of disabilities and conditions, local authority staff will need the skills and ability to fairly assess the need for blue badges. There is little point in making the scheme more accessible if the law is still applied in an ad hoc manner.

Local authorities need to ensure that sufficient safeguards are in place to prevent the abuse of the blue badge scheme. On occasion I have seen blue badges used by relatives or friends, rather than the person for whom the badge was intended. I know that a lot of authorities are going through a lot of pain to address that important issue.

Mark McDonald: I take on board Hanzala Malik's point. Does he accept that, if we are to widen the criteria to include individuals on the autistic spectrum, for example, we need proper awareness raising so that those people are not incorrectly identified as blue badge abusers? Although they do not appear to have a disability, they nonetheless require that support.

Hanzala Malik: I take on board what Mark McDonald says. He is right. I would not want to embarrass anybody who needs a blue badge.

I have no hesitation in supporting the principle of widening the scheme. However, staff in the various authorities need the appropriate training to handle the situation.

When someone parks in a disabled bay, I do not want to see them opening their vehicle door, falling out of their vehicle and crawling to wherever they are going. I am making the point that the badges should be used appropriately, and people need appropriate training to carry out their duties. That is important.

17:33

The Minister for Transport and Islands (Derek Mackay): I express my gratitude to Duncan McNeil for bringing an important matter before Parliament. It has focused minds and allowed me an opportunity to update Parliament.

It is right that we deliver a scheme that is focused and therefore does not become overwhelmed and ineffective, and one that is targeted to those that it can support. All members' contributions have enlightened us on that point.

I will say something by way of an apology to Dennis Robertson and Mark McDonald, who raised the specific issue of terminology and language, on which I agree with them. I would not usually use some of the terminology that I will use in my contribution, but it hangs on in the legislation. For accuracy I have to use terms such as "mental disorder", which is not how I would

describe such conditions. If you will forgive me, Presiding Officer, I will do that for the sake of legislative competency, but I do not underestimate the sensitivity of the subject.

The blue badge scheme and the parking concessions that it provides help people across the country to access essential, lifeline services, many of which would be unobtainable without the use of a badge. There are approximately 228,000 blue badges on issue in Scotland. In managing the scheme, we must ensure that badges are available to those who are most in need and that badge holders can park where they need to. That is why the Scottish Government supported Dennis Robertson's bill that became the Disabled Persons' Parking Badges (Scotland) Act 2014, which came into force earlier this year. The act focuses on enforcement and the circumstances in which we can clamp down on fraud and misuse. It demonstrates our continued support to ensure that the scheme is best serving those who genuinely need to use it.

For clarity, it is important to set out the different ways in which someone can be eligible for a blue badge. A badge can be issued either without assessment, which generally happens where the applicant receives a passport from another benefit such as DLA or PIP, or following assessment by a local authority.

The scheme has gone through a significant reform process over the past few years with, as members have described, eligibility assessments that are conducted by local authorities focusing on those who are unable or virtually unable to walk. At the same time, independent mobility assessments were introduced, a Great Britain-wide database was set up and enforcement powers were strengthened through last year's act.

Some of the most significant changes to the scheme happened as a result of the UK Government's welfare reform changes, as Cameron Buchanan mentioned. When the personal independence payment was introduced to replace disability living allowance, the Scottish Government set out to maintain eligibility, as far as possible, for those who previously received the higher-rate mobility component of DLA. In 2013, we introduced regulations so that anyone who is awarded PIP at 12 points for the "planning and following journeys" activity or eight points or more for the "moving around" activity will be eligible. However, as the different benefits have different assessment criteria, it was not entirely possible to achieve parity. That is why, in 2014, we took the additional step of ensuring that those who were previously in receipt of a lifetime or indefinite HM Revenue and Customs DLA award will remain eligible.

Alongside that suite of reforms, we commissioned the call for evidence that Mr McNeil mentioned in order to look at extending the scheme to include people who, as a result of a diagnosed mental disorder, have little or no awareness of the danger from traffic. The aim of the consultation was to gather views on the viability of extending the scheme—as members have requested—and on whether an extension is needed, and to identify challenges to implementing such an extension. An analysis of the responses to the consultation has been published and it shows support for the scheme. It is clear that extending the scheme would bring benefits to people with a range of mental disorders and have a practical and positive effect on both individuals and their immediate family and carers by decreasing the level of anxiety.

As has been described, an issue that was raised through the call for evidence is the potential discrepancy in eligibility for under-16s. Although PIP is replacing DLA for people aged between 16 and 64, DLA remains in place for under-16s. As the benefits are assessed in different ways, there is a potential inconsistency, which mostly affects those with mental health conditions, between different routes into the system.

As a result of the issues that were raised through the call for evidence, a working group was set up that comprises local authority blue badge administration staff, health and social care professionals and representatives from disability organisations. The group is reviewing the evidence that has been gathered, considering the barriers that relate to the extension of eligibility and seeking to identify ways to overcome them with the aim of ensuring that there is, as far as possible, parity between those who are assessed via local authorities and those who passport from other benefits. The working group held its first meeting in July and the second is planned for next week. The group needs to ensure that any changes do not have an adverse impact on other parts of the scheme, and I look forward to hearing its recommendations in due course.

I thank members for their speeches, which will also help to inform that work. I have not had an intervention, which I was anticipating, so I advise members that that work will be—

Dennis Robertson: Will the minister take an intervention?

Derek Mackay: We should be careful what we wish for in this place.

Dennis Robertson: I thank the minister. I hope that the minister, in setting out a timetable, will take on board the results of the consultation and maybe consider how cognitive assessments might be included in the context of eligibility for badges. I

hope that the minister acknowledges that we are not seeking blue badge eligibility for every person with Down's syndrome or every person with autism. A cognitive assessment would have to take account of a person's safety when unescorted. I sincerely hope that the minister will be able to tell us whether the Disabled Persons' Parking Badges (Scotland) Act 2014 can be amended and perhaps put a timeline on that process.

Derek Mackay: I am grateful for the intervention, because the member posed the question that I was going to answer, which will also be of assistance to Mr McNeil—I will respond to the question on timescale, as well. We can debate how long it has taken us to get to this point, but what is important is the progress that we can make.

Everyone who is eligible might not take up the opportunity to apply for a blue badge, but we want to be as supportive as we can be of people who want to do so. On the timescale, I understand that the working group should have concluded its work by November. My commitment to the Parliament is that I will take any relevant legislative approach as soon as I can do after that. It might be possible to make changes through guidelines, without the requirement for legislation—I repeat “might”; I need to seek further guidance on that. If that is the case, I will act quickly to deliver the change as effectively, efficiently and quickly as I can do.

The Deputy Presiding Officer: Thank you all for taking part in this important debate.

Meeting closed at 17:41.

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