



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 25 November 2015

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Wednesday 25 November 2015

CONTENTS

| | Col. |
|--|------|
| PORTFOLIO QUESTION TIME | 1 |
| CULTURE, EUROPE AND EXTERNAL AFFAIRS | 1 |
| European Union | 1 |
| Television Companies (Region-specific Programming) | 2 |
| European Union | 3 |
| Gender Equality in the Arts | 4 |
| Film Production | 5 |
| Historic Built Environment (Conservation) | 6 |
| Culture (West Scotland) | 7 |
| Local Newspaper and Magazine Industry | 8 |
| INFRASTRUCTURE, INVESTMENT AND CITIES | 9 |
| Cities (Growth and Investment) | 9 |
| Trains (Discharge of Effluent) | 10 |
| High Speed 2 (Extension to Scotland) | 11 |
| New Railway Stations (Average Cost) | 12 |
| A9 (Upgrades North of Inverness) | 12 |
| Low-emission Zones | 13 |
| Maybole Bypass | 14 |
| CLYDE AND HEBRIDES FERRY SERVICES | 16 |
| <i>Motion moved—[David Stewart].</i> | |
| <i>Amendment moved—[Derek Mackay].</i> | |
| <i>Amendment moved—[Alex Johnstone].</i> | |
| <i>Amendment moved—[Tavish Scott].</i> | |
| David Stewart (Highlands and Islands) (Lab) | 16 |
| The Minister for Transport and Islands (Derek Mackay) | 21 |
| Alex Johnstone (North East Scotland) (Con) | 25 |
| Tavish Scott (Shetland Islands) (LD) | 27 |
| Michael Russell (Argyll and Bute) (SNP) | 30 |
| Johann Lamont (Glasgow Pollok) (Lab) | 33 |
| Mike MacKenzie (Highlands and Islands) (SNP) | 35 |
| Duncan McNeil (Greenock and Inverclyde) (Lab) | 38 |
| Kenneth Gibson (Cunninghame North) (SNP) | 39 |
| John Finnie (Highlands and Islands) (Ind) | 42 |
| Rob Gibson (Caithness, Sutherland and Ross) (SNP) | 46 |
| Neil Bibby (West Scotland) (Lab) | 47 |
| Chic Brodie (South Scotland) (SNP) | 51 |
| Rhoda Grant (Highlands and Islands) (Lab) | 53 |
| Dave Thompson (Skye, Lochaber and Badenoch) (SNP) | 56 |
| Tavish Scott | 58 |
| Jamie McGrigor (Highlands and Islands) (Con) | 61 |
| Derek Mackay | 63 |
| Sarah Boyack (Lothian) (Lab) | 66 |
| BUSINESS MOTIONS | 71 |
| <i>Motions moved—[Joe FitzPatrick]—and agreed to.</i> | |
| PARLIAMENTARY BUREAU MOTIONS | 73 |
| <i>Motions moved—[Joe FitzPatrick].</i> | |
| John Finnie (Highlands and Islands) (Ind) | 73 |
| The Cabinet Secretary for Justice (Michael Matheson) | 74 |
| DECISION TIME | 76 |
| CHILDREN'S GRIEF AWARENESS WEEK | 85 |
| <i>Motion debated—[Gil Paterson].</i> | |
| Gil Paterson (Clydebank and Milngavie) (SNP) | 85 |
| Malcolm Chisholm (Edinburgh Northern and Leith) (Lab) | 87 |
| Kenny MacAskill (Edinburgh Eastern) (SNP) | 89 |
| Nanette Milne (North East Scotland) (Con) | 90 |
| The Minister for Children and Young People (Aileen Campbell) | 92 |

Scottish Parliament

Wednesday 25 November 2015

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

Portfolio Question Time

Culture, Europe and External Affairs

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

European Union

1. Sarah Boyack (Lothian) (Lab): To ask the Scottish Government what recent discussions it has had with the United Kingdom Government regarding European Union issues. (S4O-04844)

The Minister for Europe and International Development (Humza Yousaf): The Scottish Government regularly meets the UK Government to discuss EU issues. The Cabinet Secretary for Culture, Europe and External Affairs, Fiona Hyslop, and I met David Lidington, the UK Minister of State for Europe, on 11 November this year for discussions on key elements of the UK Government's EU renegotiation and the forthcoming referendum on the UK's membership of the EU. The Scottish Government also attends the quarterly joint ministerial committee on Europe meetings; the next one will be on 7 December.

Sarah Boyack: Can the cabinet secretary—sorry. Can the minister assure me that the Scottish Government will vigorously defend EU environmental legislation as part of the fitness check that the European Commission is conducting and do everything that it can to encourage the UK Government and other devolved Administrations to adopt a consistent approach to this crucial regulation, which is one of the bedrocks of environmental protection?

Humza Yousaf: I thank the member for the promotion, which was very kind.

On the refit, the environmental legislation, the directives and the advice that has been taken, the issue has been raised by a number of stakeholders in Scotland, and I want to thank them. Some elements of that cause us concern and we are listening to those stakeholders. I give the member an absolute assurance that the matter has been raised and that we will continue to raise

it. If the member wishes, I will continue to feed back to her how those discussions are going.

Television Companies (Region-specific Programming)

2. Graeme Dey (Angus South) (SNP): To ask the Scottish Government how it encourages TV companies to provide region-specific programming across Scotland. (S4O-04845)

The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop): The Scottish Government believes that broadcasting should be fully devolved as set out in the proposed amendments to the Scotland Bill. However, we are continuing to engage with all our public service broadcasters on the issue and we have made it clear through the charter renewal process that there is a need for increased national representation in TV and radio services that the BBC provides for Scotland.

We acknowledge the important role that local television services play in strengthening public service broadcasting in Scotland, note the success of the STV channels in Edinburgh and Glasgow and welcome the services that are due to launch in Aberdeen, Ayr and Dundee.

Graeme Dey: STV maintains an appropriately resourced presence in Dundee, delivers a Tayside-specific news slot across the platforms and, as the cabinet secretary knows, is to launch a dedicated STV Dundee channel in early 2017 to serve the wider Tayside area. That resourcing and level of service to the area is in marked contrast with that of the BBC. What influence might the Scottish Government bring to bear to ensure that the city of discovery and the wider region are treated more appropriately by the BBC?

Fiona Hyslop: I welcome STV's commitment to Dundee and Angus. It is interesting to note that Ofcom's third public service broadcasting review shows that 81 per cent of those who were questioned said that STV's news programmes provided a wide range of good-quality news about their area. The BBC's own reports state that under 50 per cent of people in Scotland thought that it was good at representing their life in news and current affairs content.

Clearly, STV has to be established in the area, but the competition from it will put pressure on the BBC. In terms of service provision for Scotland, the more that can be produced in Scotland with a news agenda that reflects Scotland, whether that is on a national basis or locally, the better, and that will benefit the BBC's audiences. Clearly, there is a new operator in Dundee, and I think that that will create some healthy competition that will benefit audiences and viewership.

Claire Baker (Mid Scotland and Fife) (Lab):

The cabinet secretary will know that STV is raising concerns about the accessibility of city TV. Will she make representations to the Department for Culture, Media and Sport on reorganising the electronic programme guide?

Fiona Hyslop: We are in regular discussions with the DCMS on a number of issues including EPG positioning and the possibility of reconfiguration with some of the other changes that are happening. We are very conscious of that issue. Visibility of local television on the first page or high up on the EPG makes a difference and it is something that we are supportive of.

European Union

3. Roderick Campbell (North East Fife)

(SNP): To ask the Scottish Government when it last met representatives of the European Union and what matters were discussed. (S4O-04846)

The Minister for Europe and International Development (Humza Yousaf): Scottish ministers regularly meet representatives of all European Union institutions. For example, the cabinet secretary, Fiona Hyslop was in Brussels yesterday, speaking for the United Kingdom at the culture and audiovisual council, where discussions included how European co-operation can prevent the destruction and illicit trafficking of cultural heritage in conflict areas. A number of ministers meet EU representatives on a wide variety of issues.

Roderick Campbell: The minister will be aware that the European Commission is carrying out a fitness check of the birds and habitats directives that protect a number of areas in my constituency of North East Fife. Can he advise on the Scottish Government's position in relation to the retention of the directives? Will he commit to pressing the UK Government for early confirmation of its position?

Humza Yousaf: The Minister for Environment, Climate Change and Land Reform has overseen the Scottish Government's contribution to the UK Government's response. The European Commission is in the evidence-gathering phase of the fitness check on the two nature directives to which the member alluded. As he will be aware, the fitness check is part of an established European Commission programme of regulatory fitness and not a change in the scope or objective of European law. The UK Government's response to the evidence-gathering phase has been published by the Commission on the Europa website and a Commission conference was held last week to consider the emerging findings. The Commission has announced that the final outcome will be known in 2016.

Anne McTaggart (Glasgow) (Lab): What role will the minister play in the EU discussions about security following the recent events in Europe?

Humza Yousaf: After the incidents that took place in Paris, it is fair to say that the working between the Scottish Government, the UK Government and our wider European partners has been strong. We have a link between the justice secretary and the Home Secretary and we are constantly updated through being involved with COBRA meetings and other resilience discussions. I can give the member the strongest assurances that co-operation in these islands and across the continent means that the security and safety of our citizens is our number 1 priority.

Jamie McGrigor (Highlands and Islands) (Con): Does the minister agree with the principle of devolution of power? If so, does he agree that the Scottish Parliament should support the UK Government in its pursuit of renegotiations to achieve a leaner and more competitive EU, with the UK at its heart?

Humza Yousaf: I believe in all devolution of power, which will not be a surprise to the member. When it comes to EU reform, we have made our case. We have a 28-page document—if the member has not read it, I will happily pass it on to him—and we believe that EU reform should be sought in a positive manner rather than by threatening a referendum. We have made our case for reform and the UK Government has made its case, and we agree with it on giving national and devolved Parliaments more say over issues in Europe. However, we do have some disagreements and those will come to the fore as and when the EU referendum is announced and the campaign begins in earnest.

Gender Equality in the Arts

4. Claire Baker (Mid Scotland and Fife) (Lab): To ask the Scottish Government how it promotes gender equality in the arts. (S4O-04847)

The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop): The Scottish Government supports the arts primarily through Creative Scotland. As part of its on-going equalities, diversity and inclusion review, it is improving equalities monitoring, data collection and analysis across all protected characteristics. It is gathering more sophisticated data on employment, progression and the representation of women in the arts. Creative Scotland's "Equalities, Diversity and Inclusion Report 2015" was published on 30 April 2015. In the arts bodies that Creative Scotland funded in 2013-14, women made up 58 per cent of the workforce, and 65 per cent of operational management. Creative Scotland was the first public body to meet the First

Minister's 50:50 by 2020 equality target for its board earlier this year.

Claire Baker: The cabinet secretary will be aware of concerns about the underrepresentation of women in creative roles. Although Creative Scotland is collecting data from the organisations that it funds, it is only collecting employee workforce data, which excludes freelance or other contracts that relate directly to creative roles such as actors or directors. I hope that the cabinet secretary will agree that, if we are to address gender equality in creative roles, we need the proper information to direct a policy. Will she commit to raising the matter with Creative Scotland?

Fiona Hyslop: Yes, I am happy to do so. I have long had concerns about the issue and it would be a great shared endeavour if we could make that one of our priorities across all parties, so that we can ensure that women are represented at all levels of our publicly funded organisations and the culture of our country, particularly in creative direction and in freelancing, although it might not be so easy to get reports on that. I am happy to share that endeavour.

Film Production

5. Richard Baker (North East Scotland) (Lab): To ask the Scottish Government what action it is taking to encourage films to be made in Scotland to boost local economies. (S4O-04848)

The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop): We support and work with Creative Scotland to champion Scotland as a premier location to create high-quality productions for both the large and the small screen.

Creative Scotland's location service works closely with regional offices across Scotland to bring productions to local areas and benefit from Scotland's superb locations and highly trained crews. "Sunset Song", which had scenes filmed across various locations in Aberdeenshire in the Mearns region, brought a boost to the local economy during filming. Fans of Grassie Gibbon's novel can avail themselves of a VisitScotland interactive map that highlights the various locations used, including Fettercairn, Glen Tanar estate and Arbuthnott church.

Richard Baker: The cabinet secretary has astutely pre-empted my question. I had planned to ask her to join me in congratulating VisitScotland and its partner organisations on the production of the film map of the sites in Aberdeenshire where "Sunset Song" was shot. The film has been critically acclaimed—

The Deputy Presiding Officer: What is the question?

Richard Baker: What further action will be taken by the Scottish Government, and indeed by VisitScotland and other agencies that are involved in boosting local economies, to ensure that more films are shot in those areas with, we hope, a similar impact on those local economies?

Fiona Hyslop: The member may be aware of recent development funding and also production funds that have been made available from Creative Scotland to encourage more filming in Scotland.

In terms of the local economic reach, the proposal that showing films will promote the area is a very strong one. A number of people come to Scotland precisely because they have seen the scenery in films. There are initiatives from VisitScotland and others to promote the location of Scotland, our cities and our wonderful scenery.

A number of films that are still being filmed have yet to hit our screens. They will further promote Scotland in the future.

Christian Allard (North East Scotland) (SNP): Like Richard Baker, I very much enjoyed "Sunset Song". The première will be on 4 December.

Does the cabinet secretary agree that locating the Scottish film studio in the north-east would be fantastic? Dundee, the city of discovery, could encourage film-makers in the north-east to stay and work here, while international film-makers could be encouraged to discover the best that Scotland has, both visually and creatively.

Fiona Hyslop: As the member may be aware, we are at a critical stage in commercially confidential negotiations for a new film studio in Scotland. He should also be aware that we cannot progress film studio proposals that require 100 per cent public funding. A private sector partner is required. We have not been approached by any private sector partner in the north-east. That might come as some disappointment but obviously there are opportunities for private sector partners across Scotland, seeing the talent and the opportunities that we have, to come forward with proposals.

It is clear that "Sunset Song" will do a great deal for the Scottish film industry. I would encourage those who do not have a ticket to see one of the early premières on 30 November to get one. It is a fantastic film in many different ways; it is very emotionally charged as well as visually beautiful.

Historic Built Environment (Conservation)

6. Bruce Crawford (Stirling) (SNP): To ask—

The Deputy Presiding Officer: Can we have the microphone for Mr Crawford, please?

Bruce Crawford: It has blinked at me, Presiding Officer. I guess that means that it is working.

To ask the Scottish Government what progress it is making in relation to the conservation of the historic built environment. (S4O-04849)

The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop): The Scottish Government has established our newest non-departmental public body, Historic Environment Scotland, to provide strong and effective leadership to the sector to ensure that our unique heritage is enjoyed for years to come. The new body, which came into existence on 1 October 2015, will lead on the delivery of Scotland's first-ever historic environment strategy, "Our Place in Time".

The strategy was developed in collaboration with partners from across the sector. A recent very successful conference, which was held in Dundee, drew together a wide range of heritage bodies to explore the many ways in which the strategy is being delivered, as well as looking at how best to ensure delivery of our shared ambition for Scotland's historic environment.

Bruce Crawford: When is the national conservation centre in Stirling, located at the engine shed, Forthside, expected to be open for business? What will its primary purpose be? What benefits will flow from its activities, both for conservation in Scotland and—as members might expect me to ask—for employment and the economy in my Stirling constituency? Incidentally, the Forthside area would make a fantastic location for Scotland's new film studio.

Fiona Hyslop: I am pleased to confirm that the engine shed, Historic Environment Scotland's ambitious project to create Scotland's first national centre dedicated to building conservation, is on schedule to open at Forthside in summer 2016. It is yet another boost for Stirling's profile in heritage. The project will focus on raising standards and awareness. It will provide education and training opportunities and research in different areas, such as digital documentation and climate change adaptation for the built environment.

The engine shed is already attracting significant international interest. There are great global opportunities for Scottish expertise to be showcased there, as well as for the project to be a boost for Stirling.

Culture (West Scotland)

The Deputy Presiding Officer: I call question 7, Neil Bibby. [Interruption.] Can we have the microphone for Mr Bibby, please?

7. Neil Bibby (West Scotland) (Lab): To ask—[Interruption.] That is Johann Lamont's microphone.

The Deputy Presiding Officer: Your microphone is on now, Mr Bibby.

Neil Bibby: To ask the Scottish Government what action it is taking to promote culture in West Scotland. (S4O-04850)

The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop): In 2014-15, Creative Scotland invested more than £2.6 million through 50 awards to individuals and organisations based in the West Scotland region. In 2015-16, it is investing more than £1.2 million in the six local authorities that make up the West Scotland parliamentary region through the youth music initiative's school-based music making fund. Three regularly funded organisations—Cove Park, the Beacon arts centre and Hands Up For Trad—are being supported in the west of Scotland with Creative Scotland investment of £1.4 million between 2015-16 and 2017-18.

Neil Bibby: The cabinet secretary will be aware that Paisley has recently launched a bid to become the United Kingdom city of culture in 2021. Paisley has a rich cultural heritage and has produced many famous music artists, actors and poets. The bid would act as a catalyst for job creation and regeneration, with a multimillion pound facelift for Paisley museum as part of the project.

Does the cabinet secretary agree that Paisley has a strong bid to be the UK city of culture in 2021? Given the fact that, to date, there has never been a Scottish host, what will she will do to help it in the bidding process?

Fiona Hyslop: I am very aware of Paisley's 2021 bid. I met Renfrewshire Council leader Mark Macmillan, the chief executive and the bid director on 27 October to hear more about their ambitious plans.

Other bids might come from Scotland, but Neil Bibby is right to identify that there is a strong case for having a Scottish host. We can learn from the experience of Dundee, which performed extremely well but did not secure the bid in the final regard. The UK city of culture is an opportunity to showcase culture and heritage. Neil Bibby is right that Paisley has a rich heritage in many different respects—contemporary music and wider heritage, not least textiles and design. It is putting in a strong bid but, as he might appreciate, other bids from Scotland might be made.

Local Newspaper and Magazine Industry

8. Alex Fergusson (Galloway and West Dumfries) (Con): To ask the Scottish Government

what action it is taking to support and promote the local newspaper and magazine industry. (S4O-04851)

The Cabinet Secretary for Culture, Europe and External Affairs (Fiona Hyslop): Local newspapers and magazines are a vital part of a healthy democracy. The industry benefits from our business rates policies, which include our decision to cap the business rates poundage below inflation this year and our small business bonus scheme. The small business bonus scheme alone removes or reduces the rates for more than 99,000 properties, which is the equivalent of two in every five. That provides much-welcomed support to small firms, such as some local newspapers and the magazine industry.

In addition, the Scottish Government and public bodies use local media, including newspapers, to advertise campaigns in areas such as preventative health and road safety.

Alex Fergusson: As the cabinet secretary rightly says, local newspapers are and will remain an important part of our culture and a vital source of information for communities, particularly rural communities such as mine in Galloway and West Dumfries—which, I add, would make an excellent base for Scotland's fledgling film industry.

As I am sure the cabinet secretary is aware, the United Kingdom Government is undertaking a complete review of business rates for weekly titles, which is expected to consider whether newspapers might have partial exemption from rates.

The Deputy Presiding Officer: Question!

Alex Fergusson: Despite the measures that the cabinet secretary has already indicated, will she support a review of business rates for local newspapers?

Fiona Hyslop: The Scottish Government's small business bonus scheme is certainly a leader in helping small businesses, so Scotland probably has competitive benefit over the rest of the UK in that regard. We look forward to hearing the recommendations of the review that Alex Fergusson mentions. Obviously, we have yet to hear of any initiatives that might come on the back of it, but we will examine them when they are introduced.

Infrastructure, Investment and Cities

Cities (Growth and Investment)

1. James Dornan (Glasgow Cathcart) (SNP): To ask the Scottish Government what action it is taking to encourage partnership working to secure growth and investment for cities. (S4O-04854)

The Minister for Transport and Islands (Derek Mackay): Cities and their regions play a central role in driving economic growth. The Scottish Government is committed to working individually and collectively with Scotland's cities to optimise that growth for the benefit of the whole of Scotland. The Scottish cities alliance fosters partnership working between our cities and the Scottish Government to secure growth and investment. In addition, our support of city deals in Scotland is predicated on strong regional partnerships that include the wider public sector.

James Dornan: Will the minister join me in welcoming recent news that the number of new business start-ups has surged in Glasgow, including in my constituency of Glasgow Cathcart, over the past year?

Derek Mackay: Of course I welcome that news and the positive national picture as well. The number of businesses in Scotland as a whole is at a record level of 361,345 as at March 2015, which is an increase of 7.8 per cent since 2014. That underlines our commitment to ensuring a supportive business environment. In partnership with local authorities through the business gateway initiative, we are working to secure businesses, including new businesses, across the country.

The Deputy Presiding Officer: Question 2, in the name of Neil Findlay, has not been lodged. A satisfactory explanation has been provided.

Trains (Discharge of Effluent)

3. Nigel Don (Angus North and Mearns) (SNP): To ask the Scottish Government what progress it is making toward ending the practice of trains discharging effluent on to lines. (S4O-04856)

The Minister for Transport and Islands (Derek Mackay): Working with ScotRail, Transport Scotland has agreed a programme of works to install collection tanks on the only remaining trains operated by ScotRail that still discharge effluent on to the tracks. That programme has commenced at the Knorr-Bremse workshops in Springburn, Glasgow, with the first trains being fitted with tanks and returned to service. The target completion date for those trains to be fitted is 31 December 2017, which is three years earlier than planned.

Nigel Don: I say just that I am very grateful to the minister for that reply. It seems to be ancient technology to spread effluent on to lines so I am grateful for that reply.

Alex Johnstone (North East Scotland) (Con): Will the minister confirm that that means that the only trains that will continue to discharge effluent on to lines after that date will be trains that sneak

across the border from England? Will he further confirm that, with the replacement programme on those lines, that situation will end in 2018?

Derek Mackay: For the trains that I am responsible for as transport minister through ScotRail and other franchises, I have accelerated the programme. I pay credit to the trade unions, which campaigned on the issue and worked with me. We went through the programme to accelerate it and to ensure that the appropriate tanks were fitted. Of course, the practice is messy for the staff and unpleasant for everyone working on the railway lines.

As regards the trains that I am directly responsible for, yes, those lines will be clear and those tanks will be installed. Some trains that are the responsibility of the Department for Transport, where the programme has not been accelerated, may still be discharging on to Scotland's railways. I know that the DFT is still looking at the matter, but I am happy with the actions that this Government has taken.

High Speed 2 (Extension to Scotland)

4. Colin Beattie (Midlothian North and Musselburgh) (SNP): To ask the Scottish Government what recent discussions it has had with the United Kingdom Government regarding the high speed 2 rail project coming to Scotland. (S4O-04857)

The Minister for Transport and Islands (Derek Mackay): The Cabinet Secretary for Infrastructure, Investment and Cities met the Secretary of State for Transport, Patrick McLoughlin, in June this year to discuss the ongoing study by HS2 Ltd—which was jointly commissioned by the UK and Scottish Governments—into the broad options for extending high-speed railways to the north of England and Scotland to achieve a journey time of not more than three hours between London and Edinburgh and Glasgow.

The cabinet secretary also met Robert Goodwill MP, Parliamentary Under-Secretary of State for Transport, earlier this month at the HS2 Ltd supply chain conference in Edinburgh.

Colin Beattie: There are unconfirmed reports that costs for the HS2 project have increased by 30 per cent to £30 billion. If that is the case, can the minister indicate how such a rise in cost is likely to affect Scotland's transport budget and the overall viability of the project?

Derek Mackay: The difference in cost is, as I understand it, down to the difference between the projected costs at 2011 prices and the actual costs, which the Department for Transport is monitoring.

The current expenditure to date has been built into the Barnett formula. If that precedent continues, there should be no impact on our transport budget, although we are keeping a close eye on that. It is worth reminding members that we support the extension of high-speed rail to Scotland so that we enjoy the benefits, rather than high-speed rail simply making it easier to travel more quickly from London to the north of England. We are keeping a close eye on costs and the necessary expenditure for Scotland.

New Railway Stations (Average Cost)

5. Mary Fee (West Scotland) (Lab): To ask the Scottish Government whether it has carried out an assessment to determine the average cost of building new railway stations. (S4O-04858)

The Minister for Transport and Islands (Derek Mackay): There has been no assessment carried out to determine the average cost of building a new railway station. Many variable factors, such as the size and location of the proposed station, associated ground works and the requirement for additional infrastructure, can impact on the cost.

Mary Fee: One of the key criteria for applying to the Scottish stations fund is access to third-party funding. The eligibility guidance for the fund states:

"promoters must be able to demonstrate that alternative funding sources for the proposed improvements have been exhausted."

At a time when budgets are tight for local authorities, does the minister believe that scouting for private funding is the best use of council resources?

Derek Mackay: Sometimes there may be useful and necessary interventions from the private sector through planning obligations and so on. That may be appropriate in helping to contribute to infrastructure so that transport improvements pay their way. There are a number of examples that showcase how that can be done.

In partnership, we should continue to focus on investment in the railways, to which the Government has committed some £5 billion. Of course, if we can lever in other sources of funding, we can do even more for the railways in Scotland.

A9 (Upgrades North of Inverness)

6. Rob Gibson (Caithness, Sutherland and Ross) (SNP): To ask the Scottish Government what upgrades are planned for the A9 north of Inverness. (S4O-04859)

The Minister for Transport and Islands (Derek Mackay): We want the very best for communities and road users of the A9, which is

why we will continue to improve transport infrastructure in the north. Since 2007, on the A9 north of Inverness, the Government has invested £5.5 million in phase 2 of the A9 Helmsdale to Ord of Caithness improvements scheme and £13.3 million in the refurbishment programme for the Kessock bridge to deliver a reliable crossing for road users for the next 30 years, in addition to routine maintenance.

An improvement scheme to remove the hairpin bend on the A9 at Berriedale braes is also in preparation. In addition to routine maintenance activities, more than £1 million of resurfacing is planned over the next three years for the A9 north of Inverness.

Rob Gibson: What is the likely timescale for the public local inquiry on the Berriedale braes scheme? The minister ought to know that the travelling public and developers, who need changes that will help larger vehicles to get up the road, want some certainty about when we are likely to get a decision on the matter and when the development at Berriedale braes will begin to take place.

Derek Mackay: I understand the demands for the work at Berriedale braes—I really do—but the timescale is independent of Government and rests with the directorate for planning and environmental appeals. I remember the matter well from my previous brief in planning.

A pre-inquiry meeting is scheduled to take place on 2 December, at which the date and duration of the inquiry will be discussed. I say again that I understand the local demands for that improvement project.

David Stewart (Highlands and Islands) (Lab): A number of Highland farmers have approached me about the lack of lay-bys for farm vehicles and other slow-moving vehicles on the A9 north. Does the minister accept that allowing slow-moving vehicles the opportunity to pull over is a major contributor to road safety? Will he look again at the problem?

Derek Mackay: We are delivering the dualling of the A9 and will look further at spending plans to see what else can be done in road infrastructure improvement. I am mindful of road safety issues, and we will keep the matter in mind, but we must balance that with our spending commitments and the availability of spending, which is being discussed right now in the House of Commons as we find out what the spending review will mean for Scotland.

Low-emission Zones

7. Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): To ask the Scottish Government what action the Cabinet Secretary for

Infrastructure, Investment and Cities will take to facilitate the creation of low-emission zones in Scotland's major cities. (S4O-04860)

The Minister for Transport and Islands (Derek Mackay): We have a vision, which we set out in our cleaner air for Scotland strategy, for Scotland to have the cleanest air in Europe, and low-emission zones are a key part of that strategy. Over the next year, we will develop guidance and a new framework to enable local authorities and their partner organisations to work together to deliver the best measures, including low-emission zones, for their air quality management areas.

Malcolm Chisholm: The minister will remember that in last week's debate on air pollution I highlighted the problems of air pollution in parts of my constituency. Will the Government commit to introducing low-emission zones in key cities with air pollution problems by 2018 and, crucially, will it commit to supporting local authorities' implementation of low-emission zones through full funding?

Derek Mackay: We will certainly be supportive by way of policy and interventions and in relation to the funding package that exists. Of course, there are necessary arrangements to be put in place in terms of guidelines and monitoring as we go through the programme to 2018. The current programme is described as ambitious, but we will be as supportive as we can of local authorities as we tackle air quality in partnership.

Maybole Bypass

8. Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): To ask the Scottish Government what progress it has made in ensuring that a Maybole bypass achieves the status of a shovel-ready project. (S4O-04861)

The Minister for Transport and Islands (Derek Mackay): Following consideration of a public local inquiry reporter's recommendations for the A77 Maybole bypass, the Scottish ministers have decided that orders should be made without modification. We are now progressing the design work for that important scheme with a view to publishing made orders early next year, which, subject to there being no legal challenge, will complete the statutory process.

Adam Ingram: That is good news. Can we now expect a financial commitment for the project from the minister, and when might that be forthcoming?

Derek Mackay: The Scottish Government remains committed to commencing construction of the A77 Maybole bypass at the earliest possible opportunity, subject to the satisfactory completion of the statutory process and allocation of funding from future spending reviews, which will be informed by today's announcement.

The Deputy Presiding Officer: I call Jim Hume to ask question 9.

Regrettably, Jim Hume is not in the chamber.

Question 10 has been withdrawn and a satisfactory explanation on Bob Doris's behalf has been provided, so that concludes question time.

Clyde and Hebrides Ferry Services

The Deputy Presiding Officer (John Scott):

The next item of business is a debate on motion S4M-14942, in the name of David Stewart, on keeping CalMac public. Before we start the debate, I remind members that legal proceedings are on-going in relation to the procurement process for the awarding of the northern isles ferry service contract. The case is therefore sub judice for the purposes of standing orders, so I advise members to refrain from referring to that procurement process during today's debate.

14:33

David Stewart (Highlands and Islands) (Lab):

As a lifelong trade unionist, I warmly welcome to the gallery this afternoon officials and members representing CalMac Ferries and beyond. I would ask all members to congratulate them on their outstanding campaign to fight for jobs and services for CalMac. [*Applause.*]

If anyone was in any doubt about the insidious Trade Union Bill, which is weaving its way through Westminster, I say to them, come to the Scottish Parliament today and see in action trade unionism at its best—dedicated men and women, steeped in their community, committed to retaining top-quality public sector jobs and services.

I want to thank the local and national media for their positive coverage of our campaigns, particularly the *Daily Record*, which has been four-square behind the crusade to keep CalMac and carry on.

A few years ago when I was on holiday in Skye and having lunch in a cafe in Portree, I found a story about Caledonian MacBrayne in a local community paper. CalMac, as it is usually known, is a publicly owned ferry company that has become an institution. It is wedded to the Scottish psyche and is as identifiable as Stornoway black pudding, Walker's shortbread and Barr's Irn Bru. The story in the community paper included a poem that local children had made up, which went as follows:

Unto the Lord belongs the earth
And all that it contains.
Except the Kyles and the Western Isles
For they are all MacBrayne's.

CalMac was formed on new year's day in 1973 when two companies, the Caledonian Steam Packet Company and David MacBrayne Ltd, whose histories go back two centuries, amalgamated.

Even the names of the CalMac fleet—Loch Seaforth, Finlaggan and Isle of Lewis, for

example—evoke the rich tapestry of Scotland's past. It is as if the vessels themselves project a personality and character of their own. They are a west coast extended family, which is part of the DNA of the Highlands and Islands.

However, the very survival of CalMac is at risk. CalMac is engaged in a head-to-head competition with Serco, the international facilities company, for the Scottish Government contract for ferry services on lifeline Clyde and Hebrides routes.

The loss of the contract would in effect mean the end of CalMac. Vessels would go to Serco, staff would go to Serco and routes would go to Serco. Without the Clyde and Hebrides routes, CalMac would disappear and there would be no public ferry service to challenge Serco in future. That would leave lifeline services, along with services to the northern isles, well and truly in private hands.

Chic Brodie (South Scotland) (SNP): Will the member take an intervention?

David Stewart: Not now. I will take an intervention from the member later.

Let us not forget that CalMac has run the Clyde and Hebrides ferry routes at profit in every year of the current, extended contract. Around £8.42 million has been paid back to the Scottish Government in dividends or subsidy clawbacks since 2008-09. If the contract is lost to Serco, all dividends will be taken out of the Scottish ferry industry and will sail straight into the pockets of Serco's international portfolio of private shareholders.

Let us remember that this is Serco that we are talking about—the same Serco that was banned from tendering for public contracts by the United Kingdom Government because of its disastrous handling of the electronic tagging contract, when it was caught charging for electronic tagging of prisoners who were dead. The idea that we should trust Serco to operate lifeline public services is deluded, dangerous and absurd.

Mike MacKenzie (Highlands and Islands) (SNP): Will the member take an intervention?

David Stewart: Not now.

As the *West Highland Free Press* said:

"Serco is not a shipping company. It is a multi-faceted specialist in outsourcing which exists to exploit the easy profits from privatised government services".

Chic Brodie: Will the member take an intervention?

David Stewart: Not now.

We know how the model works: the Tories privatise an asset; Serco bids to manage the asset; it then cuts the service to the bone and

posts a handsome profit as a result. Serco operates railways, speed cameras, prisons, immigration detention centres, a young offenders institution and air traffic control.

One investigation into Serco's past reports on the tragic death of 19-year-old Ben Woollacott, who was employed by Serco as a deckhand on the Woolwich ferry in south-east London. Mr Woollacott died on 3 August 2011 as a result of injuries that he sustained at work, after he was dragged overboard by a mooring rope. In August 2012, the marine accident investigation branch found that Serco's Woolwich ferries had no safety management system for the standard practice of unmooring the vessel. Other safety shortcomings were evident. On 22 October this year, the inner London crown court ruled that Serco must pay fines and legal fees of £200,000 for the safety failings that contributed to Mr Woollacott's death.

Serco also bid for national health service contracts in England, and unacceptable practices resulted. For example, in September 2012, Serco was found to have reported inaccurate data 252 times to the Cornwall and Isles of Scilly NHS Primary Care Trust over its performance in providing out-of-hours general practitioner services. The contract for the out-of-hours work has now been awarded to a local GP collective.

More important, in 2014 Serco had to repay nearly £70 million to the UK Government, following a fraud investigation. The question must be asked: is it a fit and proper organisation to run our public services?

Margaret Hodge MP, former chair of Westminster's powerful Public Accounts Committee, described Serco's overbilling of the Ministry of Justice's public service contracts as

"an urgent wake-up call for the government's disastrous contract management."

Let us wake up today, before another disaster happens and Serco wins the ferry services contract. If Serco wins next year, it will be paid more than £1 billion by the Scottish Government. How much of that vast sum will be retained by Serco at the expense of passengers and staff?

Some members may say that if the current tender stops immediately, Serco might sue the Scottish Government for its losses. The Scottish Parliament information centre has helpfully provided a link to Transport Scotland's process overview for contract bidders, which states that the Scottish Government would not be liable for any cost incurred by bidders if it cancels or suspends the contract process. Section 5.4.1 says:

"Transport Scotland may elect to discontinue or suspend the procurement process at any time ... without responsibility or liability to any participant."

The minister continues to argue that the Government has no choice but to put the ferry services out to tender. He says that it is all the fault of the regulations, which are enforced by faceless European Union bureaucrats. However, independent observers and the trade union movement do not agree that this meek surrender of our national interests is either necessary or desirable. The National Union of Rail, Maritime and Transport Workers has repeatedly stated that, under a long-standing principle called the Teckal exemption, the Scottish Government could exempt CalMac and other ferry contracts from the damaging and unpopular tendering requirement.

Chic Brodie: Will the member take an intervention?

David Stewart: Not at this point.

In a parliamentary question in June this year, I asked the transport minister whether he had raised the Teckal exemption with the European Commission. He admitted that he had not. He said:

“the Scottish Government has not discussed the Teckal exemption with the European Commission.”—[*Written Answers*, 22 June 2015; S4W-26110.]

The Minister for Transport and Islands (Derek Mackay): If David Stewart cared to expand on the answer that I gave him, members would hear that the Teckal exemption is irrelevant because the maritime cabotage regulation means that we must undertake the exercise. He should stop pointing to an irrelevant matter and return to the regulation that has compelled us to conduct the exercise.

David Stewart: I note what the minister says, and I might have some news for him and the Scottish National Party Government in my speech.

Over the summer, I headed to Brussels. I met Commission officials, who advised me that ferry regulations allow the Teckal exemption to be made, should conditions of public ownership be met. I believe that CalMac meets the Teckal criteria. What is more, the updated 2014 EU procurement directives, which the Scottish Government announced that it must bring in by 18 April next year, have relaxed the Teckal exemption conditions further and brought more clarity in light of the increase in case law over the past 10 years.

The Brent London Borough Council and Welwyn Hatfield Borough Council cases of 2011 and 2013 show that the Teckal exemption is applicable in the UK. Furthermore, a key official in the directorate-general for mobility and transport at the European Commission whom I met recently said:

“Regarding the possibility of the direct award of a public service contract”—

that is, without tendering—

“this is, in principle, accepted by the European Court of Justice (Case C-420/04 ...) in the case of ‘in-house’ service.”

With a great sense of timing, RMT has circulated to all members, including the minister, counsel’s opinion on Teckal. Gordon Nardell QC concluded:

“neither the 1992 Regulation nor the State aid rules oblige the Scottish Ministers to hold a competitive tendering exercise before awarding that company”—

CalMac—

“a public service contract for the Clyde Hebrides services.”

He went on to make the valid point that member states are entitled to perform services themselves and that, once an organisation such as the Scottish Government meets the Teckal exemption control and function criteria, the funding of its operation

“does not constitute state aid”.

Our purpose today is to stop the tender process dead in its tracks and to award the contract to CalMac under the Teckal exemption. There may be a rare brave and enlightened SNP back benchers who, this afternoon, agrees with me—I suspect not. However, a decision in favour of our motion would put the Scottish Parliament, not Brussels, in charge.

Last night I read a speech by the late Donald Dewar, a man whom I greatly respected and who supported me with constant visits to the Highlands and Islands when I was a young candidate in the late 1980s and early 1990s. His speech at the opening of Parliament on 1 July 1999 is a spellbinding classic, in which he said:

“Today we can look forward to the time when this moment will be seen as a turning point—the day when democracy was renewed in Scotland ... This is about more than our politics and our laws. This is about who we are, how we carry ourselves.”

Today could be a turning point when we put aside party interests and think about who we are and how we carry ourselves. I urge members to support the motion at 5 pm and support the workers, services and customers at CalMac. All that is needed now is the will to do and the soul to dare.

I move,

That the Parliament pays tribute to ferry workers at the public sector company, Caledonian MacBrayne (CalMac), and their vital role in maintaining lifeline ferry services to Scotland’s western island communities; notes that the next contract for Clyde and Hebrides ferry services (CHFS) is currently out to tender and may be privatised as Serco is bidding against CalMac to take over these lifeline public services; recalls the argument made to MSPs in a briefing paper from February 2015 from the STUC and the CalMac unions, RMT, TSSA, Nautilus and Unite, that the Scottish Government could have pursued legal arguments with the European Commission to exempt lifeline Scottish ferry

services from regulations requiring regular tendering of public sector contracts, a process which is disruptive, expensive and biased toward private sector bidders; believes that the Scottish Government should exercise its power to stop the current CHFS tender process in order to pursue an exemption for Scottish ferry services, and further believes in supporting and promoting publicly owned and operated Scottish ferry services across Scotland.

14:45

The Minister for Transport and Islands (Derek Mackay): I will begin on a point of consensus. Whatever my disagreement with David Stewart on the legal opinion or on matters of interpretation, and whatever disagreements we, as a Government, may have had with the trade unions—although we had a very positive and constructive summer—we agree with defending their right to take whatever action they believe is necessary to represent their members' interests. On that we certainly agree, unlike the Conservatives, who want to remove the trade unions' rights to represent the interests of their members.

The Scottish Government recognises that Scotland's ferry services provide a lifeline service for our island communities, and we are fully committed to the continued delivery of safe, reliable, publicly owned ferry services. We have invested a record £1 billion in vessels, ports and ferry services since 2007, and we have restored commercial shipbuilding to the Clyde with the construction by Ferguson's shipyard of world-leading hybrid ferries. The third vessel, MV Catriona, will be launched in Port Glasgow on 11 December, and we have awarded contracts worth £97 million to Ferguson's for two new major ferries for the CalMac fleet. We have also delivered the new MV Loch Seaforth and have invested around £30 million in harbour works for the Stornoway to Ullapool route, and we are currently investing £18 million in the major redevelopment of Brodick harbour in Arran.

Johann Lamont (Glasgow Pollok) (Lab): The minister says that the Scottish Government wants publicly owned ferry services. Does he think that a private company can deliver a publicly owned service? By that logic, we did not privatise the railways.

Derek Mackay: As a consequence of our designing the tender process, we will continue to own the vessels and to set fares and timetables. In that sense, the services are still publicly owned. It is not the case that we are potentially selling the services.

Our investment in the road equivalent tariff has delivered significant fare reductions for passengers, cars, coaches and small commercial vehicles. We have frozen ferry fares for 2016-17 and we are in the process of finalising

improvements to next year's summer timetables, delivering community aspirations and meeting the increase in demand due to the road equivalent tariff. No previous Administration has invested as much as this Administration has in support for our lifeline ferry services, and all that investment would be at risk if we were not to tender those services in line with EU rules.

The Administration is 100 per cent committed to developing and supporting Clyde and Hebrides ferry services under public ownership. Claims that the services are up for privatisation are totally untrue. As I confirmed in my statement to the chamber on 24 June,

"no matter the outcome of that process, the Scottish ministers will retain ownership and control of all the vessels and ports that are currently under public ownership. We will set routes, timetables and fares as now and retain full control of the services that the operator provides through the public service contract"—[*Official Report*, 24 June 2015; c 19.]

as we do now.

I also assure everyone who depends on those vital services that we are undertaking a fair, open and transparent tender process. In my statement to the chamber on 24 June, I announced that we would set up an "independent procurement reference panel" to provide assurance that nothing is being done that could be perceived as discriminating against either bidder. The panel's first report on the initial tender was published on Transport Scotland's website on 3 November, and the panel concluded that the tender is fair, open and transparent. The panel further concluded that "appropriate and relevant information" must be made available "to both participants", and Transport Scotland is doing that. The panel will consider the interim and final invitations to tender, and those documents and the panel's comments will also be published, emphasising our commitment to a fair, open and transparent tendering process.

The people who rely on these lifeline services can and do have the highest level of confidence that the procurement process is fair and transparent and does not favour one bidder over another. The current tendering exercise is no different from that undertaken by the previous Labour-Liberal Democrat Administration when it decided in 2005 that it was a legal requirement to tender the contract.

Sarah Boyack (Lothian) (Lab): At what point will the minister acknowledge not just Teckal's existence but the fact that case law and the decisions taken on Teckal have changed the circumstances?

Derek Mackay: The member knows that it is not practice to share legal advice with others, but a useful exercise over the summer considered the

legal advice, and I am afraid that that has not changed the position from that taken by the previous Administration. The matter is one of compliance.

I remarked that the tender process has not changed but, as the responsible minister, I have made changes of material significance to the quality requirements. For example, the quality ratio is much stronger than was the case under the previous tender exercise. I would not want the Labour Party to give people the impression that it handed the previous contract to CalMac when in fact it was an SNP minister under this SNP Administration that gave the award to CalMac. It was the Labour-Liberal Administration that put out to tender the services in the first place, setting the precedent of that being the road that we had to go down.

The maritime cabotage regulation says:

"Whenever a Member State concludes public service contracts or imposes public service obligations, it shall do so on a non-discriminatory basis in respect of all Community shipowners."

We are compelled to undertake the process.

I have done my best, as I think is reflected in the trade unions' comments, to safeguard the conditions and employment of staff that operate—

David Stewart: Will the minister give way?

Derek Mackay: Of course.

David Stewart: I understand the minister's point, but does he understand that it is in his power today to enforce the 2014 EU procurement directives, which make it easier to take account of Teckal, so that there is no need to tender? The matter is in his hands.

Derek Mackay: David Stewart keeps on returning to the matter of legal opinion. It is our opinion that we have to undertake the process—there is no escaping it. Within the process, I, as the minister, have been doing everything that I can to safeguard the interests of island communities and of staff.

Since 2000, successive Scottish Administrations have attempted to achieve the exemption from tendering and repeated attempts to do that have been unsuccessful. Like Labour and Liberal transport ministers before, I have had to make it clear that tendering the ferry services contract is a requirement under EU rules. Indeed, the Scottish Parliament motion at the time said:

"That the Parliament welcomes the Scottish Executive's further detailed consideration of the EU requirements relating to the Clyde and Hebrides lifeline ferry services; notes the serious consequences of these services not being compatible with the regulations; recognises the Executive's commitment to secure the continued employment of the Caledonian MacBrayne workforce and

the protection of their terms, conditions and pension rights, and acknowledges that the tendering of the Clyde and Hebrides lifeline ferry services is required to protect these vital services."

Many of the Labour MSPs who are present know that, because they were there when the motion was debated and they voted in favour of it. Why has the Labour Party changed its position when it is quite clear that we are still compelled to deliver the requirement to tender?

The Scottish Executive subsequently published its own consideration of the requirement to tender in September 2005. I have a copy of that document with me. It addresses many of the issues that we are debating. It concluded that there was a requirement to tender and bring CHFS into line with EU rules.

Breaking the law is not an option. The Scottish Government would be left open to challenge, because of the European rules. Any challenge would be to taxpayers and the services themselves.

Claims, as have been made before, that the award of the contract has been delayed so that they come after the Scottish parliamentary elections are not true. Putting the contract issue and the invitation to tender on pause through the summer period was to have proper dialogue and engagement with the trade unions. The trade unions have said that they got the best deal possible. It was right at that stage to pause to ensure that we allayed the fears at the time. We cannot reduce the timescales at both ends if we are to carry out due diligence and to have a fair, open and transparent process under procurement law; we must do it properly. If I could announce the award of the contract earlier I would, but we are sticking to the challenging timetable for the submission, the analysis and the announcement. Negotiations over the summer helped to inform that, as has the work of the independent procurement reference panel.

It has been demonstrated by this and previous Administrations that we need to tender the services to ensure that they meet the requirements of EU law. We are doing that in a fair, open and transparent way and in a way that ensures the future economic, social and cultural sustainability of island communities, which of course depend on these vital lifeline ferry services. There has been an increased focus on quality and protections, which I believe has provided added safeguards that have been appreciated by many of those involved. That should, in some way, address the concerns that have been raised.

We will do our best for the staff and for island communities throughout Scotland to ensure that we enhance and support the services in the way that the Government has been doing since 2007.

I move amendment S4M-14942.3, to leave out from “and may be privatised” to end and insert:

“; further notes that the Scottish Government is undertaking a fair, open and transparent procurement exercise in line with strict European Union procurement rules, maritime cabotage regulation and associated guidance; recognises that the current tendering exercise has been improved on, compared with that undertaken by the previous Labour/Liberal Democrat administration, which decided that it was a legal requirement to tender the current contract in 2005; indeed, recalls statements by members of the previous administration that ‘tendering of the Clyde and Hebrides lifeline ferry services is required to protect these vital services’; welcomes the first report from the Independent Procurement Reference Panel, which includes local authority, union, community and industry representatives, and concluded that the tender process has been fair, open and transparent, and believes in supporting and promoting publicly owned and controlled ferry services, evidenced by a record £1 billion investment by the Scottish Government in vessels, ports and ferry services since 2007.”

14:55

Alex Johnstone (North East Scotland) (Con):

Any student of politics of any duration who looked in on today’s debate would obviously be inspired by the nature of the debate so far—although they might get the impression that they have fallen through a time warp back to the 1970s. So far, the discussion has gone back to the good old-fashioned approach of “public good, private bad” and “no privatisation at any cost.” That is an approach that I had thought we had lost a long time ago.

Let us first consider the motion that the Labour Party has presented us with today. There is without doubt affection for CalMac.

Johann Lamont: Will the member take an intervention?

Alex Johnstone: No, thank you—not at the moment.

That affection for CalMac is genuine because so many people who depend on its services know that CalMac is the provider. On this side of the chamber, we have great respect for the work of CalMac employees and the excellent safety record of the company, which has operated in Scotland for more than 150 years.

Scotland’s ferry links provide a lifeline service to residents that will continue to be vital in the long term, particularly in supporting industry and tourism, but the idea that that can be done only by a public sector company is something that we do not hold to be the truth. In fact, a large part of the opening speech seemed to be a direct attack on Serco itself, prejudging the outcome of the process in which we are involved.

There seems to be a feeling that the services should not be tendered. There seems to be a

feeling on the Government side that it is only tendering because it is a legal requirement. It is a failing both of the Government and of the main Opposition party that they are not embracing the process, which has the potential to deliver improvements in service and greater efficiency. It could deliver more effective and affordable services both for the fare payers who use them and for the taxpayer, who supports them.

Sarah Boyack: Will the member take an intervention?

John Finnie (Highlands and Islands) (Ind): Will the member give way?

Alex Johnstone: No, thank you.

We must get a handle on the cost of ferry services. We support in principle the notion that the Government advanced of the road equivalent tariff. In order for that to be sustained into the future, however, we must know what the services will cost and we must be able to control those costs. That is why the tendering process has the potential to benefit many people, including passengers and the taxpayer, as well as those who work on the ships.

It is essential to understand that the Government has not gone as far as it could or should have done. Scotland has many very effective small private ferry companies, but they have been excluded from the tendering process by the way in which the tender has been constructed. It is fair for me to criticise the Government for having—in my opinion—assembled the process and stacked it in such a way as to make it almost impossible for anybody to win other than the incumbent.

Derek Mackay: Does the member not accept that that is partly to do with the very aim that I have suggested—that of safeguarding the lifeline services and not having them picked off by individual operators? The bundling was requested by the trade unions, and it is the right thing to do.

Alex Johnstone: That would have been the effect had the services been completely unbundled but, as the Government and the minister know, the services could have been partly unbundled to make the contracts of a size that would have allowed our other ferry companies to compete in the process, and that would have been of great benefit.

An unusual aspect of this debate is that, after I speak, the minister who handled the previous tendering process will have an opportunity to give his opinion of what happened during it. I look forward to hearing what Tavish Scott has to say and to his bringing to bear in this debate his ministerial experience of the process and his telling us the truth about the current process.

In my opinion, the Scottish Government has done the absolute minimum necessary to avoid crossing over European rules and has missed the opportunity to take forward a tendering process that would have delivered much more effectively. In so doing, it is failing service users and taxpayers alike.

The guarantees that have been put in place in the process mean that the ships themselves and the handling facilities will remain in the Scottish Government's ownership, while the services will be managed by whoever wins the contract, largely with the same staff and the same service providers that have traditionally been used. Today, we are arguing not about changing the way in which these services are delivered—more's the pity—but about efficient and effective management that provides an affordable service in the long term. The Government has not done as much as it could have, although it has done what it was required to do.

I move amendment S4M-14942.1, to leave out from “at the public sector” to end and insert:

“across Scotland for their dedication to connecting the country's island communities; recognises in particular the work of Caledonian MacBrayne (CalMac) staff over the period of the last Clyde and Hebrides ferry services contract, and encourages the Scottish Government to ensure that the tender process for the future contract is conducted in a transparent, fair and legal manner.”

15:01

Tavish Scott (Shetland Islands) (LD): I say to Mr Johnstone that the truth is that we lost a vote, as one or two colleagues on the far benches will well remember. Back in 2005, lots of Labour colleagues were very exercised—and rightly so—by the European Commission's insistence on the tendering process. After a pretty heated debate that I remember particularly well and which I reread the other night—I see a number of members commenting—we lost the vote. I commend that example to the minister of the day and suggest that it is not a bad thing now and then to lose a vote because of one's own back benches. I know that we have not seen much of that of late, but it certainly keeps the Government very honest.

What happened as a result of that debate was that the minister of the day spent an awful time in Brussels. The commissioner, who was a very amiable French gentleman by the name of Barrot—not the type that one might wheel—spent a lot of time saying in very clear English that this was what had to happen. The truth is that, no matter what legal advice we might come up with, the European Commission expects these services to be tendered. The position then was exactly the

same as it is now and on that point I agree entirely with Derek Mackay.

Of course, there is another point that I might take slight issue with Derek Mackay on—and in that respect the role reversal is, if I may say so, fairly entertaining. In fairness, I should say that I mean not Mr Mackay but a number of others, some of whom are still in the chamber.

David Stewart: Will the member give way?

Tavish Scott: Can I finish this point? I am trying to help you here, Mr Stewart.

At the time, Fergus Ewing, who led for the SNP, said that if the SNP took power it would not tender.

Bruce Crawford (Stirling) (SNP): Will the member give way?

Tavish Scott: I will do so when I finish this point.

Derek Mackay has rightly referred to the decision that John Swinney took after the election. In response to, I think, Rob Gibson at the meeting of the Transport, Infrastructure and Climate Change Committee on 2 October 2007, Mr Swinney said:

“When we came into office, the Government took the view that because the existing approach to addressing European state-aid issues was at a highly advanced stage, it was best to allow matters to run their course and come to a conclusion to ensure continuity in the development of the Clyde and Hebrides ferry services.”—[*Official Report, Transport, Infrastructure and Climate Change Committee, 2 October 2007; c 176.*]

I rather agree with him. He was right then—and he is right now.

Bruce Crawford: Like the majority of members in this chamber, I hope that CalMac can come through this and hold on to the tender. There is no disputing that.

I think that Tavish Scott will agree with this. When the SNP was in opposition, it opposed what is going on today. However, I believe that, given the circumstances that we are seeing now, we were wrong then and that members on the Labour benches are wrong now.

Tavish Scott: I have to agree with that. That is self-evidently the case.

It is important to differentiate between the understandable concern that Mr Stewart and others have expressed about Serco and the principle of tendering. I urge Labour colleagues to bear that in mind. There will always be more legal advice and there will always, quite rightly, be a requirement on the minister of the day to spend time in Brussels and with his lawyers to seek to improve what can be done in respect of the process of tendering, but no Government—we

have been through a few different models since 1999—has achieved an exemption.

Sarah Boyack was a transport minister, as was Lewis Macdonald. Sarah Boyack was a transport minister under our first First Minister, Donald Dewar, whom David Stewart rightly mentioned. In my recollection, exactly the same thing happened at that time. We all argued for and sought to achieve an exemption, but we found that there was no way, legally or otherwise, around the matter without getting into at least a court of law, or probably more realistically infraction proceedings by the European Commission against whatever the Government of the day was.

David Stewart: I understand the points that the member is making, and I was not criticising his time as transport minister. I merely make the point that Queen's counsel's advice is before us that says that that is possible.

The other point that the member did not pick up was that both the Altmark criterion and the Teckal exemption were immature during the previous Labour Administration. It is case law that develops the issue. We now see a way through. That is possible, but in any dealings with the Commission, we need to know the right questions to ask. Perhaps we have not asked them yet.

Tavish Scott: That was exactly the same position that Fergus Ewing used to take when he sat in the same chair making a different legal argument and using different criteria. The Altmark case was highlighted at that time, too. I take the point about the passage of time, but—I know that this is not particularly helpful to Mr Stewart—whoever the Government minister is, they will have to take legal advice on the basis of those cases and they will then have to act on that. No Government of any political persuasion can knowingly seek to break the law. If Mr Stewart was a transport minister, I do not think that he would do anything other than what Mr Mackay is doing right now.

The important point is that, if we wish to set up a tender and make it as tight as possible, that is perfectly possible. Mr Stewart will know well, as he is a Highlands and Islands MSP, that Serco runs our services to Orkney and Shetland and it is the same skippers, crew and people who work on those services and are on those boats today. They provide a very good service and work very hard on behalf of local people.

One of the most enjoyable days that I spent as a transport minister was with CalMac crews on the Sound of Sleat and the Sound of Harris. I have the utmost respect for the crews. I read the piece in *The Herald* today from a retiring skipper, whom I recognised. I absolutely reflect all his concerns about the future, but that is why the Government

simply has to ensure—as Mr Mackay said, in fairness—the importance, fluidity and transparency of the tendering procedure to protect pensions, terms and conditions and the other things that Labour members have rightly highlighted in the motion.

I move amendment S4M-14942.2, to leave out from “and may be privatised” to end and insert:

“; believes that EU law requires the £1 billion Clyde and Hebrides Ferry Services 2016-24 contract to be tendered; recalls that the previous Labour/Liberal Democrat administration came to the same conclusion after investigating alternatives during the second session of the Parliament; notes that a subsequent European Commission state aid investigation has since reaffirmed this; recalls that a Labour/Liberal Democrat administration motion, which gained the approval of the Parliament on 14 September 2005, stated ‘that the tendering of the Clyde and Hebrides lifeline ferry services is required to protect these vital services’, while the SNP conversely argued during that debate that it ‘does not believe that tendering is necessary’; understands that, irrespective of which company wins the 2016-24 contract, ministers will maintain control of routes, services, timetables and fares, and vessels and harbours will stay in public ownership, and considers that the negotiation of a robust contract could ensure that jobs, staff terms and conditions are also protected.”

15:08

Michael Russell (Argyll and Bute) (SNP): I am glad to have the opportunity to contribute to the debate. Unlike some members, I have been on a ferry this week; in fact, I have already been on four different ferries and three different routes this week. Yesterday, on one of those ferries, a crew member stopped me and asked where I was going. I said that I was on my way to the Parliament. He said, “What are you going to do there?” That is always a good question. *[Interruption.]* Labour members might learn something about what that crew thinks. I said that I was going to speak in a Labour debate about the privatisation of CalMac. He said that the crew of that ferry knows that CalMac is not being privatised, so the Labour message does not seem to be getting home. *[Interruption.]*

The Deputy Presiding Officer: Order.

Michael Russell: The reality is that neither CalMac nor any other organisation will be privatised and—I am wearing the badge—the vast majority of people who work on the boats and live in the communities that are served want CalMac to win the tender. There is no doubt about that. I represent more CalMac routes than any other member in the chamber, and I want CalMac to win the tender.

We have to be honest about what that will take. David Stewart quoted Donald Dewar's views. Sadly, I say to him that another quotation from Donald Dewar springs to mind. When a person says to members that they can do something now

and that will change everything, they are guilty of something that Donald Dewar warned against. He said:

“Cynicism, together with unrealistic expectation, are the two great bugbears of politics.”

Alas, we have heard cynicism and unrealistic expectation this afternoon. We should not be concentrating on who will win the tender process, except to say that I and my constituents, for the sake of their lifeline ferries, want CalMac to win that process. Then they ask, “What is going to be delivered?” What are the real issues that affect those who rely on those ferries every single day? We should go through those issues and think about them, because they are what crew members and others press me on, as their representative. What are the big issues in ferries? The minister knows them because I am never off his back about them. I never stop writing to the minister about the key ferries issues, which can be resolved.

On Monday, I was on Mull. It is a busy commuting route and RET has made an enormous difference there: the price of a journey has more than halved in the past month and people have noticed. However, there are difficulties, such as timetable difficulties: earlier and later access to the island is needed to allow people to work on the mainland.

There are other issues, too, such as a shortage of boats. When a problem occurs, whether on the Mull route, the Islay route or any other, it is a shortage of boats that is the biggest difficulty for ensuring continuity of service. Why is there a shortage of boats? Because the previous Administration did not build any. It is this Administration that has started to build boats. As the minister knows, we will have to build more and more boats, particularly to overcome problems such as those experienced by Islay and Colinsay in the spring, when they had very severe problems that were caused by the breakdown of not one, not two, but three boats all at the same time.

There are other problems that need to be resolved. I agree with the Dunoon ferry action group that the major problem in restoring a vehicle service there is not just finding a body to tender for it, but the price that Caledonian Maritime Assets Ltd—CMAL—intends to charge for the pier at Gourrock. One of the big changes that we could have in Scotland would be to remove CMAL from the equation. Ferry services operated perfectly effectively without that intervening body for years. I do not think that there is any necessity for CMAL to be there.

If it is required by European law, I have a positive suggestion: as part of the legacy process of the Transport, Infrastructure and Climate

Change Committee, why does it not, on a cross-party basis, look at the tendering process to see whether there is a way round it and whether CMAL could be taken out of the equation? If a cross-party committee of this Parliament could find a way forward on both those aspects, we would have the last of the tender processes and take out of the operation a body that does not contribute positively to it.

Lewis Macdonald (North East Scotland)

(Lab): I hear what the member has to say, but does he accept that the responsibility for identifying the best means of letting a tender in order to ensure the right outcome lies with not the Parliament but the Government?

Michael Russell: The member has been a minister, so he knows that that is true. However, parliamentary committees are extremely important in helping to broker agreements or discover information that can be of help to Governments and to the Parliament. Surely the member, who has been an active committee member and even—I think—a convener, can see that what I suggested would be useful.

We can look at some other existing problems, such as those in Bute and in some of the smaller islands. Mike MacKenzie, who is here today and who lives on the island of Easdale, can say as a local representative that there are still a number of small ferry routes operated by the local authority that the ferries plan anticipated would be handled better by a national operator. We need to get on with the process of making sure that those small ferry routes are part of a national operation and we need to join up infrastructure. For example, there is no road north to south on the island of Kerrera, which means that any ferry investment there is largely wasted. That is also true of Mull, where a new, bigger ferry would create problems because of the amount of traffic that would come.

By and large, the Scottish Government should be happy with its achievements. It published a ferry plan in 2012 that gave a vision of what could be done, although it might be good to revisit the plan every few years. The SNP Scottish Government took forward RET, which had been discussed in the Western Isles since the 1970s and is now in place, with the task being completed on time. It is an SNP Government that has started building ferries again. I want the Government to build more ferries and it has started building them again. It is an SNP Government that has taken forward a fully transparent process of tendering—not like the previous process—that is subject to community review. After the 2016 election, there will be a lot to be done, and I think that only the SNP is capable of doing it.

15:14

Johann Lamont (Glasgow Pollok) (Lab): I have to say that, if that was an appeal for cross-party working, Michael Russell could have been a little more positive and a little less partial.

I confess that I have an emotional, if not a sentimental, connection with CalMac and the services that it provides to communities across Scotland. My father worked for Caledonian MacBrayne and we knew from early on the risks that he and his fellow workers took to deliver services to remote communities. My life has been peppered with journeys to the islands, both to work and to meet family, and I understand, as many members in the chamber do, the significance of the services and the importance of the debate, which has to go far beyond simply making partial comments about which one of us got things wrong most often.

We should be clear that the case for defending CalMac and a publicly owned lifeline service goes far beyond sentiment. It is rational and it makes economic and social sense. It is central to supporting our island and remote communities. It is about sustaining them as thriving, modern places, stemming the flow of depopulation that my generation underwent and creating economic opportunity—not just to get skilled jobs working for Caledonian MacBrayne but to run businesses and develop enterprises that take advantage of modern communication. Such businesses can thrive if there is a public transport service to serve them.

The lifeline services not only provide transport but, because individual ferry services exist that no private enterprise would ever have taken on, provide opportunities to create business. For example, the island of Tiree has developed surfing tourism precisely because there is a lifeline ferry service.

Derek Mackay: I do not doubt for a minute that Johann Lamont cares about the lifeline services that are delivered, but does she also appreciate that I have made the point that the vessels and the timetables will continue to be specified by ministers and that there is no threat to the ferry services, the routes or the timetables? Those matters will continue to rest with responsible Scottish Government ministers, whoever they may be.

Johann Lamont: The workforce might have something to say about what their terms and conditions might be under a different employer. We know that money has to be taken from somewhere to provide private profit.

As Tavish Scott said, this has always been a controversial issue. I recall that it resulted in a number of rebellions that shifted the position of the

then Scottish Executive, particularly on not unbundling the routes, which has been an important step. In 2005, there was a reluctant acceptance—certainly by some—of the need to tender, but then significant work was done to deter any privateers that were looking to make a fast buck at the expense of workers' terms and conditions, and as a consequence only CalMac bid, and it secured the contract. CalMac has returned surpluses to the Scottish Government every year since the contract was let to it, so we are in a positive place, with CalMac providing a good service and returning money to the Government.

That approach is in sharp contrast to the Scottish Government's ferries review of 2012, which commented on the benefits of competition in offering the potential for reduced subsidies. That is at the heart of the debate. The Government is trying to speak with two separate voices, with some recognising the benefits of competition and others saying, "We have to do this in order to protect CalMac." We need to be clearer about what the position is, because there are now two bidders. One is CalMac, which has delivered successful services, and the other is Serco. Even in the private world of Alex Johnstone, surely there is a contrast in the quality of service there.

Serco cannot bid for UK Government contracts because of its history and its lack of financial roadworthiness. Has the Scottish Government tested the viability of Serco to take on the contract? Does the Scottish Government have the option to decide that Serco is not a suitable bidder? I believe that it has that option.

Critically, we also have legal advice—via the RMT and from what my colleague David Stewart said—that it would be possible for the Scottish Government to seek an exception. What is being done to test that? Why not go to Europe? The Scottish Government has not lived its life defending what the previous Government did and it has not been afraid to take on Europe. Why, in this case, has it not satisfied us by showing that it is willing to ask the question?

This is a serious time and it is a serious matter. I urge the minister not to shoot the messenger but to listen to the message that is being sent by the unions and local communities.

Mike Russell might want to ask why crews that are organised in their unions are raising such concerns. Perhaps it is because they understand and fear what might be ahead of them.

Despite all the mythologising about who said what and when, there is really only one question: which side is the Scottish Government on? Does it want CalMac to survive to deliver a critical public service and return money to the public purse? If

the answer is yes, can we get the Government to test the argument to destruction? I suspect that there are those on the Government side who want CalMac to survive but that others would be content if they got Serco to do the job instead for a cheaper buck.

I urge SNP back benchers to recognise the case that is being made and defend their communities, not just their Government. They should listen not just to me but to those who work in and benefit from the ferry services. They should listen to the RMT member who came to the rally and told me that this has been hanging over the workforce for 20 years and needs to be sorted.

If the minister is serious in his protestations that he wants to protect high-quality public ferry services on the Clyde and in the islands, he should test the argument. He needs to use the power that he has, take on the legal argument and ask Europe for an exemption. If he does that, I assure him that we on this side and people in communities across Scotland will applaud him.

The Deputy Presiding Officer: A little more time is available than I thought. I can now give members up to seven minutes for their speeches.

15:21

Mike MacKenzie (Highlands and Islands) (SNP): I find myself in the curious position of disagreeing with Mr Russell and agreeing with Mr Scott. Mr Russell does not represent the greatest number of ferries in Scotland; I do.

Michael Russell: For the sake of accuracy, I think that I said that I am the constituency MSP who represents the most CalMac ferry routes, but I defer to Mr MacKenzie, as ever.

Mike MacKenzie: I shared Mr Scott's concerns when Serco took over NorthLink Ferries, but I am forced to concede that, as he said, the service that it has been providing is excellent. That is not my view; my view is not as important, perhaps, as those of my constituents on Orkney and Shetland. When I was on Orkney last weekend and Shetland a couple of weeks ago, I discovered that my constituents there are pleasantly surprised to find that the service has got better and not worse.

John Finnie: Does the member agree that, for the staff who have been placed on short-term contracts, that is not an improvement?

Mike MacKenzie: I say to Mr Finnie that, while I was aboard the MV Hamnavoe, I took the opportunity to speak to a number of staff. Most of them seemed to feel that their worst fears had not materialised.

Drew Smith (Glasgow) (Lab): Will the member take an intervention?

Mike MacKenzie: No, I am sorry, but I am pressed for time.

There is no doubt that CalMac, as the company is now known, has a place in the affections of all islanders, including me. My grandfather worked for CalMac and my father worked for CalMac as a young man. In their days, the company was known as Caledonian MacBrayne. Even Para Handy worked for CalMac for a time, although in his time with the company, it was called David MacBrayne.

The company largely came into public ownership in 1948. In 2006, as we have heard, the assets and the operating company were separated in response to EU state-aid rules, and Caledonian Maritime Assets Ltd was set up.

The point that I am making is that, over the years, the name and the structure have undergone several changes, but the public essentially regard it as the same company and with continuing affection. It is worth reflecting that the connectivity to and from our islands that was first made available by MacBrayne's predecessor David Hutcheson & Co in 1851 has improved enormously over the years, with the only exception being during the war years.

When I tap into the collective memory of my friends, family and neighbours, many of whom work for or have friends and family who work for CalMac, and many of them retired mariners with stories as varied and humorous as those of Para Handy—

Drew Smith: Will the member give way?

Mike MacKenzie: No, thank you.

When I tap into that memory, I hear recollections that each of the changes in name and structure has been preceded by a sense of foreboding and communal angst. In each case, all the fears have failed to materialise.

I am reminded of Mark Twain's wisdom. Near the end of his life, he said:

"I am an old man and have known a great many troubles, but most of them never happened."

The fact is that the service has continued to improve over the years, beyond the wildest dreams and expectations of previous generations. It has never been easier or cheaper in real terms to travel to our islands. No previous Scottish Government has done more to improve ferry transport than this Scottish Government has done.

More than £1 billion has been spent on ferries and infrastructure since 2007. The roll-out of RET will be completed by the end of this parliamentary session, exactly as promised in our manifesto. Added capacity is now planned on almost all the Clyde and Hebridean routes to cope with the anticipated increase in demand. That has all

happened while the Scottish Government's budget has been falling, and it is no mean achievement.

This is the face of good government. This is what good government looks like. This is the good government that was most noticeably absent in the years prior to 2007. The shame is—and shame on Labour members—that despite that, the Labour Party seeks to be an agent provocateur. Its members seek to stir up discontent. They blow on small embers of discontent in the hope that they will fan the flames into a bonfire and that somehow that will bring them political advantage.

The EU state-aid rules are clear: the routes must be tendered. As Tavish Scott outlined, the Labour-Liberal Democrat coalition faced exactly the same problem in 2005.

Having spent some time at sea, I can confirm that our ships and boats are full of forecastle lawyers. The pubs and bars ashore are even worse. They are sometimes crowded with these sea lawyers, all of whom can make legal judgments with astounding and immediate certainty. I suspect that Mr Stewart has perhaps spent too much time in the company of those sage advisers.

David Stewart: Will the member give way?

The Deputy Presiding Officer: The member is in his last minute.

Mike MacKenzie: No, thank you—I am in my last minute. As an islander myself, coming from a long line of islanders—

David Stewart: Will the member give way? He has mentioned me by name.

Mike MacKenzie: No, thank you.

I can certify that islanders will always complain about their ferry services, often with merit, but sometimes not. They are lifeline services and it is only when people have depended on them for years—

The Deputy Presiding Officer: You must close, please.

Mike MacKenzie: —that they realise how vital those services are and how islanders can easily feel insecure about changes.

The Deputy Presiding Officer: You must close, thank you very much.

Mike MacKenzie: It matters not who sits in the boardroom—

The Deputy Presiding Officer: Thank you, Mr MacKenzie.

15:28

Duncan McNeil (Greenock and Inverclyde) (Lab): I hope that my motives will not be misunderstood today. I have a responsibility to highlight the many concerns that my community has. There has been a lot of interest in the future of the tender process.

The debate has been an enjoyable meander or canter through the years. It is important to recognise that the issue has long been debated in the chamber. There is nothing wrong in being honest about that. We are dealing with a difficult situation.

I hope that the record will show that I have been consistent in expressing people's concerns about the issue, to the extent that I once voted against my party's Government, which lost the vote on that motion. I remember being taken in to see the whips as a consequence. That would not happen nowadays, but it happened then.

The amendments are predictable, given that the spectre has been raised going back as far as Michael Forsyth in 1993—or whenever it was—and it has come back consistently, even before we had a Parliament. We are having an honest debate. It strikes me that Governments and politicians, including me, have been consistent in insisting that no stone should be left unturned in the tendering process. If there are opportunities to cease the tendering, we should take them. The Government and the Parliament should not just support the trade unions' right to test the process but be side by side with the trade unions in that.

My interest must be declared. It is not so much on the passenger side as on the producer side of the debate. We have the CalMac headquarters at Gourock, which provides us with many hundreds of jobs and significant investment in our community. Those jobs are highly paid, but there are no certainties about the headquarters.

Derek Mackay: I will helpfully pre-empt a point for Duncan McNeil. Many members do not seem to be aware that I have built into the procurement exercise a mechanism that disincentivises any bidder from stripping out head-count numbers. That mechanism is new and is designed to protect the staffing numbers in organisations by removing any incentive to strip out staff, which I know people were concerned about. Does that go some way towards allaying members' fears?

Duncan McNeil: Another thing that is different from the historical discussions about the matter is that Serco is on the sea. In winning the NorthLink contract, it gave clear assurances that its track record was not to reduce staffing. However, the chief executive of Serco NorthLink boasted at a transport event recently that, although the same captains and staff might be on ships, after the

company's actions, there are 85 fewer of them and they are not necessarily employed on their previous contracts.

I make a plea to the Government to have some respect for the people who are in the gallery, whose concerns are serious and worrying. There are not sufficient assurances on the CalMac headquarters. I understand that CMAL owns the headquarters, so I do not know whether the premises will transfer to the winning bidder if it is Serco. That is another complication. However, we should at least try hard to get the assurances. I have been asking for them for two years and I do not know whether they have been given yet.

Michael Russell: Will Duncan McNeil give way?

Duncan McNeil: My time is limited.

Michael Russell: I hope that Duncan McNeil will find the intervention supportive. There is genuine dubiety about headquarters. As he knows, Serco has not been clear about where its headquarters would be, but it appears to say to anybody who asks that the headquarters might be on their island, which is a bit confusing.

Duncan McNeil: I am pleased that I took the intervention, because it allows me to say that the team that has been engaging with the island communities has told the good people of Jura—it was reported in the local newspaper—that there will be no headquarters.

How have we created a situation that could cost my community 200-odd jobs? We have a cluster of marine businesses and experience in Inverclyde. We have CMAL in Port Glasgow and Ferguson Marine shipbuilders, which was recently built up on good news. We also have Forth Group's Garvel Clyde dry dock, which carries out maintenance and repair to CalMac vessels. We build the vessels, we help to procure and develop new models of vessels and we have a headquarters function that supports jobs.

Unfortunately, there are not enough assurances about the headquarters for the people who are employed there. That will have an impact on my community and could have a knock-on impact on the other businesses in Inverclyde. Until the assurances are given, I will not support the tender. With all those consequences in play, we should leave no stone unturned to ensure that we get fairness in the process.

15:35

Kenneth Gibson (Cunninghame North) (SNP): As the MSP for Cunninghame North, I am lucky enough to represent the island communities of both Arran and Cumbrae. There are a total of three CalMac ferry routes to those islands, so I am

extremely aware of the vital role that the ferry services play in ensuring that the island communities that I represent remain resilient.

CalMac and its workforce play a key part in that, and of course the hard work of CalMac employees is extremely well regarded and well respected, not only by islanders but by visitors. One of the reasons for that is that, particularly in bad weather and in other adverse conditions, CalMac employees often go that extra mile to ensure that visitors are not only safe but comfortable, as far as conditions allow.

As we have heard, since taking office in 2007, the SNP Government has recognised the unique needs of our island communities. The transport minister is also the minister for the islands, and we have invested heavily to ensure that the islands are well connected in order to boost tourism and the islands' economies and to enhance export opportunities. A record billion pounds has been invested over the past eight years or so in port infrastructure, new vessels and ferry services.

Brodict harbour, on the island of Arran, is soon to benefit from SNP Government investment, with a contract to transform the ferry terminal. Worth more than £22.2 million, the contract is only part of a major investment of around £30 million that will secure a safe, efficient and reliable ferry terminal and service, with work due to start this winter and finish early in 2017.

The harbour development includes a linkspan that the previous Labour-Liberal Democrat Administration should have renewed in 2002 but never did, despite having greater resources and huge cash underspends. It has to be said that many people on Arran take the view that the island was just not important to those parties when they were in office.

Working to ensure that services are improved further, the SNP Government has also awarded a £97 million contract to the once ill-fated Ferguson's shipyard on the Clyde to build two large dual-fuel ferries, which will serve the Clyde islands as well as other islands in Scotland. Each vessel will have increased passenger and vehicle capacity of 1,000 passengers and 127 vehicles—creating and sustaining hundreds of jobs in the west of Scotland in the process.

On top of that, the Arran summer ferry service, with the MV Isle of Arran working with the MV Caledonian Isles, has been extended to five months. In 2018, it should be extended further to an all-year-round service, with a new vessel replacing the MV Isle of Arran.

Of course, each year the SNP Government is supporting our road equivalent tariff policy to the tune of more than £2.8 million just for the two islands of Arran and Cumbrae. I can say from first-

hand experience that the introduction of that policy has made a huge difference to island constituents, with the cost of taking the car on to the ferry reduced by some 57 per cent. Not only is that of great financial benefit to islanders but the boost to the tourism sector on our islands has been marked. I am confident that, with the new ferries in place and with increased capacity and a targeted marketing strategy, visitor numbers will only continue to grow, helping to support dozens of businesses on the islands of Arran and Cumbrae.

Based on that unprecedented programme of investment, there can be no doubt that the SNP Government is intent on delivering the best ferry service possible for islanders and visitors right across Scotland. Although I understand some of the concerns of Labour members opposite, I think that that at least should be accepted.

Keeping our ferry services in public hands is critical to achieving that aim and allows the Government maximum flexibility in ensuring that needs and demands are met. In not unbundling the services, the Scottish Government has shown great intent in that regard. It is for that reason that, as the minister has made clear, the SNP Government has absolutely no plans to privatise this vital transport network and will continue to keep our ferry services in public hands despite financial challenges.

Although we have heard claims that legal loopholes could be used to avoid the tendering process entirely, since the last tender process, an exhaustive European Commission state aid investigation has strengthened the legal requirement.

With regard to the Teckal exemption, which has been raised by the RMT and by some Labour members, it remains the case that the European Commission's maritime cabotage regulation requires Scottish ministers to put those services out to tender, given the provision of state aid.

David Stewart: I mentioned earlier the advice on the matter from the RMT's QC, which says the opposite of what Kenneth Gibson has just said. Has he had the opportunity to look at the advice? I appreciate that it was submitted fairly late on prior to the debate, but it makes it very clear that the Government can use the Teckal exemption to avoid tendering the service.

Kenneth Gibson: My understanding is that the Cabinet Secretary for Infrastructure, Investment and Cities met senior officials to explore further the potential to avoid tendering the contract. The European Commission reiterated—I emphasise that word—its position that the maritime cabotage regulation, in line with the principles of the EU treaty, requires there to be no discrimination between operators, and that the open and

transparent competitive tendering exercise that is now being undertaken therefore must proceed.

Of course, the SNP Government is committed to maintaining standards of service, and we wish workers' rights to be protected. I am therefore pleased, along with the First Minister, the transport minister and the trade unions, that an independent procurement panel was announced on 24 June to ensure fairness, openness and transparency and to provide assurance of no discrimination against either bidder.

Scottish ministers have further made it clear that they will protect employees' terms and conditions, including a fair, affordable and sustainable pension scheme and the inclusion of fair work principles in the next contract. Ministers are seeking a no compulsory redundancies agreement from the bidders during the tendering process.

I believe that, within the confines of procurement law, the Scottish Government is doing an excellent job to ensure that the successful bidder provides not merely value for money but a high-quality service for the people who use those services—one that is fair to employees and delivers for our customers.

Any talk of privatisation is far from the truth. Any service whereby the Government retains ownership of vessels, ports and harbours while setting routes, timetables and fares cannot be considered to be a privatised service.

Coupled with the huge levels of investment in port infrastructure, RET, new vessels and the Scottish Government's ambitious ferries plan, it is clear that, under the SNP Government, Scotland will continue to benefit from a world-class ferry service that will improve standards of living in our island communities and provide a boost to tourism, employment and island exports. In my constituency, we have already seen such progress.

15:42

John Finnie (Highlands and Islands) (Ind): I apologise to you, Presiding Officer, for missing David Stewart's opening remarks.

Like many, I went to school on a MacBrayne's bus for many years; MacBrayne's Haulage was also operating at that time. CalMac has its origins in that Highland history—as I think one member said, it is part of the Highland DNA. That used to be the case with another public body, the North of Scotland Hydro Electric Board. There was great affection for the board, from its construction, which was led by Tom Johnston at the end of the second world war, to its operation and the creation of a large workforce. There was a lot of housing connected with the board's work, and the scheme

had a special place in Highland communities. Such things no longer happen since the privatisation of the utilities. Privatisation and the profit motive ended all that, and I would not like the use of that privatisation model to be repeated in respect of these important services.

I am grateful to the many people who have provided briefings for the debate. I am sure that we can all quote selectively from them—I certainly intend to. We hear that, with regard to the procurement directives,

“under the previous regime waterborne transport services were ‘non-priority’ services”.

I do not think that the importance of the ferry service to our communities can be underestimated.

The term “public sector obligations” can mean different things to different people. On a political level it means, “Do you see a role for the state in people’s lives?” I view transport services much as I view education, health and social care.

Members have spoken about the Teckal exemption—as I said, some may have chosen to use selective quotes. I share David Stewart’s view, although I admit that I did not get through the 26 pages or whatever of the advice. I got through 14 of them, however, and of course the meat is in the initial opinion. The advice is unequivocal. If, as Government back benchers have expressed, there is genuine interest from the Government in CalMac securing the contract, I commend that option to it. I may return to that subject later.

We know that there is support for the rail service to be taken into the public sector. There is plenty of evidence for such a move. Alex Johnstone declined to take my intervention earlier, but I say to him that, as we know, East Coast failed twice as a private franchise and ran very successfully as a state enterprise. I, and other members, may see that as an opportunity to extend the model to other rail franchises, but the UK Government does not, and it intends to hand over those profits to its friends in the City.

People are looking for consistency on the matter, and members have spoken about the various positions that the parties have adopted. I have to say that my Green colleagues have been consistent throughout, but it is right to say that events change and are shaped by case law, and it is important to pay attention to that. Of course, case law counts for nothing if there is no political will—that is the most important thing that will shape the situation.

Many obligations are placed on a Government. There is also an obligation placed on a limited company to maximise profits for its shareholders. There is no doubt that commercial concerns can

run public services, and, unfortunately, many do, but at what price? My first speech in this Parliament was in a debate on the care of older people, when I voiced my concern that there was a profit motive attached to the care of older people, and likewise with prisons.

I declare my membership of the RMT parliamentary group. The RMT campaign describes Serco as

“‘the specialists in failure’ based on their appalling track record in public services”.

We do not need to take just the RMT’s word for that. As we have heard, Mr Johnstone’s colleagues in the UK Government have formed that view, too. It is a bad state of affairs if Tories in London say one thing, recognising the frailties of that organisation, yet we set that aside here.

The union briefings also tell us something that that we know already, which is that

“Profits amongst companies in the UK and international shipping industry are reliant on keeping labour costs down, at the expense of seafarers’ employment, pension and other rights.”

We have the transatlantic trade and investment partnership on the horizon and the Trade Union Bill, which, ironically, the Government seemed to express concerns about. We know that, as one of the briefings says, commercial involvement with public services is in many instances

“driven by a policy of aggressive profiteering”.

I was grateful to my colleague Mike MacKenzie for accepting an intervention in which I raised the issue of precedent, because we can go on precedent. Incidentally, I said “short-term contracts” when I should have said “zero-hours contracts”. Despite assurances given to the RMT that it would not change crewing levels before winter, Serco announced redundancies in October without prior consultation, barely three months into the contract. That caused the first industrial action on Scottish ferry services for 30 years. Having corrected my earlier comment, I should mention that the company also uses zero-hours contracts for staff on those routes. That is not the sort of ferry service that I want to see.

CalMac has its critics, and they can be very specific: they might say that they are unhappy about the performance of a particular ferry or that they wish that the ferry had sailed on a particular occasion. However, the company is highly regarded and profitable. I am fascinated by the notion that what is happening is not privatisation, because we know that CalMac is profitable and that that profit comes back into the Government coffers. Where will any profit that a private company makes go? We know where it goes: it goes to the shareholders; it does not come here.

We can play with words all day long, but as far as I am concerned that is privatisation.

I am an old-fashioned guy. I like my public services run by the public in the interests of the public. Johann Lamont, in a fine speech, talked about—

Chic Brodie: Will John Finnie take an intervention?

John Finnie: Yes, indeed.

Chic Brodie: Can Mr Finnie tell us who owns, and who will own, the assets of the company?

John Finnie: That is completely irrelevant to the people whom I represent. They are interested in the quality of service, and they are interested to know that the people who work for the ferry services are respected. We know that private companies will drive the hard-fought-for terms and conditions down.

I like my service and I think that we need to test any legal opinion on the case to destruction. If people have not had the opportunity to read an opinion, I do not think that they should be expressing a view on that opinion. I hope that the minister will be open-minded about it. The phrase “knowing the cost of everything and the value of nothing” very much applies in this instance.

Derek Mackay: Will the member give way?

John Finnie: I would be happy to take an intervention from the minister.

Derek Mackay: I was not sure whether the member had time to take an intervention, Presiding Officer.

Mr Finnie has asked repeatedly, as Labour members have done, whether we have tested the legal opinion to destruction. Is he aware that both trade union solicitors and Government solicitors spent some of the summer discussing matters and raising awareness, without sharing our legal opinions, in order to understand each other's positions? I am convinced that we have tested to destruction the legal opinion that has led us to the conclusion that we have reached.

The Deputy Presiding Officer (Elaine Smith): Mr Finnie, please begin to draw to a conclusion.

John Finnie: As someone who, in a previous job, used to seek legal opinions, I can say that sometimes a request for a legal opinion can be couched as a request for everything that would support the assertion that A is B. I hope that the minister will take the opportunity to look at the legal opinion that has come in only recently, even at this 11th hour, because if there is a genuine commitment—everyone seems to be saying that they want CalMac to win the tender—I am sure that people would appreciate his taking that on

board. I certainly want to see CalMac retain the service, and I thank David Stewart for bringing the motion before Parliament today.

15:50

Rob Gibson (Caithness, Sutherland and Ross) (SNP): This is a case of déjà vu all over again. Members have referred to the similar debate that took place in 2005.

In my constituency of Caithness, Sutherland and Ross, I have the CalMac service from Ullapool to Stornoway and the Serco service across the Pentland Firth from Scrabster. I can therefore compare and contrast the services.

I also have wider experience. The land reform work of the Rural Affairs, Climate Change and Environment Committee took committee members to Islay and Jura recently, and we used a number of ferries—I went via Arran and Kintyre. I have witnessed what is going on in that respect, although that does not give me an overall view of the state of the ferries.

The debate is about an issue that crews, unions and others want to be settled for good. I do not know whether the Teckal exemption is a solution, but the issue is complicated. The EU says that tendering is required by law. That was established during the time of the Scottish Executive, and the SNP Government has followed the approach. If Teckal is not a silver bullet and is not a fait accompli, as the minister said, how can we spend a lot of time delaying a tendering process when our actions might be found to be an infraction?

In the debate in 2005, Maureen Macmillan said:

“We need to face up to the fact that, if we fail to comply swiftly with the European directive, the tendering of the ferry services could be taken out of the Executive's hands.”—[*Official Report*, 14 September 2005; c 19041.]

I do not think that we should take that threat lightly. That was an important point for a Labour member to make.

John Finnie: Will the member give way?

Rob Gibson: Not at the moment.

A risk is being run by people who suggest that we consider the new information—it is one idea—about how Teckal might work. As Mike Russell said, if Teckal matters it will be possible to explore it at length, but we should not do so in the middle of a tendering process. We should remember Maureen Macmillan's stricture.

As Tavish Scott said, the other aspect of Labour's motion—privatisation—is not the issue. The hardware would stay in public hands. The ferries, the services, the timetables and the fares would stay in public hands. Most important, as part of the tender conditions, workforce pensions have

been safeguarded; pensions were not safeguarded in the tendering process in 2005, as I said at the time.

Johann Lamont: Will the member take an intervention?

Rob Gibson: I am sorry. I will not take one at the moment, but I might in a minute.

Jobs are safeguarded. There is no question of compulsory redundancy without consultation with the minister. The conditions that are being put in the contract are very different from the ones that pertained in the past.

There has been some debate about what CalMac currently does and whether it could do a better job. There has been a lot of discussion about the need for greater investigation of the organisation's use of particular types of vessel. For example, it has been suggested that the £43 million that was recently spent on building the MV Loch Seaforth, which runs on the Ullapool route, could have been used to secure three 140-car rough-water catamaran ferries, which might have been more flexible vessels to use on many CalMac routes. We have to use worldwide experience when we think about how best to deliver the public services that CalMac provides. That is a part of the debate that we must get on to.

If Labour is going to continue to advocate an approach that does not work, such as Teckal, is it suggesting that we should flout EU law? As I said, if we stop a tender in the middle of the process, are we saying that we are prepared to flout EU law? If that is what the motion is saying, well, I am sorry but I cannot accept that approach. It is a faux argument that is not about privatisation or anything other than grandstanding.

The interests of the CalMac workforce and the communities that they serve are best looked after by the SNP Government, under this minister. *[Interruption.]*

The Deputy Presiding Officer: Are you finished, Mr Gibson?

Rob Gibson: Yes; thank you, Presiding Officer.

The Deputy Presiding Officer: I thought that you were taking an intervention. Thank you.

15:55

Neil Bibby (West Scotland) (Lab): CalMac ferries not only provide vital lifeline services to the Clyde and the Hebridean islands, but are a much-loved national institution. I know what a vital service CalMac provides. My brother used to work on the ferries, my wife's family live in the Hebrides and, like many others, I use the ferries regularly to visit places such as Arran, Millport and Rothesay. I therefore strongly believe that everything should

be done to protect CalMac services from privatisation. We should listen to the passengers who use the services and the workers who run them. That is why I welcome the debate and Scottish Labour's motion in the name of David Stewart.

CalMac is today, in 2015, thankfully in public hands, but, unlike in 2005, we have a serious and real threat of privatisation. It is a real and serious threat because the minister, Derek Mackay, cannot give a guarantee that Serco will not be successful and cannot promise us that that private company will not be running these services next year. What makes the threat of privatisation all the more real and worrying is that the Government has said that the tendering process will not be completed until after the next Scottish Parliament elections in May.

The motion rightly recognises the sterling work of all the workers and members of the RMT, Unite, the Transport Salaried Staffs Association and Nautilus International. We should not just recognise the workers and the unions; we should listen to them on this issue. I met many of them outside at the lobby today and many are in the chamber this afternoon. I did not see many SNP MSPs outside meeting the workers this afternoon, for all their talk of listening to them.

We should listen to what the workers say about the minister's bizarre claims, particularly the claim that this tendering process does not represent privatisation. I will tell the minister what Mick Cash, who is RMT general secretary, said about that claim. He said:

"it is extraordinary that rather than standing up for Scotland's lifeline ferry services, those who hold political power have resorted to ludicrous arguments about what does and doesn't represent privatisation. That is a kick in the teeth for loyal and hard-working staff."

He also rightly said:

"If a private company is allowed to take over a public service for profit, that it is privatisation—whether it's on our railways, hospitals or ferry services."

As Brian Wilson and others have said, by the minister's definition nothing has been privatised.

We should listen to workers' concerns over Serco's reported plans to downgrade the headquarters. As my colleague Duncan McNeil said, around 200 people are employed at the Gourock office in Inverclyde. Insufficient assurances have been given on that matter, which is yet another reason why we should not proceed with the tender.

Crucially, the SNP Government must now act upon the new legal advice that was published today by EU procurement law expert Gordon Nardell QC. As David Stewart said, that advice shows that by applying a provision known as the

Teckal exemption, the Scottish Government would not need to put the service out to tender. In Gordon Nardell QC's opinion, the case satisfies both the control test and the functional test required by the Teckal exemption.

Mike MacKenzie: Does Neil Bibby not agree that it is very common for one lawyer to say one thing and another lawyer to say another thing? That is why we have court cases.

Neil Bibby: Mike MacKenzie said nothing at all in his speech. I would rather take advice on EU procurement matters from Gordon Nardell QC than from Mike MacKenzie, but I thank him for his intervention anyway.

The advice of Gordon Nardell QC is clear: once the Teckal exemption is satisfied, Scottish ministers are not obliged

"to hold a competitive tendering exercise before awarding that company a public service contract for the Clyde Hebrides services."

That highly significant intervention begs the question why the minister and the Scottish Government have not asked the European Commission for a Teckal exemption. On page 23 of his legal advice, Nardell states that, once the Teckal exemption is satisfied, the funding for the operation

"does not constitute State aid."

That has previously been the reason for the minister's reluctance to take that route.

Derek Mackay: The member cites legal opinion, as other members have done. Let us return to the opinion of the European Commission. It has said:

"Consequently the Commission strongly advocates the widest possible use of open and transparent tendering procedures when public authorities entrust companies with a public service obligation."

That is the view of the Commission. Does the member not understand that that is a significant statement that suggests that we have to undertake the procurement exercise?

Neil Bibby: I am not sure whether the minister has even read the legal advice of Gordon Nardell QC. Given what he says, I encourage him to do so.

Surely it is only reasonable that, if there is agreement that we do not want to tender and the legal advice backs that up, we should stop the tendering process and go back to the European Commission for that exemption. It would be indefensible not to do that, given the publication of that advice today.

I have a number of other questions for the minister. The tender process is time consuming, and we know that it is also costly. Can the minister give us an updated estimate of the total costs of

the tendering process? Can he also confirm—as SPICe and Gordon Nardell QC have done—that the Scottish Government has the unequivocal right to cancel a tendering process at any time without any liability? If he is confident that the services will not be privatised, can he give a guarantee that Serco will not be running the ferries next year? Of course, he cannot—and he knows it.

Derek Mackay rose—

Neil Bibby: Does the minister want to tell me that Serco will not be running the ferry services next year?

Derek Mackay: The member knows very well—at least, he certainly should know if he is an expert on legal opinion—that, if I were to prejudice the exercise, the Government would be in difficulty, as would I and as would our ferry services. I cannot prejudice the outcome of the tendering exercise. We will continue to monitor the costs of it, but we cannot prejudice its outcome. We will run it fairly, openly and transparently to ensure that it complies with European law.

Neil Bibby: That is all very well. The minister says that the services could be privatised, which is exactly why we are asking the Government to stop the process.

I thought that the SNP would be working with us today to ensure that we keep CalMac in public hands. I thought that because, as has been mentioned, SNP MSP Fergus Ewing said, in 2005:

"An SNP Government would not tender; instead, it would protect CalMac and its workforce and improve the ferry services to our island communities in Scotland."—[*Official Report*, 14 September 2005; c 19026.]

It is all very well for SNP MSPs to come to the chamber and say that they stand up for Scotland, but the reality is that SNP MSPs such as Kenny Gibson are not even standing up for Millport on the issue. I was in Arran just two weeks ago, and I spoke to people there who were in no doubt that CalMac should be kept in public hands and that the tender should be stopped. Other SNP MSPs such as Alasdair Allan and Mike Russell need to realise that they are here only because people in island communities voted for them. For them to be complicit with a privatisation process would be a betrayal of those island communities.

Michael Russell: The word "complicit" needs to be considered carefully by the member. I have already explained to him the position according to the crew that I know and speak to and according to my constituents. Perhaps he would like to come and speak to them. He will not hear much about ferries in Paisley.

The Deputy Presiding Officer: Please conclude, Mr Bibby.

Neil Bibby: If Mr Russell wants to stand up for his constituents and wants to stop the privatisation process, he will vote for the Labour motion in David Stewart's name.

CalMac ferries are lifeline services and CalMac is a national institution. As the RMT has said, privatising the services would be a betrayal of the Scottish people. We have legal advice and the public on our side, so let us resolve to keep CalMac in public hands. I will stand up for my constituents and support the motion in David Stewart's name.

16:04

Chic Brodie (South Scotland) (SNP): That was a selective rewriting of the situation.

As a member who lives on the beautiful Firth of Clyde, and who started my work in Greenock, the debate is important for me personally. I am not interested in the creation of division. The desire should be to meet the needs of the employees and the customer, as well as the legal needs and the productive needs of the debate. During last week's debate on the UK Trade Union Bill, I said—I have often made this point about employee participation and the ownership and running of companies—that properly constituted trade unions have a continued great role to play to build the foundation of efficient, productive, good and sound labour practices and through that, I would hope, lead to higher remuneration practices across all our critical economic sectors, including maritime transport.

Although I embrace with great respect some of David Stewart's intent in the Labour motion, I have problems with its content, motivation and direction. Let me share some of my concerns. First, and importantly, there is no mention of the customer, the taxpayer, the clients or the many islanders who contribute so much to Scotland's economic and culture spectra.

Johann Lamont: Will the member give way?

Chic Brodie: Not at the moment.

Secondly, I, too, pay tribute to not just the ferry workers, but all the workers involved who help to breathe continued life into our rural and island communities. I suggest that their commitment will not change. Scottish ministers have indicated that they will protect employees' terms and conditions, including a fair pension, as was just mentioned, in the next contract. The bidders will also not seek any compulsory redundancy agreements. Any suggestion otherwise is, frankly, misleading.

Drew Smith: Will the member take an intervention?

Chic Brodie: Not at the moment. Let me carry on—*[Interruption.]* I am coming to an important point that the member should listen to.

It is not for me to draw the picture of Caledonian MacBrayne and its whole lifeline services across the 22 islands off the west coast; rather, it is for me to talk about the Clyde and Hebrides services. I remember the streakers—the competitive Clyde ferries to Rothesay. Things have moved on.

I regret that my attempts to intervene were not taken up. I wanted to ask what Dave Stewart and Johann Lamont felt about the people in Hampshire who wanted to have their local ferry bid accepted. The local bid was not accepted. Under the principle of European law that is being applied here, the contract went to another shipping company—David MacBrayne Ltd, which was one of the successful joint bidders. Therefore, CalMac won the tender. There is recognition, at least by some in CalMac, that they progress bids in a competitive environment. As I said, it is not for me to make any more comment than that, because the outcome of that situation is quite clear.

I do not understand why we now have a *cri de cœur*, with some members shouting that there apparently should be no competition. I have just described a situation in which CalMac's parent company accepted the position and got involved in the competition successfully—and happily, as far as we are concerned, because it won the bid.

The contract is out to tender as required by European law. Despite what Gordon Nardell QC says, Council regulation number 3577/92 applies. Since the decision and the implications of the Altmark case, which has been mentioned, the requirements for public tendering of public ferry services stem from the European maritime cabotage regulation. That was recognised by the Lib-Lab transport minister, Nicol Stephen, in 2004.

John Finnie: Does the member accept that the law evolves? It is not static; it can change. Therefore, the decision on the tender could be changed. The minister should examine it because of that.

Chic Brodie: That is a very good point, to which I was just coming. It should come as no surprise that the volatile and undesirable actions of some fellow member states of the European Union in the intervening years have shed a light on, as the member pointed out, practices and actions that are unacceptable. Therefore, there is an on-going review, as Mr Finnie has just pointed out, by EU legislators. That is why there have been changes to the requirements—in this case regarding procurement service contracts.

If we espouse a desire to be part of Europe—most Scots apparently wish that—we must, as has been said, pursue legal arguments with the

European Commission to exempt lifeline Scottish ferry services.

We tried that, and the Commission made the position absolutely clear. It is a nonsense—in fact, it is defamatory—to suggest that the process is biased towards private sector businesses. Where is the evidence that it is biased? Any successful competitive bidder has to meet the same detailed service specification as defined by our Government, under which our Government retains control over fares, timetables and frequency of sailings and still controls the assets, the routes, the services and the fares.

Members: What about profit?

The Deputy Presiding Officer: Order, please. Could members stop the sedentary interventions? Members should ask Mr Brodie if they wish to intervene.

Chic Brodie: I will not take any more interventions.

On that basis, we are talking about a base for competition of operation. I do not understand the apparent fear in the message that we must maintain the service publicly. We must get out there and fight to win it. Those who argue against the alleged privatisation of the ferries—given what I have just said, it is clearly not privatisation—seem to defy the notion that, with a strong, skilled and experienced workforce, there is an opportunity to compete. If we keep talking as if we are going to lose, guess what happens? We lose. That is the notion that is being expressed. The motion defies the capability of CalMac, its workers and its representatives to go out and win the service, and it does no favours to its cause of fear of loss. The Labour Party should heed that.

In the words of Charles Kettering, if you are still doing things the way you have always done, you are doing it wrong. Get out there and compete.

Drew Smith: Wow! Get in there!

The Deputy Presiding Officer: Order, please.

I ask the next two members to keep to their seven minutes.

16:12

Rhoda Grant (Highlands and Islands) (Lab): In an intervention, Bruce Crawford said that the SNP, when in opposition, had been wrong in its response to the previous tendering process. He said that the SNP was wrong, and he seeks to tar us with the same brush: “We were posturing then, and therefore so are you now” is his implication. I can say that he is wrong now. This debate seeks to give the minister the facts that he needs to stop the tendering process. If he does that today, no one will applaud him louder than I will.

Derek Mackay: I wish to make an intervention that may help Rhoda Grant with her voice, and it may help address a fair challenge that a number of Labour members have put. Whatever the outcome of today's vote and however the debate continues, I will meet the Opposition spokesperson and discuss the legal opinion in the spirit in which members have asked me to. I make that commitment now, if that assists with the debate.

Rhoda Grant: I really welcome the minister's intervention. That is one of the first positive things that have come from his party's benches today. Indeed, that is all that we are asking for in the debate—that he examines the truth of the matter. We believe that it is a fact that the tendering of CalMac routes is not required, and we know it to be the case. The Teckal exemption is there. It has been tried in case law over recent years, and directives have strengthened it. The Scottish Government know that it is there, and I am really glad that it is now willing to consider the exemption.

David Stewart spoke to the directorate-general of maritime affairs and fisheries. Surely the minister can do that, too. Surely he can look at the QC advice that has been obtained by the RMT, which upholds the position that the Teckal exemption can be used. That is legal advice; it is not political posturing. If the exemption can be used, it should be used, because we are discussing lifeline services—they are not profit-making opportunities.

A Government-owned provider can be instructed to change the routes and sailings at any time. Those changes can be made at cost price, rather than forming additions to contract, which can be charged at the price that the contract holder demands.

Captain Norman Martin made a point about that. He said:

“The government owns CalMac, it's a private company but owned by Scottish ministers, so they have the authority to instruct you to do what they want you to do.

They have the authority to appoint the directors and set strategy.

But if you go to another private operator they are delivering a contract according to the contract that you have struck and it's very difficult to foresee any variation you might need in advance.”

We cannot ignore the advice of someone who has served our communities for many years.

Serco is the only alternative bidder, and its record of service delivery is not good. The RMT is in dispute with it about its unwillingness to respond to health and safety concerns on the railway. It also runs NorthLink services. When the Hamnavoe broke down a couple of years ago, it

did not replace it with a similar boat, because it was cheaper to pay the fines than to pay for the cost of the replacement. That shows a total disregard for the public good and the people Serco serves. It is the difference between having a privatised service and one that is run by public servants who serve their community and react to their needs.

Alex Johnstone: Is it not the case that when the Hamnavoe broke down much of the slack was taken up by a privately run and unsubsidised ferry service?

Rhoda Grant: A privately run ferry service did put on extra sailings, but the fact it had to is a disgrace in itself. After all, Serco was getting public funding to run a public service, and it did not do that.

Those who travel on NorthLink will see that Serco has introduced passenger segregation. People can pay a higher price for the more stable mid-ship seats that used to be available on a first-come, first-served basis or pay additional amounts to access an executive lounge and dining area. To those who opt for a basic ticket, the journey feels like travelling in steerage.

Serco has also used sharp practice. As David Stewart has pointed out, it claimed from the UK Government moneys that were not due to it for the tagging contract; indeed, as a result of that, it was banned from holding contracts, but we are still allowing it to bid for and win contracts here. If it is in the bidding process to make a profit—and its record with regard to the tagging contract shows it is not above sharp practice—it will maximise its profits any way it can through these contracts.

Like others, I believe that the Scottish Government's governance of CalMac can be improved. For a start, it appoints the CalMac board, and I am perplexed that it does not see fit to appoint someone who lives on the islands. After all, such a person would have huge experience and knowledge and would bring an island perspective to the board. For example, they would understand the concerns of the people in Skye with regard to the Mallaig to Armadale route. The new arrangements will not provide an adequate service, despite those in Skye believing that demand will increase with the introduction of RET. Now that the crossing will be cost effective and provide an alternative to the round trip by road, there must be capacity to meet that demand.

CalMac wants to retain the MV Coruisk. Constituents in Dunoon, too, are calling for that boat to be used on the Dunoon to Gourrock route to provide a safe and reliable service for their community. That is especially the case in the winter months, when that journey can be terrifying,

because purpose-built vessels are not fit for purpose.

It is not right for the Scottish Government to allow community to be set against community; all of the communities need services that meet their needs and help them develop their economies. Skye and Dunoon need dependable services and boats that are fit for purpose. The Scottish Government has had eight years to build boats, and it needs to do that now.

This tendering process must be pulled. The Scottish Government can do that if it wishes; under the terms of the tendering process, there is no comeback. It is often said that where there is a will there is a way. We know that there is a way—we hope that the Scottish Government has the will.

16:19

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): As a former resident of Lewis and a regular ferry user up and down the Western Isles and to the mainland, I welcome David Stewart's motion. I, too, pay tribute to the ferry workers of Caledonian MacBrayne who provide vital ferry services to much of my constituency of Skye, Lochaber and Badenoch as well as right along the west coast of Scotland.

When I was in Lewis in the 1970s and early 1980s, there was much debate about the road equivalent tariff, but successive Labour and other Governments refused to implement it. That has been done by our SNP Scottish Government, and it should get credit for that, because it is a huge boost to our west coast communities and those who work for Caledonian MacBrayne.

This debate rightly focuses on ferry service contracts and the EU legal requirement to put them out to tender. The SNP Government has, of course, already extended the current tender by three years, thus giving more security to staff. Indeed, that will have the effect of giving time to CalMac to better prepare for its bid.

I am a lifelong trade unionist, so I understand the importance of this debate to fellow trade unionists, many of whom are watching this debate from the public gallery. I believe in the preservation of publicly owned ferry services, and our SNP Government also supports that. I want CalMac to succeed.

Credit must also be given to our SNP Scottish Government for refusing to unbundle the routes. Unbundling would have allowed the private sector to cherry pick the profitable routes, and the public sector would have been left with the loss makers. The minister has offered to meet Labour's transport spokesperson to discuss that matter

further to show his good will towards everyone who is involved in the debate.

In the current tendering process, CalMac must sharpen its pencil and ensure that we have the most efficient services possible. For an example of how it can do that, we have only to look at the new ferry proposals for the Mallaig to Armadale service in my constituency. The new proposals initially look attractive, as they offer an increase in capacity, but there will be unintended consequences that will damage the local economy, reduce CalMac's income and thereby make it more difficult for it to compete with Serco. If CalMac is to compete with Serco, it must use its vessels as efficiently as possible and boost its income, but the current proposals for the Mallaig to Armadale route will not mean that.

Johann Lamont: Does the member agree that CalMac has proven itself to be efficient and has delivered money back to the Scottish Government while Serco has shown itself to be far from adequate in various contracts? Why would we even imagine that we would want to give the contract to Serco in the competition, given its record?

Dave Thompson: I am pretty certain that CalMac will put in a very competitive bid and win the contract. That is what it needs to do. The conditions are exactly the same for it and Serco.

The problem with the current proposals for the Mallaig to Armadale route is that the MV Lochinvar is much slower than the MV Coruisk, which is the current ferry. It would have an increased journey time of 40 minutes, and there are no catering facilities for passengers on it. There are also potential reductions in Sunday sailings. Just using the MV Lochinvar may well lead to an unacceptable 42 per cent reduction in capacity, and that must be resisted.

Those changes would affect the economics of the route and CalMac's profitability, and they would damage the local economy. The MV Lochinvar would, of course, be supplemented during the week by the Lord of the Isles, which would provide four crossings each day when it is not sailing to and from Lochboisdale. However, it would arrive in Mallaig at 10 am and depart for Lochboisdale at 6.10 pm, which means that it would not be available for early morning coaches, which the MV Lochinvar would not have the capacity for and on which many tourism businesses in Skye and west Lochaber rely. That would further undermine CalMac's ability to generate income on the route and compete with Serco, and it would further damage the local economy.

In recent years, the Mallaig to Armadale crossing has been recognised internationally as

one of the best ferry sailings in the world, and increasing numbers of tourists are using it. CalMac traffic statistics have shown a continual growth in vehicle and passenger numbers, which are set to increase dramatically this coming year following the introduction of the road equivalent tariff. My constituents and local CalMac employees are very grateful for that, and it will add considerably to CalMac's income and its ability to compete with the private sector.

The answer, of course, is to leave the Coruisk where it is, supplemented by the Lord of the Isles, which would support the increase in traffic and therefore provide a boost to the economy and to CalMac's ability to compete with Serco. Further revenue increases could be achieved if the Government commissioned a new vessel for the Oban to Craignure route, which is where the Coruisk has been allocated to go. While the new vessel was being built—possibly at Ferguson's, which would be a win-win situation—an interim vessel could be chartered to increase capacity on the route, which would be a huge boost to the west coast and something that I would ask the minister to consider very carefully.

The Deputy Presiding Officer: We now turn to the closing speeches. I call on Tavish Scott—up to seven minutes, please, Mr Scott.

16:25

Tavish Scott: Rhoda Grant's voice might be breaking, but I could totally understand the passion with which she made her case, as many members across the chamber have done. It was no different 10 years ago, when lots of colleagues from all political parties expressed their concerns about shipping. I do not know what it is about shipping that gets us all fired up, but it is certainly relevant to the contributions to this debate, which I acknowledge at the outset.

I slightly take issue with the suggestion that everything run by the state is perfect. When I go home on Friday, I will get on a ferry that is run not by CalMac or any Government contracts but by our local authority in Shetland, and—believe me—there are plenty of folk on the island I live on who are less than enamoured with that service. I therefore think that we need to have a more open mind at least about the best way to configure important lifeline services, whether they be shipping services or otherwise.

It seems to me that the Labour motion for the debate has rightly raised two main issues. The first issue is whether tendering has to happen for the west coast shipping services. The onus is, of course, on the minister of the day to take the latest iterations of legal advice and have the Government lawyers look at it and test it to

destruction. Duncan McNeil made a fair point in that regard, and I am sure that Derek Mackay accepts that there is nothing to be lost and potentially something to be gained—although it is not wholly clear what it might be—by at least testing the legal opinions that have been quoted so extensively by Labour members during the debate. Nothing at all would be lost by doing that, apart from some lawyers' time in Edinburgh, but we pay them plenty as it is.

I hope that the minister will accept that challenge, which seems to me a fair one. I think that successive ministers of different persuasions have always sought to consider the options. I was under pressure to do so from SNP members back in 2005, and we did test things to destruction and I shared what I could at the time with Opposition spokesmen. They did not necessarily agree with it, but it seemed to me a reasonable method to do that. I am sure that Mr Mackay, who is a reasonable man, will at least explore doing the same.

The second issue that David Stewart has rightly raised through his motion flows from that first issue: if public procurement of the west coast shipping services is, just like those for the northern isles, a requirement of EU law, can the process itself protect the terms and conditions, the pension rights, the services and other aspects that many members across the chamber have rightly referred to? I acknowledge that reasonable points have been made by a number of colleagues, particularly Johann Lamont, about the difficulties, if I can express it like that, of Serco. She and others were quite right to say that terms and conditions can change and have changed—for example, they have done so in respect of the service that I depend on every day in my constituency. Of course, that service is from a contract let by the current Government, and it is open to the Government to reconsider it.

Mr Mackay has made the point that he has had an independent procurement panel consider how best to tighten that contract, an approach which reflects the entirely legitimate points that members across the chamber have made during the debate.

The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan): I share the member's passion for all things to do with shipping, not least because of the strength of feeling that our constituents have on it. He mentioned pensions and conditions, so will he acknowledge the lengths to which the Scottish Government has gone to ensure that they are dealt with more successfully in the current tender than in the previous one?

Tavish Scott: I suppose the proof of the pudding will be in the eating, and I hope that Mr Allan will accept that that is the concern. I suspect

that it will be for the trade unions, which have made their case to Parliament today in various ways, to test the outcome, and it is in the Government's interests to be proved right on the matter—that is now its task.

I will pick up two or three points that members made in the debate. Duncan McNeil mentioned Gourock. I should say in fairness to him not only that he was right about the 200 jobs but that he resisted with some determination a proposal back then, when we had a relocation policy in Scotland to take civil service jobs outside the central belt—which I still think was the right policy; it has sadly been abandoned by the current Government—to move the headquarters, if I remember rightly, from Gourock to Stornoway. That was popular in Stornoway but extremely unpopular in Gourock. Duncan McNeil made the right arguments at that time, and the proposal went no further. That was partly because of the arguments about the future of the tendering of the west coast ferry services, but I absolutely recognise his point that every effort needs to be explored to see whether there is a potential exemption from EU tendering rules. Personally, I do not see that happening, but I recognise the point that was made.

The second point that I want to pick up is Johann Lamont's point about unbundling—a hell of a jargon word that describes the process of allowing other ferry companies to cherry pick routes. On that, it strikes me that the Scottish Government had an option when it tendered the northern isles routes to take out Scrabster to Stromness, which Rob Gibson referred to. No one in Orkney wanted that; I cannot speak for Caithness, but I do not suppose that it was particularly well thought of there. There is at least, therefore, a track record by successive Governments, including the one that Johann Lamont and I served in, of not allowing that unbundling—sorry, I just used the word again—or cherry picking to take place. I accept the minister's arguments on that. I do not believe that he believes that cherry picking would be good news for the west coast of Scotland, and I suspect that we are all at one on that.

The final point that I want to make is about the importance of making sure that this debate ultimately concentrates on the service and on fares. I will pick one issue that I do not agree with the Government on. If we want to have a fair fares policy—such as the one for air fares that we introduced in the Government that Johann Lamont and I served in—and if the Government cuts ferry fares by 55 per cent on the west coast, I recognise that that will be tremendously good news for Mr Allan's constituency, Mr Russell's constituency and others. I welcome that, as it is supportive and a good thing for those west coast island communities. However, if we do that, we need to

find a way to ensure that the policy applies to other areas as well, because Orkney and Shetland are seeing no benefit from that approach. Road equivalent tariff does not work for us in the same way, but that does not mean that we cannot have a fair fares policy that allows improvements to be made for the economies of those islands.

I hope that, in the round, the approach that the Government will take will be not just about the vital issues of terms and conditions, pensions and the rights of the men and women who work for CalMac, but also about the fares and services that those of us who are islanders depend on.

16:33

Jamie McGrigor (Highlands and Islands) (Con): I always welcome the opportunity to talk about the lifeline ferry services that are so vital to the people of my region and the Highlands and Islands. I have used CalMac services for nearly 60 years and I know the affection in which it is held by many of my constituents.

In today's *Scotsman*, there is an article on CalMac featuring Captain Norman Martin, known as Norwest Martin, who is retiring after 39 years' valuable service. He makes the point that CalMac is a private company owned by Scottish ministers. I hope that they will be declaring an interest. He also says that CalMac is doing a difficult job to a great standard, and that sums it up pretty well.

I join other MSPs in paying tribute to all the hard-working CalMac staff who have consistently helped to ensure that CalMac's safety record is so impressive. I assure members that anyone who has travelled on those routes in high seas thanks God that they are in a big boat. CalMac's staff also give our tourists a warm welcome.

As other members have pointed out today, I am afraid that Labour MSPs who are seeking to make political capital out of the current tender process are possibly guilty of serious double standards. By following EU law on the need to tender, the SNP Scottish Government is acting in exactly the same way as the Lib-Lab Executive did when it tendered the current ferry contract. Of course, the SNP in opposition acted in exactly the same way as Labour is doing now by criticising ministers for tendering. We have a reversal of roles and round it goes. The reality remains that if the Scottish Government was simply to award ferry services to CalMac without a tendering process, it would almost certainly fall foul of the maritime cabotage regulation and be subject to legal challenge and likely defeat, with all the consequences that are associated with that.

David Stewart: Has the member read the QC's advice? That is where the emphasis behind our debate lies. The Teckal exemption was designed

with Europe based on an Italian case. It has been used in Britain in the Brent Council case. It is possible to do, but it has to be followed through. The idea that we cannot do it without seeking advice from Europe is a bit strange.

Jamie McGrigor: I am grateful to the member for that advice, but some seem to think otherwise.

At the end of the day, we all want the new CHFS tender to ensure that we have the best possible level of ferry services for our island and coastal communities. That is what we expect ministers to deliver through the tender process. The Scottish Conservatives are also very aware that, not least in these times of pressure on public spending, ministers have a duty to ensure that taxpayers' money is spent as wisely as possible. That includes getting the best possible value for money from our publicly supported ferry services.

Constituents in two parts of my region—Dunoon and Cowal, and Orkney—are fortunate to have the option of using services that are provided by the private companies Western Ferries and Pentland Ferries respectively. Those companies' services are frequent, reliable and affordable and I commend them and their employees for the excellent work that they do without one penny piece of public subsidy. I hope that we can learn some lessons from their good practices.

I wish to refer briefly to a number of topical ferry issues in the CalMac network. Dave Thompson talked about the concerns of our constituents in Lochaber and Skye about what they see as the unwarranted and unwelcome plans to downgrade the Mallaig to Armadale service. I well remember some years ago joining the opening day sailing of the MV Coruisk, which was, as far as I remember, built specifically for that route. I share local concerns that it is to be downgraded to a lesser vessel that will have a smaller car capacity and, at 9 knots instead of 15, be very much slower. I ask the minister to intervene on that and back the calls of the Sleaford transport forum for those plans to be reconsidered.

Constituents in Campbeltown and Kintyre have asked me to press the minister again to make an early decision on whether the Campbeltown to Ardrossan ferry service, which has been trialled for three years, will be made permanent. There is significant community and business support for the service, which has the potential to provide Kintyre with an economic boost. It is important that we have an early decision so that local companies, including tourism enterprises, can plan ahead for next year.

Constituents in Dunoon and Cowal have ongoing concerns about the reliability of the Argyll Ferries passenger-only service between Gourock

and Dunoon. Ministers need to continue to monitor the performance of that service.

I have one more personal thing to say. I remember going to the island of Coll in the late fifties and having to get out of the side of the Claymore, as it was at the time, into an open ferry boat that was crewed by Guy Jardine, John Allan and Neily John Maclean, all of whom are portrayed in the famous "Katie Morag" books by Mairi Hedderwick. It was very hairy and scary in those days and I do not suppose health and safety would have liked it very much.

CalMac has moved on. It is an efficient service and I wish it well.

16:39

Derek Mackay: I begin on that note of appreciation of CalMac and its staff. Yes, I have the role as determining minister for the procurement exercise, but I also have the role of sponsoring minister for the service provision. I share all of the positive views on the staff and the services provided. Members have challenged me to make an early decision one way or t'other. I cannot prejudice the outcome of the process.

Members on all sides have been passionate and politically robust, but some consensus has emerged. Surely, if we are genuine and altruistic about our motives, that has to be appreciated, acknowledged and acted on. I believe that the legal and policy advice that I have been given is robust, but if there is emerging new advice, it would be wrong to rule out even looking at that. In that spirit, I agree to have a further meeting with the spokesperson for the Opposition to do that—*[Applause.]* I note that the Labour members have appreciated that comment, so we have a very healthy environment in which to have an open and frank discussion on the advice.

I discussed the matter comprehensively over the summer with the trade unions. Obviously, the Government cannot share the legal opinion that we have been given, but we can certainly test it and use the information that Labour members have to challenge it so that I can continue to be convinced that we are conducting a necessary exercise. If we did not believe that it was necessary, we would not be embarking on it.

That takes me back to a point that Tavish Scott made in what was a very helpful speech on the experience of a number of previous ministers, the advice that had been given and our understanding of the EC position. The EU when challenged has referred us to the advice that the exercise has to be undertaken. What I have done as minister is not just to embark on exactly the same process but to look at the process, the tendering exercise, the invitation to tender and the issues that we will

take into account to try to address a number of the concerns that many members have raised.

The exception is the concerns of Alex Johnstone and the Tories, who quite simply want wholesale privatisation of public services. Apart from the other Conservatives, no one else supports Mr Johnstone on that issue. We will see from the spending review what is on the hit-list for Tory privatisation today in Westminster.

I have made decisions to reflect the concerns. Spending on our ferry services has been massively increased to reflect their importance to island communities. When the Administration entered office in 2007-08, the figure for the CHFS network alone was £42 million; the forecast for 2015-16 will take that figure to over £100 million. There is also substantial investment in the vessels, ports and harbours that members have discussed and in the implementation of RET.

The Government is serious about the fair work convention and its principles; we are serious about protecting as best we can the interests of staff. That is why I engaged so extensively with the trade unions during the summer months. The RMT and the TSSA said:

"RMT and TSSA believe we have reached the best possible deal achievable, for our members. Which will protect the current terms and conditions. In doing so we have also received the written assurances from the transport minister, that there will be a requirement by any successful bidder to provide the current Cal Mac pension scheme."

The pension scheme issue is important, because the previous process just said "a comparable scheme". I committed the Government to the CalMac scheme, which is fair, transparent and reasonable. Yes, there are challenges within that pension scheme, but we will discuss those by negotiation and look for a reasonable outcome. The fact that there will be a CalMac scheme written into the process should be reassuring.

There will also be a mechanism to ensure that no bidder can simply go in and strip out costs and profiteer from that. There is a mechanism that disincentivises that kind of approach, and discussions will be held with the trade unions about staffing levels.

David Stewart: *rose—*

Derek Mackay: Can I make some progress, because these points are very significant?

Another innovation is that the independent procurement reference panel will ensure that the process is open, fair and transparent in its independent view.

Another significant change concerned the cost to quality ratio. I have moved away from just cost analysis to quality analysis. The ratio is 65:35, so

there is a stronger emphasis on quality. There will be no unbundling, so services cannot be unpicked. Those decisions, as well as the investment decisions on our ferry services, show that the Government is serious about the islands and public services.

David Stewart: I thank the minister for his comments and welcome the conciliatory approach in his closing speech. I will certainly be happy to meet to discuss the matter further.

I will make a quick point on procurement. In my speech, I mentioned that there are still three outstanding procurement directives that help on Teckal. For the record, they are directives 2014/23 EU, 2014/24 EU and 2014/25 EU. They have not yet been incorporated into Scots law but, if they are incorporated, which is in the minister's power, it will help the Teckal exemption for the contract greatly.

Derek Mackay: As I said, I will take the advice in the spirit that it is offered. However, in the cabinet secretary's discussions with European authorities this summer, it was re-emphasised that we need to undertake the tender process. I will consider David Stewart's information and be honest and transparent about what we can do, but I believe that we have to undertake the process as per the timetable that has been outlined.

Michael Russell: I encourage the minister to innovate one more time and let us know when the innovation on the Campbeltown service will be made permanent.

Derek Mackay: As two members have raised it, I state that I am waiting for advice and the decision is imminent. I will put a timescale of two weeks on making a decision and will then share it with everyone concerned so that I can come back to the Parliament.

We are making significant investment and taking a consensual approach. I will consider the advice, but the current exercise will continue in an open and transparent way that inspires confidence from all the people who are involved. That, together with the mechanisms that I have built in to try to protect as best I can the interests of staff and island communities, shows that we are serious about public services and the issues that members have raised.

To be fair, two major points were acknowledged in the debate. The first concerned the lifeline nature of the services. The chamber acknowledged that no routes are under threat. The other fair acknowledgement is that there is no bias in favour of any one bidder. Therefore, although some people have said that the process was about handing the contract away to Serco—I do not know whether Chic Brodie meant this—when

the question of bias was raised, the chamber agreed that there is no bias in favour of anyone.

We will conduct the process competently in accordance with European law. We will listen to the advice. I will continue to take the decisions about enhancing services that I think are right. However, I have to make one party-political point while trying to keep within the consensual nature of the debate.

The Deputy Presiding Officer: As long as you can make it while concluding, minister.

Derek Mackay: It is difficult for me to take lectures from the Labour Party on privatisation when I think about the private finance initiative and the services that were handed over to the private sector. However, if this is a day of role reversal, let us work together on the issues that members have said concern them. They are important to island communities and, as the Minister for Transport and Islands, I commit to working with members in the most constructive way possible. In doing so, I will continue what I have been doing since my appointment about a year ago.

The Deputy Presiding Officer: I call Sarah Boyack to close the debate. Ms Boyack, you have until 4.49—I am sorry, 4.59 pm.

16:48

Sarah Boyack (Lothian) (Lab): I was thinking that that would be a pretty short speech.

This has been a good debate. There is acknowledgement that we brought the topic to the chamber because there are issues that need to be properly tested. We firmly believe that the change in relation to Teckal, the case law that follows from that and the 2014 procurement directive offer a new opportunity for the Scottish Government. To seize on Duncan McNeil's comment, I wholeheartedly agree with the idea that we should leave no stone unturned.

The debate is about lifeline ferry services and supporting the existence of our island communities, which need our ferry services for food, supplies, exports, travel to work, tourism and—as Johann Lamont passionately argued—the very existence of life in some of our remote rural and island communities. Therefore, the services are crucial. The people who work on our CalMac services deserve our praise and thanks because they work in some of the toughest weather conditions anywhere in the world, day in and day out.

When I was the first ferries minister, that reality drove me because I was told in the early days that we could not have a single network—that we would have to unbundle it, as Tavish Scott tried to avoid saying—and that there would be the

opportunity for cherry picking. I argued then that they are lifeline services and that we had to go back to the EU to make the case to it that the services are vital to all the communities, and that if we began to unbundle the services, we could not provide the services; we knew that there would be islands that would not be served in the future.

To make that case—to get the right to give public subsidy to one network—I had to win a battle; I had to win that battle with colleagues and to win support across the political spectrum. I did it in an open and transparent way, with a team-Scotland approach to the EU, in order to build consensus among MSP colleagues and to bring the UK Government with us. I even did briefings for members of the European Parliament because I wanted to test the difficult questions; I wanted to ensure that I had gone every single mile that I could in order to ensure that we won our case—and we did. We won that vital security and that future. There was no cherry picking. There is a cost-effective subsidy and, above all, there are quality services.

The job of any minister is to ensure that we have the services. Skilled, qualified and committed staff are vital to delivery of the services and that is why we have acknowledged the work of the members of the ferry unions. We are holding the debate because we have great concerns about the current tender process. We do not think that the current tender process needs to be carried out because of the Teckal exemption, because of the case law and because of the changed procurement directive.

As Dave Stewart eloquently argued, we believe that the changes that are set out in the 2014 procurement directive have changed the game. We think that they are extremely helpful and that if they are incorporated into Scots law and the minister puts all those points together and takes them to Europe, there is a case that can be made. I thank Dave Stewart for the work that he, the ferry unions and the Scottish Trades Union Congress have been doing for months, now. It is really hard work digging out legal options and it has given us the opportunity to consider them. Dave has been to the European Commission to test out what is possible. That is why we held our debate today.

I welcome the minister's commitment to meet us. We are calling for a pause in the whole process. A couple of SNP members have said that the clock is ticking. One of the lessons from the first few years of this Parliament is that although the clock does tick, there is always space as long as we demonstrate to the Commission that we are serious about abiding by Commission rules. We merely want to ask whether we can bring those rules together in a certain way. The Commission

will not chase us if we are straight with it and up front about that.

Jamie McGrigor: I thank the esteemed member for taking an intervention. When she was transport minister, I remember that she promised us an integrated transport policy. How close to that dream does she think we now are?

Sarah Boyack: If I had another half hour, I would be more than happy to give the member my view on that.

The point is that we are now in a position in which we can act. The difference between public sector and private sector ferry services is that there is clear accountability and direction in public services. That is one of the tests for the Teckal exemption. If a company is clearly in the public sector and if there is clear accountability and direction from the public authority, the Teckal exemption can apply. I think that that is the situation that we have with CalMac. The legal opinion that was helpfully presented by the RMT needs to be addressed in full by the Scottish Government.

The procurement directive also gives us an opportunity. It has already been transposed by the rest of the UK. We in Scotland need to get on with that as soon as possible, as well. Nicola Sturgeon made a commitment to the STUC conference in April and to the RMT representatives that CalMac would not be privatised. It is clear that across the chamber we have different views of what "privatised" means, technically. However, many of us fear that if CalMac does not win the contract, there will be no CalMac and the ferry services will have been privatised.

For those who laud the experience in the northern isles, I will just say that we have had reports of worries about ferry cancellations and concerns about safety and maintenance on the routes. The chair of the regional transport partnership in the Shetland Isles has commented that there is now

"a groundswell of cynicism and resentment on the new ferry services. I was quite willing for a year to let it go ... but people are getting more and more disenchanted with the service."

Ferries will always be controversial, because they are connected with people's livelihoods. The attraction of having a ferry service that is directed by the Scottish Government, with the terms and conditions set and with a public sector company operating the service, is that the company is accountable to all members of the Parliament—not just to ministers. That is the point about CalMac: it is held in affection and it is loved, but it is in no way above criticism—as members on all sides of the chamber have demonstrated today—and it is accountable.

When I meet the minister I will raise the key issue of what happens to the 200 jobs at the Gourrock headquarters. Duncan McNeil and Michael Russell were right to highlight concerns that have been expressed in that regard. Serco representatives have replied in response to questions from local communities that there will be no head office. Instead, issues will be dealt with as they arise, and meetings will be held in local communities.

There are concerns about jobs. After the first year, it will be possible for whoever wins the contract to reorganise the service, so we have a right to be fearful. Several members—David Stewart, John Finnie and Neil Bibby—highlighted people's concerns about Serco and previous experiences of its involvement in several public sector contracts. It takes an awful lot for a company to be banned from providing a service by the UK Government—especially a Conservative Government—so we need to heed that warning.

Rob Gibson suggested that, in Parliament, time is of the essence. The key point is that we must use our time wisely and work together. We believe passionately that there is a new option on the table and that the RMT's advice must be looked at. Neil Bibby's comments about the advice being highly significant are true. There is an interest in pursuing the issue to the nth degree through a detailed submission to the European Commission. That should now be done.

Members all round the chamber raised serious concerns and questions that need to be answered, and the Scottish Government needs to use the powers that it has. We are here to do our job as an Opposition, not to act as agents provocateurs. We are here to raise the issues that our constituents bring to us. The issues that the ferry trade unions and the STUC have brought to us must be addressed by the Scottish Government. That is the test of our role in the chamber: we must hold the Government, whomever it is, to account. That has been the case throughout all the CalMac discussions that we have had, and that is our job tonight, so we will do it. We welcome the minister's offer to discuss the issues with us, but we believe that the process should be delayed.

As Mick Cash, the RMT general secretary, said:

"This advice from a highly respected specialist source clearly demonstrates that the Scottish Government does not have to continue with the unnecessary and unpopular tendering of CalMac Ferry services. We are therefore calling on the Scottish Government to stand up for Scotland and the communities that rely on these lifeline ferry services and use its powers to apply the Teckal exemption and to also cancel the tendering process forthwith. At the very least they should carefully examine this advice and do what they have not done to date which is explore all options to cancel the tendering and keep CalMac public."

This debate has enabled us all to raise the issues. There would be no penalty on the Scottish Government for delaying or cancelling the process. We will meet the minister and leave no stone unturned. We will do our job as the Opposition, which is to ensure that every effort is made to defend the position of the people who live in our islands and rural communities, and those who work on the lifeline ferry services, and to defend those lifeline services, on which jobs and rural communities' lives depend. We need to live up to that test as a Scottish Parliament, and the Labour motion is a vehicle by which to bring that about.

I hope that members will set aside their party interests and support our motion tonight. It is the way forward, it is constructive and it will do the job that needs to be done for our island communities.

Business Motions

16:58

The Presiding Officer (Tricia Marwick): The next item of business is consideration of business motion S4M-14959, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to the business programme for Thursday 26 November.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Thursday 26 November 2015—

delete

2.30 pm Welfare Reform Committee Debate:
Women and Social Security

and insert

2.30 pm Ministerial Statement: Update on
Scotland's Public Finances

followed by Welfare Reform Committee Debate:
Women and Social Security—[Joe
FitzPatrick.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S4M-14945, 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 1 December 2015

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Stage 1 Debate: Health (Tobacco,
Nicotine etc. and Care) (Scotland) Bill

followed by Financial Resolution: Health (Tobacco,
Nicotine etc. and Care) (Scotland) Bill

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 2 December 2015

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions
Education and Lifelong Learning

followed by Scottish Conservative and Unionist
Party Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 3 December 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 Preliminary Stage Debate: National
Galleries of Scotland Bill

followed by Scottish Government Debate: Sea
Fisheries and End Year Negotiations

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

Tuesday 8 December 2015

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Topical Questions (if selected)

followed by Stage 3 Proceedings: Criminal Justice
(Scotland) Bill

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 9 December 2015

2.00 pm Parliamentary Bureau Motions

2.00 pm Portfolio Questions
Finance, Constitution and Economy

followed by Scottish Government Business

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 10 December 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: Inquiries into Fatal
Accidents and Sudden Deaths etc.
(Scotland) Bill

followed by Business Motions

followed by Parliamentary Bureau Motions

5.00 pm Decision Time—[Joe FitzPatrick.]

Motion agreed to.

Parliamentary Bureau Motions

The Presiding Officer (Tricia Marwick): The next item of business is consideration of Parliamentary Bureau motions. I ask Joe FitzPatrick to move motion S4M-14948, on the approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2015 [draft] be approved.—[Joe FitzPatrick.]

The Presiding Officer: Mr Finnie has indicated that he wants to speak against the motion. Mr Finnie, you have up to three minutes.

17:00

John Finnie (Highlands and Islands) (Ind): This order relates to international organisations' immunities and privileges. There is a request that such immunities and privileges be applied to the Asian Infrastructure Investment Bank.

We are told that the privileges and immunities will protect the independent exercise of the organisation's functions. One might reasonably ask what functions require criminal immunity. We are also told that the approach will provide a level playing field with regard to the bank's operation, but the level playing field that I would like to see is one in which everyone adheres to the law.

We are also told that the purpose of the approach is to ensure that the Asian Infrastructure Investment Bank will be free from undue influence in its affairs—which apparently means the requirement to adhere to the law of Scotland and pay taxes in Scotland.

Two groups will benefit from the approach. The organisation will benefit from immunity from suit and legal process, inviolability of its archives and premises, relief from non-domestic rates, exemption from devolved and local taxes and exemption from prohibitions and restrictions on imports and exports. The other group who will benefit is made up of individuals: staff and "experts on a mission", who will benefit from immunity from suit and legal process in respect of official duties and exemption from devolved and local taxes.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Will the member take an intervention?

John Finnie: No. [Interruption.] Well, yes, I will take an intervention.

Christine Grahame: As the member knows, the Justice Committee reported on the order and

voted in favour of its going forward, by eight to one.

John Finnie: I am grateful for that piece of information of which I was aware.

The request comes not from a businessperson or directly from the United Kingdom Government but via the Cabinet Secretary for Justice. Many people might reasonably anticipate that the Cabinet Secretary for Justice would come to the Justice Committee to exhort people to adhere to the law of the land. I asked him what approach he would take if an individual or business approached him to say that they wanted to transact business as long as they were granted immunity from criminal prosecution.

It is clear that the approach is intended to be business as usual, but that is not the new politics that I understood the Scottish Parliament to want to deliver. I encourage all members to vote for a system in which everyone in Scotland adheres to the law of the land and pays taxes. Thank you, Presiding Officer.

Bruce Crawford (Stirling) (SNP): Will the member give way?

John Finnie: I am happy to—

The Presiding Officer: I am sorry, Mr Finnie, but you have concluded.

17:03

The Cabinet Secretary for Justice (Michael Matheson): The order will confer legal immunities and privileges on or in connection with a new international organisation, the Asian Infrastructure Investment Bank.

The Asian Infrastructure Investment Bank is not an ordinary bank but a specific kind of international organisation known as a multilateral development bank. Its purpose is to provide finance and advice to address the gap in investment in infrastructure in Asia.

The UK Government has signed an international agreement that provides the Asian Infrastructure Investment Bank with privileges and immunities in all states that become members. States that are members range from Iceland to Germany. Some privileges and immunities relate to reserved matters and have been conferred by the Westminster process. The equivalent order in Westminster was approved by both Houses of Parliament without opposition and by the Privy Council on 11 November.

As some privileges and immunities relate to devolved matters, the order that we consider will add the new body to a list of organisations that enjoy similar privileges and immunities in Scotland. The list is in the schedules to the

International Organisations (Immunities and Privileges) (Scotland) Order 2009, and includes, for example, the International Maritime Organization and the European Police College.

Privileges and immunities were also granted, pre-devolution, to other multilateral development banks, such as the European Bank for Reconstruction and Development, which has a similar function. Privileges and immunities are commonly granted to international organisations. Under international law, those entitled to diplomatic immunity are expected to obey the law of their host state.

Let me be clear. This organisation and its officials will be expected to comply with the laws of this country. Membership of the Asian Infrastructure Investment Bank provides considerable opportunity for those working in the financial and professional services sector in Scotland. The sector employs almost 100,000 people directly and about the same number indirectly. Scottish companies already have a strong background in these fields. If Scottish businesses are to be able to take advantage of the potential work that the UK's membership of the Asian Infrastructure Investment Bank might generate, the order is necessary. The order was considered by the Justice Committee, which recommended that the Parliament approve it. I call on Parliament to approve it this evening.

The Presiding Officer: The question will be put at decision time.

I ask Joe FitzPatrick to move Parliamentary Bureau motions S4M-14946, on a committee remit, and S4M-14947, on the designation of a lead committee.

Motions moved,

That the Parliament agrees that, for the purpose of allowing the Scottish Elections (Dates) Bill to be referred to the Standards, Procedures and Public Appointments Committee as lead committee, the following be inserted after Rule 6.4.1(a):

“(ab) the Bill introduced as the Scottish Elections (Dates) Bill (SP Bill 84, Session 4).”

until the Bill is passed, falls or is withdrawn.

That the Parliament agrees that the Standards, Procedures and Public Appointments Committee be designated as the lead committee in consideration of the Scottish Elections (Dates) Bill at stage 1.—[*Joe FitzPatrick.*]

The Presiding Officer: The questions on the motions will be put at decision time.

Decision Time

17:06

The Presiding Officer (Tricia Marwick): There are seven questions to be put as a result of today's business. I remind members that, in relation to the debate on keeping CalMac public, if the amendment in the name of Derek Mackay is agreed to, the amendment in the name of Tavish Scott falls.

The first question is, that amendment S4M-14942.3, in the name of Derek Mackay, which seeks to amend motion S4M-14942, in the name of David Stewart, on keeping CalMac public, 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)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (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)
 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)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 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)
 McDonald, Mark (Aberdeen Donside) (SNP)
 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)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Perthshire North) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 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)
 Yousaf, Humza (Glasgow) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (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)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Wilson, John (Central Scotland) (Ind)

Abstentions

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McGrigor, Jamie (Highlands and Islands) (Con)

Milne, Nanette (North East 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 60, Against 41, Abstentions 13.

Amendment agreed to.

The Presiding Officer: Therefore the amendment in the name of Tavish Scott falls.

The next question is, that amendment S4M-14942.1, in the name of Alex Johnstone, which seeks to amend motion S4M-14942, in the name of David Stewart, on keeping CalMac public, as amended, 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)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McGrigor, Jamie (Highlands and Islands) (Con)
 Milne, Nanette (North East 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)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (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)
 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)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (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)
 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)
 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)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (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)
 Russell, Michael (Argyll and Bute) (SNP)
 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, David (Highlands and Islands) (Lab)
 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)
 Wilson, John (Central Scotland) (Ind)
 Yousaf, Humza (Glasgow) (SNP)

The Presiding Officer: The result of the division is: For 13, Against 101, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S4M-14942, in the name of David Stewart, on keeping CalMac public, as amended, 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)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (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)
 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)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 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)
 Russell, Michael (Argyll and Bute) (SNP)

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)
 Yousaf, Humza (Glasgow) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (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)
 Stewart, David (Highlands and Islands) (Lab)
 Wilson, John (Central Scotland) (Ind)

Abstentions

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Davidson, Ruth (Glasgow) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McGrigor, Jamie (Highlands and Islands) (Con)
 Milne, Nanette (North East 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 65, Against 36, Abstentions 13.

Motion, as amended, agreed to,

That the Parliament pays tribute to ferry workers at the public sector company, Caledonian MacBrayne (CalMac),

and their vital role in maintaining lifeline ferry services to Scotland's western island communities; notes that the next contract for Clyde and Hebrides ferry services (CHFS) is currently out to tender; further notes that the Scottish Government is undertaking a fair, open and transparent procurement exercise in line with strict European Union procurement rules, maritime cabotage regulation and associated guidance; recognises that the current tendering exercise has been improved on, compared with that undertaken by the previous Labour/Liberal Democrat administration, which decided that it was a legal requirement to tender the current contract in 2005; indeed, recalls statements by members of the previous administration that 'tendering of the Clyde and Hebrides lifeline ferry services is required to protect these vital services'; welcomes the first report from the Independent Procurement Reference Panel, which includes local authority, union, community and industry representatives, and concluded that the tender process has been fair, open and transparent, and believes in supporting and promoting publicly owned and controlled ferry services, evidenced by a record £1 billion investment by the Scottish Government in vessels, ports and ferry services since 2007.

The Presiding Officer: The next question is, that motion S4M-14948, in the name of Joe FitzPatrick, on approval of a Scottish statutory instrument, 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)
 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, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 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)
 Davidson, Ruth (Glasgow) (Con)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 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)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 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)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (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)
 McGrigor, Jamie (Highlands and Islands) (Con)
 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)
 Milne, Nanette (North East Scotland) (Con)
 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)
 Russell, Michael (Argyll and Bute) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 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)
 Watt, Maureen (Aberdeen South and North Kincardine)

(SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Finnie, John (Highlands and Islands) (Ind)
 Harvie, Patrick (Glasgow) (Green)
 Johnstone, Alison (Lothian) (Green)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Wilson, John (Central Scotland) (Ind)

The Presiding Officer: The result of the division is: For 109, Against 5, Abstentions 0.

Motion agreed to,

That the Parliament agrees that the International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2015 [draft] be approved.

The Presiding Officer: The next question is, that motion S4M-14946, in the name of Joe FitzPatrick, on a committee remit, be agreed to.

Motion agreed to,

That the Parliament agrees that, for the purpose of allowing the Scottish Elections (Dates) Bill to be referred to the Standards, Procedures and Public Appointments Committee as lead committee, the following be inserted after Rule 6.4.1(a):

“(ab) the Bill introduced as the Scottish Elections (Dates) Bill (SP Bill 84, Session 4).”

until the Bill is passed, falls or is withdrawn.

The Presiding Officer: The next question is, that motion S4M-14947, in the name of Joe FitzPatrick, on the designation of a lead committee, be agreed to.

Motion agreed to,

That the Parliament agrees that the Standards, Procedures and Public Appointments Committee be designated as the lead committee in consideration of the Scottish Elections (Dates) Bill at stage 1.

Children's Grief Awareness Week

The Deputy Presiding Officer (John Scott):

The final item of business is a members' business debate on motion S4M-14730, in the name of Gil Paterson, on children's grief awareness week.

Motion debated,

That the Parliament notes that 19 to 25 November 2015 is Children's Grief Awareness Week; understands that bereavement can be a complex and difficult period for children when they lose a relative or friend; recognises that Children's Grief Awareness Week is being organised by the charity, Grief Encounter, to raise awareness of how the charity can make opportunities for families to grieve and to raise funding to continue its work in this field; understands that the charity will run fundraising and awareness exercises all week, commencing with a commemorative candle ceremony; understands that the Scottish Cot Death Trust provides a wide range of support for bereaved families and educates the public and professionals about cot death and how to reduce the risks; further understands that, as part of its campaign to provide information and awareness, the Scottish Cot Death Trust has created, printed and published two books titled, *Andrew's Rainbow* and *Rory's Star*, which are targeted at children, parents, relatives and teachers to help provide a starting point for difficult conversations in a gentle and child-centred way, and notes the view that the work by all charities involved in this area should be publically acknowledged and commended and the advice and support that they provide should be more readily available to everyone who works, engages with or has children that have been affected by bereavement.

17:12

Gil Paterson (Clydebank and Milngavie)

(SNP): I thank members for supporting my motion and allowing the debate to take place this evening—it is an important evening for it to take place. I welcome people from the Scottish Cot Death Trust, Richmond's Hope, Sands UK, the Muslim Bereavement Support Service, Child Bereavement UK, Seasons for Growth, Petal Support, Sands Lothians, affected parents and Wilma Carragher, who are all in the gallery. If I have missed anyone, I apologise; there may well be people here whom I do not know.

I will use most but not all of my speech to talk about recent pieces of good work done by the Scottish Cot Death Trust. One in 29 children in the United Kingdom today has been bereaved of a parent, a brother or a sister. Today marks the last day of the week-long children's grief awareness week, which allowed all of us to come together and show our support for bereaved children.

When a child dies, most of the focus is usually on the adults, rather than the siblings. It is recognised that children react to loss differently, but regardless of that, children require support to adjust to change and to understand what has happened. Families who use the Scottish Cot Death Trust's services are often worried about

how their children are going to cope. When they are in that position, parents worry about their children, rather than focusing on their own grief.

The Scottish Cot Death Trust offers a valuable home-visiting bereavement support service that enables the organisation to meet parents and children together. For more specialist support for children, referrals can be made to play therapy and filial therapy, where parents are taught how to offer support to their children through structured play.

Referrals are often made to specific support that is tailored to the child's age and available in the area where they live. To make that possible, the trust works collaboratively with a number of other organisations, including Seasons for Growth, Richmond's Hope, Winston's Wish, Child Bereavement UK and Simpson's Memory Box Appeal, which is known as SiMBA. The services that are offered by the trust and all the organisations involved not only are vital to the children and families who receive them but ensure that the widest support is available. Richmond's Hope, which is based in Edinburgh, is about to open a centre in Glasgow, which is welcome news indeed. There are so many organisations doing sterling work in this vital sector that it might be worth while for the Parliament to consider a strategy to enhance that work.

It is well known that adults find it daunting to address and explain death to children when it happens. That is made even harder when the death is that of a child's sibling and the adults are still grieving themselves. The introduction of the two resources that I am proud to highlight this evening has helped not only adults to approach the discussion of death with a child but children who are born into a family who have lost a child.

The first of those resources is "Rory's Star", which is a book such as people might pick up in a nursery or school. It is well illustrated and can be easily read by children. When the book was first published, there was no other resource available in Scotland to help young children following the death of a baby from cot death. The book, which is aimed at children, tells the story of a young girl who has just begun to get used to having a little brother when he passes away. It deals with her witnessing grief during that time and attending the funeral, and it reassures children that it is okay to cry about the loss of their brother or sister. For grieving parents, who must struggle to come to terms with the sudden death of their child while still being a good mum or dad to the children who remain, the book is an invaluable resource.

Wilma Carragher's son Andrew passed away in 1990 from cot death, aged 16 weeks. The trust invested money that she raised in creating a second book called "Andrew's Rainbow". It is in

the same vein as “Rory’s Star”; it, too, is written for children and is beautifully illustrated.

Following the launch of “Rory’s Star”, Wilma became aware of a gap in sibling support for children who have been born into a family after the death of a child. It is important that those children, who are often called rainbow babies, are supported through any grief that they feel for their brother or sister. There will be photographs of their sibling and other family members, and their family will have important days in the year when they remember their brother or sister. They will form a bond with their sibling through their family sharing memories and looking at photographs. It is also important that they know that they are not a replacement for the child who has died, as some may wonder whether they would have been born if their sibling had not passed away.

The idea is that the child is like a rainbow after a storm. The beauty of a rainbow does not negate the ravages of the storm. When a rainbow appears, that does not mean that the storm never happened or that the family is not still dealing with its aftermath; it means that something beautiful and full of light has appeared in the midst of the darkness and clouds. Storm clouds may hover, but the rainbow provides a counterbalance of colour, energy and hope.

It is complex situation for any young children who have an older sibling who appears only as a baby in a photograph. They may tell people that they have an older sibling or include the sibling when drawing family trees or other activities. They may wonder what their older brother or sister would look like. Would they look alike? Would they share the same interests?

“Andrew’s Rainbow” contains the words of rainbow children. It was written to help both parents and professionals explore some of the children’s feelings about being born into a family after the loss of a sibling.

I was prompted to bring the debate to Parliament by the two books that I have highlighted. I sincerely hope that the debate will assist with promoting the support and resources that are available to children. By holding the debate, we acknowledge the work of all the organisations that highlight the importance of supporting children and adults through bereavement, and commend the work of all the organisations that are engaged in this difficult area that is of immense importance to us all.

17:21

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I congratulate Gil Paterson on securing the debate. I welcome all the different groups to the gallery. I looked only into the two

groups that are mentioned in the motion: Grief Encounter and the Scottish Cot Death Trust. However, I would also like to thank the childhood bereavement network and Marie Curie for their useful briefings.

I suppose that most people say that all deaths are equal, but it always seems to me that the most terrible deaths are when a parent loses a child or when a child loses a parent. The Scottish Cot Death Trust is perhaps best known to the public as a result of the grief that parents feel when they lose a child. We are told that in Scotland a baby dies every nine days from cot death. That is absolutely awful and devastating for parents, but the motion emphasises that it can also be a heart-rending experience for the sibling of the child who has died. We can imagine that if we think of having to explain the sudden absence of a new life to a confused sibling. That is what the books that Gil Paterson has described seek to do—they are an honest and heartfelt way of answering some of the most profound and difficult questions that a child can ask in such a situation.

More generally, the trust seeks not only to support families, but to educate the public and professionals about how to reduce the risk of cot death. I pay tribute to it for its work.

In its briefing, the childhood bereavement network emphasises that children need support in grief. It also points out the long-term consequences, as well as the immediate consequences, if we fail to provide that support. We must bear that in mind.

The trust’s briefing also reminds us about how many children are affected in Scotland each year. Five per cent of children have been bereaved of at least one parent by the age of 16. It also emphasises the importance of schools and having sensible and flexible people and systems to provide support. That connects with one of Marie Curie’s two recommendations: that awareness of grief and bereavement should be built into the curriculum for excellence. Marie Curie also recommends that there should be a national co-ordinator for childhood bereavement in Scotland. I hope that the Government will reflect on those suggestions.

Grief Encounter is the other organisation that is mentioned in the motion. It also works incredibly hard to help children grapple with loss and death. It supports the family as a whole in such situations and aims to work closely with professionals in the sector, providing training to counsellors, teachers and company employees—people who work closely with children who have experienced loss.

As the motion reminds us, Grief Encounter organises children’s grief awareness week, which I think started on 19 November. It was very moving

to read about the candle ceremony that commences the week's events—a poignant way to remember loved ones who have been lost. The theme this year is supporting parents and carers who support grieving children. Grief Encounter also runs a helpline, which currently supports more than 300 people annually.

I pay tribute to the work of Grief Encounter, the Scottish Cot Death Trust and all the organisations concerned—those that are represented in the public gallery today and those that are not—that work in this very important field.

17:25

Kenny MacAskill (Edinburgh Eastern) (SNP):

I, too, thank Gil Paterson for raising the issue and for his eloquent speech, which narrated the depth and complexity of the issue. It is not a high-profile one, but it is certainly high up in its consequence and effect and, indeed, its intensity for many people.

As we are all aware, the issue is hidden in many ways. That is perhaps for two reasons. First, it can be hidden because of age and the inability of a child to communicate. It can be because of reticence, the lack of maturity and the inability to verbalise feelings or speak about the situation with others. That can be compounded by the inability of adults to address the needs of the child. They might be concerned with their own grief, or the situation might simply be difficult. Those challenges multiply the problems that affect everybody when there is a loss.

Secondly, there is the culture in Scotland. We have a culture of “Big boys don't cry,” and even girls are sometimes expected just to soak it up and get on with it. That is not just in Scotland; the western world is not particularly good at dealing with death. That has probably been compounded in recent years, but it is something that we have passed down through the generations. The older generation, who should be able to address it better, are not particularly good at helping those who are young and who are struggling to cope.

This is a significant issue. The statistics that appeared in the briefing from the childhood bereavement network to which Malcolm Chisholm referred are substantial:

“2,400 parents died in Scotland last year ... leaving dependent children”.

There were

“3,900 newly bereaved children last year ... Around 3.5% of school-age children and young people (5-16) have been bereaved at some point”.

The briefing also notes:

“5% of young people have been bereaved of at least one parent by the time they reach the age of 16.”

The network goes on to narrate the mental and physical health outcomes and the effects on education and employment. It also mentions criminal and disruptive behaviour, sadly:

“The death of a parent by the age of 26 increases young people's risk of conviction for violent offences.”

The statistics are rather stark.

I recall when I was Cabinet Secretary for Justice challenging the Scottish Prison Service about the difficulties that we have with women offenders, who are treated sympathetically for the loss and trauma that many of them will have gone through, and asking it about comparisons with young men. The Prison Service said that the same difficulties often apply to young men but that the culture of big boys not crying and simply soaking it up, which I referred to earlier, transcends them, so that they are not addressed and are never articulated.

That will have lifelong consequences for those young men and, sadly, it means them getting into the Polmont young offenders institution or the adult prison network. That is not to condone their behaviour—they have to address it and face the consequences of their actions—but we need to tackle the underlying effects and the manifestations of it. Sadly, such young men often try to address their bereavement and loss by the traditional Scottish method of self-medication through alcohol or drugs. That is why we need to address it.

We in Scotland are blessed by the agencies that Gil Paterson mentioned. I am glad to see that representatives of Richmond's Hope are here. I visited the organisation, which is located in my constituency, and I am delighted to hear that it is extending its services elsewhere. It faces challenges in the resources that it has. A few people do an awful lot of good work with a large number of young people.

We need a strategy, but we also need delivery. We are in tight, straitened circumstances, which are probably compounded by what has been happening in another Parliament elsewhere today, but I ask the minister to ensure not only that we have that strategy but that we do what we can to ensure that we have the necessary resource for the outstanding organisations that Gil Paterson mentioned, which are necessary for every individual—and especially every child—who has suffered loss.

17:29

Nanette Milne (North East Scotland) (Con): I, too, thank Gil Paterson and congratulate him on securing a debate on his motion this evening.

There have been many members' business debates in the Parliament on various awareness

weeks, but I feel that it is particularly important for an issue such as children's grief to be recognised here. The week exists to highlight the challenges that are faced by children who have been affected by bereavement and to make it clear that these children, wherever in the country they may be, should have access to support services to help them cope and rebuild their lives.

I note that, this year, the week has been co-ordinated with the charity Grief Encounter, which was established in 2003 to provide grief services to support bereaved children and their families, and I am pleased to have the opportunity to discuss this important issue on its very last day. I understand that since 19 November a number of activities have taken place across the UK, including promoting awareness on social media—through, for example, the thunderclap, which reached more than 850,000 people—and encouraging supporters to organise events such as training days and workshops for families.

The statistics on the number of children and young people who face this challenge are eye-opening. According to Grief Encounter, one in 29 children under the age of 16 in the UK will suffer the death of a parent. In its briefing paper, the childhood bereavement network suggests that, last year, up to 2,400 parents with dependent children died in Scotland. However, those figures are estimates, because, as the network points out, no official data is collected, which it argues makes service development even more challenging.

The outcomes of the bereavement of a close relative or friend to children and young people can be both immediate and longer term. When children experience such a sad loss, they experience a range of emotions; they might be concerned, confused and overwhelmed by all that is going on around them. Even if a child is helped through this difficult period, the effects of such a profound loss can impact on their education later on. My nephew and niece lost their mum when they were children; although my niece gave way quickly to her emotions and recovered well, my nephew did not and I am not sure that he has ever fully recovered from his loss.

According to research from the childhood bereavement network, children who have lost a parent are, compared with their non-bereaved peers, more likely to suffer from a mental disorder, 1.7 times more likely to attempt suicide in young adulthood and 50 per cent more likely to die before middle age. With regard to children's education, the network notes that bereaved children can score half a grade lower in GCSE exams; in fact, girls bereaved of a sibling can score a full grade lower. Finally, the death of the parent of a child before the age of 16 is found to increase the chances of the bereaved child being

unemployed by age 30. Such statistics are truly shocking and show the need for awareness of the issue.

In my region, we have the highly regarded Grampian Child Bereavement Network, which works to assist children and young people in accessing the appropriate support that they need to cope with bereavement. One of its resources is a book called "Muddles, Puddles and Sunshine: Your activity book to help when someone has died", which offers invaluable practical and sensitive support for younger bereaved children. The book offers a structure and an outlook for the many difficult feelings that inevitably follow a loss, and it aims to help children make sense of their experience, reflect on their grief and find a balance between remembering the person who has passed away and having fun.

Society must become more open to discussing bereavement, and one area that has received only limited consideration is that of pre-bereavement. When a parent knows that they are going to die, the stress of not knowing what will happen can in many cases affect the child. NHS Choices has developed an information service for children that encourages parents to talk about their impending death and suggests that parents start a memory box to give children the opportunity to keep things that remind them of their time together. That can also be done with other family members after a parent dies.

I also welcome the work of the Scottish Cot Death Trust. It is perhaps impossible for parents and families who have not lived through it to understand the grief experienced following the loss of a child or baby. Having come close to losing my own son when he had liver failure at the age of 20, I often wonder just how I and my family would have coped had his liver transplant not been available or successful. I cannot begin to imagine how people can cope with the sudden death of a healthy baby, and I am so thankful for the work that the trust does to help parents and children in such a situation.

In closing, I ask the minister to take on board the need to include bereavement as part of teacher and support staff training, as it would fit with recent legislation on widening the scope of teachers and classroom support staff to meet the emotional and diverse needs of pupils. Finally, I congratulate all the charities who work in this area and the member on securing the debate.

17:35

The Minister for Children and Young People (Aileen Campbell): I, too, put on record my thanks to Gil Paterson for raising the important issue of children's grief awareness week. As Gil

Paterson did, I extend my thanks to and welcome all the groups that are in the public gallery.

The debate has provided a very valuable opportunity to highlight children's grief awareness week, which is organised by the Grief Encounter charity, and more widely to put on record our thanks for the excellent work that is being done across a range of different organisations and settings to provide what we all recognise is much-needed support to people, including children, who have suffered from a bereavement.

Bereavement is traumatic for anyone at any stage, of course. I think that Malcolm Chisholm made that point. It is particularly traumatic when that loss comes in early life. As Gil Paterson said, the statistics are stark. One in 29 children in the UK has lost a parent or sibling. Given the number of children and young people who are affected and the impact that the loss can have on them, it is crucial that we provide free, professional, compassionate support at a time when they are vulnerable.

In the context of support, I want to mention getting it right for every child. In the GIRFEC approach, the named person role will be made available to children and young children across Scotland from August 2016, following the passage of the Children and Young People (Scotland) Act 2014. The named person has a role to promote, support and safeguard the wellbeing of children and young people, and I have no doubt that that will be a useful mechanism by which people can find the support that they need. Families may well use the named person for issues that affect their child's wellbeing, such as separation, loss or bereavement. The named person and GIRFEC approach will be a structure by which we can signpost children and families to groups with specialisms that are able to help. I hope that we can take on board the points that have been raised through the briefings that have been circulated for the debate, and the points that have been raised about what we need to do around the curriculum for excellence and to better recognise nationally the need to co-ordinate support for families and children at a vulnerable time.

I recently spoke with a constituent's niece, Dr Rachel Fearnley, who has done academic research on the topic of bereavement. She described to me some of the areas on which she believes we need to concentrate in the context of grieving. She said that there is a gap in support in the pre-death period for some and that help kicks in only post bereavement for some. I think that Nanette Milne recognised and raised that point.

Dr Rachel Fearnley's study said that children who are impacted by bereavement may suffer a social death. The cubs, scouts and sporting events that they used to attend may end while the focus is

on the family member who is ill. She also told me about the need to consider adolescents who may find their own coping strategies. If there is not effective intervention, that may well lead to criminal or negative behaviour. I think that Kenny MacAskill also raised that point. We need to ensure that young adolescents do not cope with those things through self-medication or negative behaviour and that we act early to help those vulnerable young people to avoid that route.

Gil Paterson and Malcolm Chisholm described the trauma, pain and hurt of children who suffer bereavement, and Gil Paterson mentioned books that go some way to support families. His and others' comments on the pain that is felt by siblings who lose a brother or a sister reminded me of an event that the Youth Cancer Trust organised, which involved hearing a brother speak about losing his sister to cancer. He described feelings of sadness and anger, but he also felt quite jealous that the focus was always on the sister. The complex wrangling of emotions that he had to go through showcased to me very eloquently our real need to provide emotional support to help those young people to cope with the trauma that they are going through.

As well as the legislative provisions that I have mentioned in the Children and Young People (Scotland) Act 2014, the Scottish Government provides funding to a number of organisations that support families at a time of loss. Those organisations include Child Bereavement UK, Cruse Bereavement Care Scotland and the Children's Hospice Association Scotland. We need to ensure that we continue to provide support to organisations that are well placed to understand the complexity of the issue that we are debating.

Gil Paterson's motion for the debate focuses on not just the impact of a child losing a loved one but the loss of a child, and notes the valuable work of the Scottish Cot Death Trust. I recognise that miscarriage or stillbirth can also have a huge effect on a family, and there are a number of measures in place to help health boards provide appropriate training to enable doctors and midwives to support parents at that vulnerable time.

Through the work of the early years collaborative and the maternity and children quality improvement collaborative, we are supporting practitioners to deliver improvements in services. Both collaboratives aim to reduce the rate of stillbirth, and a wide range of work has been taking place—for example, increasing the uptake of healthy start vouchers, joining up midwifery and addiction services for vulnerable families and supporting pregnant women to stop smoking. We have seen a positive downward trend in the rates of stillbirth.

I want to mention the work of Sands, which is a charity that undertakes work throughout Scotland with health professionals to improve the quality of care and services provided to bereaved parents and their families. The Scottish Government currently provides the organisation with financial support to help it continue that valuable work and to work with health boards to ensure that relevant staff receive appropriate education and training to support parents at that vulnerable time. I think that the clear message from this debate is that we need to ensure that that training and support is given not just to the professionals who work in the health sector but to teachers and others who come into contact with young people, and that it is appropriate and adequate for them.

Again, I thank Gil Paterson for introducing a debate on an important and emotional topic, which is difficult and complex. It requires us all to ensure that we truly get it right for every child and recognise the suffering and trauma that young people and their families can experience. We need to bring about a cultural change to deal openly in Scotland with grief and death.

We also need to ensure that we use this debate not just as one that we will go home from and forget, but as a platform for recognising the greater need to continue to support charities and organisations that help people cope with trauma, grief, suffering and pain. We must also ensure that we work practically together to ensure that there is on-going dialogue about that so that we can recognise where challenges exist and work together to overcome them.

We have to ensure that we are getting it right for every child and not just getting it right for some children some of the time. We want to ensure that children can cope with grief and trauma in a way that does not diminish their long-term aspirations and hopes, and allows them to fulfil their ambitions to live without having to continue to suffer the pain that they have gone through.

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

Meeting closed at 17:42.

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