

# **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

Tuesday 15 November 2005

Session 2

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## **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

**29<sup>th</sup> Meeting 2005, Session 2**

### **CONVENER**

\*Bristow Muldoon (Livingston) (Lab)

### **DEPUTY CONVENER**

Bruce Crawford (Mid Scotland and Fife) (SNP)

### **COMMITTEE MEMBERS**

\*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)

\*Mr David Davidson (North East Scotland) (Con)

\*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

\*Dr Sylvia Jackson (Stirling) (Lab)

\*Paul Martin (Glasgow Springburn) (Lab)

\*Michael McMahon (Hamilton North and Bellshill) (Lab)

\*Tommy Sheridan (Glasgow) (SSP)

### **COMMITTEE SUBSTITUTES**

Colin Fox (Lothians) (SSP)

Mr Bruce McFee (West of Scotland) (SNP)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Dr Elaine Murray (Dumfries) (Lab)

Murray Tosh (West of Scotland) (Con)

\*attended

### **THE FOLLOWING GAVE EVIDENCE:**

Peter Conlong (Scottish Executive Finance and Central Services Department)

Ian Kernohan (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

George Lyon (Deputy Minister for Finance, Public Service Reform and Parliamentary Business)

Gordon Morgan (Scottish Socialist Party)

Nikola Plunkett (Scottish Executive Finance and Central Services Department)

Tavish Scott (Minister for Transport and Telecommunications)

Tommy Sheridan (Glasgow) (SSP)

### **CLERK TO THE COMMITTEE**

Martin Verity

### **SENIOR ASSISTANT CLERK**

Alastair Macfie

### **ASSISTANT CLERK**

Euan Donald

### **LOCATION**

Committee Room 1



## Scottish Parliament

### Local Government and Transport Committee

*Tuesday 15 November 2005*

[THE CONVENER *opened the meeting at 14:02*]

#### Item in Private

**The Convener (Bristow Muldoon):** I open the 29<sup>th</sup> meeting in 2005 of the Local Government and Transport Committee. As we have a very busy agenda this afternoon, I encourage all members to be as concise as possible with their comments, questions and so on or else we will have a lengthy meeting that will last well into the evening.

Item 1 is to consider whether to take in private item 5, which concerns the committee's consideration of the possible contents of its stage 1 report on the Council Tax Abolition and Service Tax Introduction (Scotland) Bill. It is normal practice for the committee to consider such a draft report in private and it will be made public once it is finalised. Are members agreed?

**Tommy Sheridan (Glasgow) (SSP):** No.

**The Convener:** All committee members have indicated their agreement, apart from Tommy Sheridan, who wishes to note his dissent.

I remind members that we agreed at our meeting on 1 November to take in private item 6, which is consideration of a draft report to the Finance Committee on the budget process. Because of the prospect of running over this afternoon, I suggest that we take item 6 before item 5. We need to conclude item 6 today if we are to submit our report to the Finance Committee in time, but we can always continue our consideration of item 5 at a subsequent meeting if we do not conclude it today. Are members agreed?

**Members indicated agreement.**

## Subordinate Legislation

### Removal, Storage and Disposal of Vehicles (Prescribed Sums and Charges etc) Amendment (Scotland) Regulations 2005 (SSI 2005/486)

14:03

**The Convener:** Item 2 is consideration of two pieces of subordinate legislation. On the first set of regulations, no motions to annul have been lodged and no points on them have been raised by the Subordinate Legislation Committee. Do members agree that we have nothing to report on the regulations?

**Members indicated agreement.**

### Police Pensions (Part-time Service) Amendment (Scotland) Regulations 2005 (SSI 2005/495)

**The Convener:** No motions to annul have been lodged on these regulations and no points on them have been raised by the Subordinate Legislation Committee. Do members agree that we have nothing to report on them?

**Members indicated agreement.**

## Council Tax Abolition and Service Tax Introduction (Scotland) Bill: Stage 1

14:04

**The Convener:** Item 3 is further consideration at stage 1 of the Council Tax Abolition and Service Tax Introduction (Scotland) Bill. We will hear evidence from two panels of witnesses, the first of which is led by George Lyon, the Deputy Minister for Finance, Public Service Reform and Parliamentary Business. He is supported by Nikola Plunkett and Peter Conlong of the Scottish Executive. As usual, I will give the minister the opportunity to give an introduction on the Executive's view on the bill, after which we will have questions and answers.

**The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon):** I will be relatively brief. I thank the committee for inviting me to discuss the Council Tax Abolition and Service Tax Introduction (Scotland) Bill. The Scottish Executive's memorandum on the bill was submitted to the Parliament on 31 December 2004. We oppose the bill for the reasons that are set out in our memorandum, which I am happy briefly to go over for the committee.

As members are aware, we established the independent review of local government finance, which Sir Peter Burt leads, almost 18 months ago. The remit that we have given the review committee is to examine the range of local taxation systems, including council tax; to consider their respective pros and cons, including the practicalities, the implications for the rest of the local government finance system and any wider economic impact; and to make recommendations, which we hope will be produced in the middle of 2006. The review committee will report its findings in due course and we look forward to receiving its report.

As we have said numerous times, we will act on the independent committee's findings. It would be wrong and extremely short-sighted to take substantive action on the important issue of local taxation before the independent committee has completed its work and we have its full and considered recommendations. After the review team's work is complete, we will be in a position to move forward on local taxation, but that time is not now.

I am happy to answer any questions that the committee has.

**The Convener:** I acknowledge that the independent review of local government finance is

under way. The Executive's view that the review report should be awaited is well known, but the committee must produce a report on Mr Sheridan's bill, so can the minister share any Executive views about the potential economic impact of introducing the regime that the bill proposes? If the proposals were implemented, what might be the impact on the provision of public services?

**George Lyon:** On the bill's economic impact, I have noted that the committee has had much debate about fiscal flight. That is an important issue that the Burt committee will have to take into account when reaching a view on the various proposals. It is interesting to note that all political parties, including the Scottish Socialist Party, have made submissions to the Burt committee. I have no doubt that Sir Peter Burt will examine such matters.

If the bill were passed and no replacement for council tax were agreed, local government and local services would be left paralysed. That is a serious matter and local services should be above the kind of political stunt that the socialists have performed. The reality is that the council tax cannot be abolished without there being a clear idea of what will replace it. It is disingenuous of—and a blatant political stunt by—the SSP to suggest that the bill could abolish council tax when no parliamentary majority exists for a replacement system.

**The Convener:** I will go further. Your predecessor, Tavish Scott, sent the committee a letter when the bill was introduced in which he made a point, to which paragraph 12 of your memorandum refers, about the likely yield of the Scottish service tax as compared with that of the council tax. He said that an additional £313 million could be raised if Department for Work and Pensions funding were not retained and £600 million could be raised if it were retained. Was that calculation made on the basis of no impact on the number of taxpayers in Scotland? Did it take any account of a reduced tax take because of fiscal flight? Did it take account of any additional cost to public services arising out of having to pay higher wages to retain public servants following the bill's implementation?

**George Lyon:** I can confirm that the figures are based on the SST model only and that no economic impact has been considered. It is interesting that the original memorandum on the bill mentioned £485 million. We point out in our submission that we think that figure is wrong and that it should be about £318 million.

There are now 16 pages of explanation in the financial memorandum. It is quite a substantial document, given that the original financial memorandum ran to only seven pages.

**The Convener:** Has the Executive estimated how much it would cost the Inland Revenue to collect the tax? Does the bill require the Inland Revenue to collect the tax or would local authorities or the Scottish Executive have to seek an agent's agreement with the Inland Revenue?

Has the Executive estimated the cost to local government of making redundant or redeploying staff who are involved in collecting the council tax?

**George Lyon:** We set up the Burt committee to look at those matters. We have not considered the impact on local government of transferring the collection system to the Inland Revenue; neither have we discussed the matter with the Inland Revenue.

We set up the Burt committee to look at these matters and to come forward with a view. When it does, we will be able to go forward using the detailed analysis that it provides. That is why we argue that it is premature to upstage the Burt committee's report by taking decisions at this early stage.

It is interesting that Mr Sheridan and his party have recognised the legitimacy of the Burt committee by submitting their proposals to it for consideration. We should all await the report, which should, I hope, come out in the middle of next year.

**Mr David Davidson (North East Scotland) (Con):** Does the Executive have a view on whether there will be fiscal flight from local income tax regardless of form?

**George Lyon:** No, we do not have a view on that: that is why we set up the Burt committee. We will have to await the committee's report. Mr Sheridan's proposals are different from the local income tax proposals that other parties in the Parliament have put forward. The Local Government and Transport Committee has asked questions about the punitive rates of tax that the bill envisages for some earners in the higher-income brackets. I note from the committee's evidence sessions that there is concern that the combination of 40 per cent plus taxation and a 20 per cent national service tax would have serious consequences for the Scottish economy and for our ability to retain people in this country.

**Mr Davidson:** It would be unfair of me to suggest that ministers might be influenced by party-political policies—I appreciate that you are above that. I presume. However, as far as the idea of a change in local government funding is concerned, how would Mr Sheridan's tax impact on local government services? You hinted that there would be an impact. Can you tell us more fully what it might be?

**George Lyon:** Before the bill could be passed, its full impact on local services would have to be assessed and detailed work would have to be done on the financial memorandum and its consequences. Questions about water charges and council tax benefits remain to be answered; the committee has asked questions about fiscal flight, to which we need answers.

I return to my original premise. Upstaging the Burt committee before it has had time to report is extremely premature; we should all wait for the committee to report before we take any decisive action on the right way forward.

14:15

**Mr Davidson:** Does the Executive have any views about how the way in which the benefits system relates to local tax could or should be reviewed?

**George Lyon:** Council tax benefit is a reserved matter. It is in the remit of the Burt committee to ensure that it takes such matters into consideration. I hope that that committee will provide some information to clarify the situation.

**Mr Davidson:** Does the Executive have a view on the proposed amnesty on past debt on local government charges?

**George Lyon:** Yes indeed. We totally disagree with that proposal because we estimate that there is more than £700 million of uncollected council tax. That seems to contradict what Mr Sheridan asserts is the total, which I understand to be £180 million. I am not clear how he comes to that view. Such an amnesty would send entirely the wrong signal when we are trying to encourage councils to increase the collection of council tax, and we are totally resistant to it.

**Mr Davidson:** Perhaps you will share with the committee the details of how the Executive put together the figure of £700 million.

**George Lyon:** I will ask my officials to do that. I should have said at the beginning that the officials are happy to answer factual questions, but given some of the political debate on the subject, they will respond to factual questions only.

**Nikola Plunkett (Scottish Executive Finance and Central Services Department):** Our figures indicate that £761 million of council tax debt and a further £441.5 million of community charge debt are currently outstanding. Those figures are from 31 March 2005.

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** The relationship between the Scottish Executive and local authorities is important. Do you think that the relationship would be damaged

if a nationally imposed service tax were introduced?

**George Lyon:** We have to return to the findings of the Local Government Committee, which looked at the matter. It stated clearly:

"The proposal as outlined in ... evidence to the Committee would replace Scotland's only local tax with a new national tax; leave councils in Scotland wholly dependent on central government for their funding; and would, in the Committee's view, destroy local accountability for councils' spending decisions."

If we removed the local income tax and went for a nationally set income tax, accountability and the whole *raison d'être* for local government would be undermined to say the least.

**Michael McMahon (Hamilton North and Bellshill) (Lab):** One of the concerns that came out in the consultation is that, under these proposals, the money given to local authorities in council tax benefit would be lost. Will your officials give us a figure for what you believe would be lost to the Scottish economy because of that? The response we received was that it is only a matter of politicians having the will to go to Westminster and ask for the money back.

Tom McCabe is a fairly strong-willed individual and you are probably not far behind him. What are your chances of convincing Gordon Brown to hand that money back to Scotland if our Parliament decides to do away with council tax benefit?

**George Lyon:** I will not argue with your suggestion about Mr McCabe. The officials will give you the figure you asked for.

**Nikola Plunkett:** Approximately £300 million would be lost in council tax benefit.

**George Lyon:** Those matters would have to be discussed and agreements reached before we could progress. I return to my original proposition: the Burt committee was set up to look at these matters, so we should await its report.

**Tommy Sheridan:** The substance of your evidence seems to be that it is premature to suggest a replacement for council tax and we should wait for the Burt report to be published in the middle of 2006 before we suggest any replacements.

**George Lyon:** That is exactly what I said in my initial statement.

**Tommy Sheridan:** I think you also said that suggesting a replacement for the council tax before the Burt report comes out would be a political stunt.

**George Lyon:** No, I did not say that proposing a replacement was a political stunt, but we need to wait for the Burt committee's response to all the

proposals that all the political parties, including yours, have submitted.

**Tommy Sheridan:** You accused me and the SSP of performing a political stunt. Will you explain what that political stunt is?

**George Lyon:** Trying to drive through your proposal before Burt reports is a political stunt.

**Tommy Sheridan:** Are you saying that it would be wrong to drive through anything before Burt has reported?

**George Lyon:** I am saying that we should wait for Burt's report on all the various suggestions that have been made.

**Tommy Sheridan:** Given that you stood on an election manifesto that listed 10 reasons to vote for the Lib Dems, number 5 of which was that you would axe the council tax, you could be accused of being a political phoney. Was that proposal not a stunt, given that you gave it as a reason why people should vote Lib Dem before Burt reported?

**George Lyon:** You understand that the proposal to which you refer was made by the Liberal Democrats during the campaign for the Westminster elections. Under the current constitutional settlement, that proposal sought support for the introduction of an alternative system to council tax south of the border. In Scotland, the issue is devolved. We have put forward our proposals for a local income tax, the Labour Party has put forward its proposals for a modified council tax and others have put forward their views. I come back to my original proposition, which is that it is simply disingenuous and a blatant political stunt by you to suggest that the bill could abolish council tax when there is no parliamentary majority for a replacement system. That is the important point.

**Tommy Sheridan:** Does the party that you represent not have a position on replacement of the council tax?

**George Lyon:** We have and it has been submitted to the Burt committee, as the member is well aware.

**Tommy Sheridan:** So you have submitted a conclusion without listening to the Burt committee. Is that not a bit premature, according to what you are saying?

**George Lyon:** Like you, we have submitted our proposals. We will wait to find out what Burt has to say.

**Tommy Sheridan:** Ah. You are saying that one party has submitted proposals, while another has been guilty of performing a stunt. It is a bit disingenuous of you to make that suggestion.

Could you read out paragraph 7 of your submission to us, as the copy that I have is a bit smudged?

**George Lyon:** Okay. It says:

"It is further suggested by the SSP that the SST is accompanied by giving local authorities the ability to fully set and retain their non-domestic rates. This is intended to boost the income of the larger city authorities."

**Tommy Sheridan:** What do you mean by that? What is your understanding of the proposal that accompanies the bill?

**George Lyon:** Our understanding is that it is your intention to give control of business rates to local authorities.

**Tommy Sheridan:** In paragraph 4 of your submission, you refer to the inquiry that the Local Government Committee conducted in 2001-02. It said that a Scottish service tax would

"leave councils in Scotland wholly dependent on central government for their funding; and would, in the Committee's view, destroy local accountability for councils' spending decisions."

Is it not a bit contradictory that although you accept in your submission that part of the proposal that accompanies the bill is about relocating domestic rates, the committee that considered the detail seems to have missed that?

**George Lyon:** Your central proposition is that income tax should be set at national level. In other words, what you propose would be a national socialist service tax, which completely contradicts the idea of a local income tax and would give no local accountability whatever. Indeed, I argue that such a tax would compound matters by allowing business rates to be set at 32 different levels throughout the country.

**The Convener:** I have a supplementary on that. Is not the point that the loss of local accountability follows from the fact that although the tax for individuals would be set nationally and business rates could be set locally, individuals on the voters' roll, not businesses, vote?

**George Lyon:** That is exactly the point.

**Tommy Sheridan:** I was referring to the part of the quotation that said that the bill would

"leave councils in Scotland wholly dependent on central government".

Even though that was the conclusion of the Local Government Committee's inquiry, the minister has indicated in his evidence that that would not be the case. I am suggesting that that inquiry was not as fulsome as you would have us believe.

Paragraph 12 of your evidence says that the Scottish service tax, if implemented on the basis of the year of analysis that you chose—2001-02—

would generate £313 million more than the council tax generates. For clarity and for the record, can you confirm that that £313 million takes into account the complete loss of council tax benefit? In other words, if the council tax benefit were retained, would the surplus be significantly more?

**George Lyon:** I ask my officials to answer, given that that is factual question

**Nikola Plunkett:** The £313 million was based on everything else about your model with a correction for the 8 per cent. Taking council tax benefit out of the total sum that might be raised leaves £313 million.

**Tommy Sheridan:** We have therefore established the fact that if the bill were passed, we would generate several hundreds of millions of pounds more for local government than the council tax currently generates. Your evidence backs that up.

How does that equate in your mind to a problem for local authorities in terms of buoyancy and expenditure?

**George Lyon:** As I said earlier, the problem is that uncertainty would be created by simply abolishing the council tax without a parliamentary majority being in favour of one particular system to replace it. I argue that it would leave local services on the point of collapse.

**Tommy Sheridan:** So your evidence is that if we introduce a new system of local government taxation that generates—as your evidence shows—more than £300 million per year more for local government jobs and services, that would lead local government to the brink of collapse.

**George Lyon:** That is not what I said at all, Mr Sheridan. What I said was, if we go ahead and support your proposition without a majority parliamentary view of what should replace the council tax, we risk leaving local services unfunded completely. There is no current parliamentary majority view as to what should replace the system that we have. We need to persuade other members to go in certain directions if we wish to replace the current system.

**Tommy Sheridan:** I am lost—

**The Convener:** I just want to ask a supplementary to get absolute clarity, and as a follow-on from an earlier answer that you gave. The Executive's calculation of the amount that the Scottish service tax would raise does not assume that economic behaviour would change as a result of the service tax. Is the Executive saying that the SST would definitely raise that amount or is it reserving its position until such an economic study is carried out?

**George Lyon:** The figure that we have supplied to the committee is based solely on the model proposed by Mr Sheridan in relation to the national socialist service tax and it does not take into account fiscal flight or any of the economic impacts that might occur as a result of the passing of the bill.

**Tommy Sheridan:** Just to correct you, minister, it is not Mr Sheridan's model; it is the University of Paisley's business faculty's model and it is based on the Fraser of Allander institute's economic model. Do you have a problem with the model?

**George Lyon:** Do I have a problem with the national socialist service tax? Yes, I have a problem with—

**Tommy Sheridan:** No. Do you have a problem with the economic model?

**George Lyon:** It is also interesting that you have brought forward 16 pages of clarifications to modify your financial memorandum's original assumptions. That suggests that your original model had some flaws.

**Tommy Sheridan:** Have you read the 16 pages?

**George Lyon:** I have had a look through them.

**Tommy Sheridan:** I suggest that you reread them because there is not one question about the robustness of the economic model. There are questions about the years of comparison but not the economic model. I will repeat my question; do you have a problem with the economic model that is based on the Fraser of Allander institute's model?

**George Lyon:** As I said already, I have a big problem with the national socialist service tax, which is the model that you are proposing.

**Tommy Sheridan:** Okay. You are not going to answer the question.

14:30

**The Convener:** I have a supplementary question on the Fraser of Allander institute. The minister is probably aware that the institute's report—to which Tommy Sheridan has referred—was based on the economic impact of the variation in income tax of 3p in the pound that the Scottish Parliament can apply. Does the minister agree with me that given the impact of a model that can vary income tax by only 3p in the pound, it would be difficult to conclude that Tommy Sheridan's proposals would not have an impact?

**George Lyon:** I am happy to agree with that.

**Tommy Sheridan:** Ha ha—thank you very much, Bristow, for helping out your partner.

We have established that the economic model that is being used is the economic model that is used in most economic assessments of social and economic policy in Scotland. That is a fact that I am sure Nikola Plunkett would accept. Do you have any reason to question that economic model? Is it used by the Executive in any other assessments of economic policy?

**Peter Conlong (Scottish Executive Finance and Central Services Department):** The Fraser of Allander model is used in various circumstances, but it is not used to calculate revenues from taxation. As far as I am aware, there was a separate model devised by Danson and Whittam.

**Tommy Sheridan:** We have confirmed that the assumptions underlying the Fraser of Allander institute model are accepted by the Executive as being robust, but that the assumptions had never been used to calculate tax revenues until the business faculty at the University of Paisley did so.

**Peter Conlong:** The conclusion of the study that you refer to related to a marginal taxation change of 3 per cent and not necessarily 20 per cent. I am not sure that you can extrapolate, but the model itself is certainly used in various circumstances. However, I am not aware of the model having been applied specifically to the Scottish service tax.

**The Convener:** Tommy, I will allow you a couple more questions but I want to bring in other members, after which I might come back to you.

**Tommy Sheridan:** I am sorry—I thought you were letting me in because nobody else wanted to ask questions. I am sorry if I have taken up other people's time.

Minister, you said that a serious question was that of fiscal flight. What evidence do you have that the bill, if enacted, would lead to fiscal flight?

**George Lyon:** I did not say that in my submission. What I said was that, when reading your evidence, I noticed that the committee had raised a big question on fiscal flight. It is clearly a matter that the Burt committee will have to address.

**Tommy Sheridan:** I am sorry, but I have written down in front of me "fiscal flight" and "big question".

**George Lyon:** What I said was that I noticed when reading through the *Official Reports* of the committee's previous meetings that a big question had been raised by committee members.

**Tommy Sheridan:** I am asking now whether you have any evidence that the bill will lead to fiscal flight.

**George Lyon:** As I said, I hope that the Burt review will consider the issue. Clearly, introducing a 20 per cent tax rate for the national socialist service tax, in addition to the current 40 per cent tax rate, would have some economic impact in Scotland.

**Tommy Sheridan:** I hope you do not mind my pressing this, convener, but when asking a straightforward question of someone on a considerably high salary, I would expect to get a straightforward answer. Minister, do you have any evidence that the bill will lead to fiscal flight?

**George Lyon:** As I said already, Mr Sheridan, that is one of the questions that has been posed to the Burt committee. We expect the answers some time in summer 2006. It is appropriate that we wait until the committee has reported. We might then have a definitive view from Sir Peter Burt and his committee on the matter. It is obviously of key importance when discussing your proposals.

**Tommy Sheridan:** Do you have any evidence?

**George Lyon:** As I said, one reason for setting up the Burt committee was to look into that.

**Tommy Sheridan:** Honestly, minister; I am asking you a straightforward question. If you were to answer, "No—but I am sure that the Burt committee will look into it," that would be acceptable; but you refuse to answer the question and that is not what a scrutinising committee going through the parliamentary process is looking for. I ask you again: do you have any evidence that fiscal flight will result from this bill?

**George Lyon:** I have no evidence with me at the moment but, as I say, it is a big issue that the committee has raised and we set up the Burt committee to look into such matters.

**The Convener:** I will ask a supplementary question. I will bring in other members and I will come back to Tommy Sheridan if we have time.

On fiscal flight, is the minister aware of the statement made by Professor David Bell of the University of Stirling economics department? Professor Bell stated in his submission to the committee that

"those on high earnings ... might move their residence to the rest of the UK or outside the UK."

He also stated:

"Higher earners will have a strong incentive to avoid the SST and may seek to do so".

I recognise that in the course of that discussion we did not get any precise figures, but in the light of a professor of economics raising such concerns, is it important, before embarking on a radical change in the taxation system, to have a full economic study of whether the change would

have such an impact on the Scottish economy and Scottish public services?

**George Lyon:** The Burt committee has been set up to consider all those matters and to report its view. I hope that part of its work will be to study the impact that a national socialist service tax would have on individuals in Scotland.

**The Convener:** I will allow David Davidson to come in on this issue if his point is on that.

**Mr Davidson:** I take it that the Executive has not supplied a submission to the Burt committee on the basis that it is waiting for the response from Burt, but was fiscal flight specified in the remit of the Burt committee?

**George Lyon:** I will deal with the first point. It is no secret to anyone in the Parliament that there is a difference of view between the coalition parties in Government about the way forward in respect of council tax and other systems of local income tax. The Burt committee was set up as a result of the political negotiations following the last election. As part of the partnership agreement, it was decided that the best way of taking the matter forward was to agree to set up the Burt committee so that everyone—all the political parties and other individuals—could put forward their views and the independent committee could examine them in detail and report back. Once it has reported, we will be in possession of the facts, which will allow us to decide which way we go forward. Some of us have strong views on one side and some have strong views on the other. That is the position that we are in. The Burt committee is there as a result of the coalition negotiations.

**Mr Davidson:** I think that the basis of your reply is that the Executive has not made a submission to the Burt committee.

**Nikola Plunkett:** That is right.

**George Lyon:** You would not expect the Executive to do so when there is a difference of opinion internally.

**Mr Davidson:** The second question was about whether fiscal flight was part of the remit of the Burt committee.

**George Lyon:** I expect that fiscal flight will be one of the issues that it will consider, certainly in relation to Mr Sheridan's proposals. As you would expect, the remit is wide. I recall from my original statement that the Burt committee has been asked to consider the pros and cons of the various systems.

**Mr Davidson:** If you do not know the answer, I am happy for you or someone from the Executive to tell the committee later whether fiscal flight was mentioned in the remit. From what you have said, I think that it was not.

**Nikola Plunkett:** The effect on the economy is part of the remit, so we would expect the committee to examine fiscal flight as part of that.

**Paul Martin (Glasgow Springburn) (Lab):** The number of recipients of council tax benefit in Scotland fell by 12 per cent between 1998 and 2003. Tommy Sheridan's bill proposes to tackle poverty. What has the Executive done to highlight the need for people to fill out their forms and to raise concerns about the complexity of some of the forms?

**George Lyon:** I ask Nikola Plunkett to outline our proposals to ensure that we get maximum take-up by individuals. It is a big challenge to ensure that all the many benefits that are on offer are accessed by individuals who qualify for them.

**Nikola Plunkett:** Although council tax benefit is a DWP benefit, it is administered by local authorities, so they have been working with the DWP to try to identify people who should be claiming it and are not doing so. One of the biggest chunks of work has been to identify people who are on pension credit but do not receive council tax benefit. There has been some data sharing between local authorities and the DWP.

Across the board, the DWP has a longer-term aim to try to make council tax benefit as automatic as possible. It is starting work with pensioners and people who are on pension credit and is considering the viability of rolling that out and how automatic entitlement can be.

**Paul Martin:** Because of the complexity of the forms, there has been a 12 per cent reduction in those who receive benefit. If we tackle that, will it go some way towards addressing the poverty issues that Tommy Sheridan has raised?

**Nikola Plunkett:** The DWP has formulated a new three-page form that should be simpler to fill in. At a recent meeting of the Executive and representatives of the Convention of Scottish Local Authorities, we discussed how that form is being used in Scotland and whether we could agree on a simpler and shorter one.

**Paul Martin:** With means testing, if elderly households have savings of £16,000 or more, they are not eligible for council tax benefit. Does the Executive have a view on whether that figure has any relevance to people's ability to pay or poverty levels?

**George Lyon:** Because the issue is reserved, it is difficult for the Executive to comment. As Nikola Plunkett said, we are trying to ensure that everyone is aware of the benefits to which they are entitled, because poverty is a challenge and we must ensure that the many and varied benefits are taken up.

**Paul Martin:** It has been known for the Parliament to influence debate at Westminster. Is the Executive willing to make representations on the £16,000 figure and its relevance to people's ability to pay and poverty?

**George Lyon:** I am sure that we will be willing to make representations on those matters. I will discuss them with colleagues and ensure that we pursue them.

**Paul Martin:** On local democracy, I know that you often receive representations from individual local authorities, not just COSLA. Have any of the 32 local authorities in Scotland made the case for the proposal that is before us today being the way forward for their council?

**George Lyon:** I am not aware of any council supporting the national socialist service tax. Indeed, I see from the policy memorandum that of the 34 responses to the consultation—of which 24 were from individuals—27 were in favour. That shows the level of support that is out there for the bill.

**Paul Martin:** One of the principles of the bill is the redistribution of wealth, so that those who have the ability to pay pay more than those who do not. Would it be more difficult to identify the wealth of people who currently file their own returns to the Inland Revenue and who sometimes work for charity based on their income rather than their homes?

**George Lyon:** The Burt committee would have to consider that. I have my view, and I am sure that Paul Martin has his, on identifying and helping people who have difficulty paying council tax. As you probably know, many pensioners are concerned about the impact of council tax on them, especially when they are on a fixed pension to which the value of their home and their level of council tax bears no relation. There are arguments about how we tackle that. I return to my original proposition that the parties that have different views have submitted their proposals to Sir Peter Burt. It will be interesting to see how he reports.

**Paul Martin:** But I am looking for an Executive position. Does the Executive recognise that it is easier to identify someone's wealth according to the home in which they live, rather than—for those who are self-employed—the return that they file to the Inland Revenue, which can state that they earn a low income while the home that they live in is in a high-value bracket?

14:45

**George Lyon:** Homes are easily identified and easy to put a value on. However, most people in the country are fully signed up to paying income

tax, although concerns exist about the approach to collecting a local income tax.

**Paul Martin:** To give an example, under Tommy Sheridan's proposals, somebody who lives in a £750,000 house in Edinburgh could pay less than they pay under the current system. Is that correct?

**George Lyon:** Sorry; will you restate the question?

**Paul Martin:** Under the current system, we can identify someone's wealth by the home in which they live. Under the system that Tommy Sheridan proposes, it would be more difficult to recover the wealth.

**George Lyon:** We would need to calculate what that individual would have to pay and decide whether there was a problem with collecting the tax. I have not done that analysis, so I will not pretend that I have the answer to hand but, if you write to us with the example, we will assess it using the model that Mr Sheridan proposes.

**The Convener:** The bill's main policy aim is probably that of redistributing wealth from the wealthy to the poorest in society. Do you accept that somebody who currently receives full council tax benefit and who thus pays no local taxes would not benefit by one penny from the proposals?

**George Lyon:** I have not carried out a detailed analysis of that matter, but I can say that those who are in the higher income brackets would be penalised substantially under Mr Sheridan's proposals in comparison with the status quo.

**The Convener:** The point that I am trying to get at is that, under the bill, the people who are on the lowest incomes in Scotland—those who receive full council tax benefit and who thus pay no council tax—would be no better off, as they would still pay no local tax.

**George Lyon:** That is correct.

**The Convener:** In fact, it is possible that some such people could pay more local taxes because, at present, council tax benefit for families tapers off at about £20,000, whereas the only people who would not pay Mr Sheridan's Scottish service tax would be individuals who earn less than £10,000 a year.

**George Lyon:** Your point that the poorest in our society—those who receive council tax benefit—would be no better off under Mr Sheridan's proposals is correct. As we move up the scale, we can extrapolate in relation to different income bands to prove various points about the systems that are proposed. As you say, those who are at the bottom end of the income scale would be no better off under the proposals.

**The Convener:** Finally, I seek information from you, although I do not expect you to supply it today. During our scrutiny of the bill, I have been trying to ascertain the balance between those who receive full council tax benefit and those who receive partial council tax benefit. A paper from the Scottish Parliament information centre states that 528,000 households receive council tax benefit, which equates broadly to 22 per cent of households in Scotland. The proportion is highest in Glasgow, where 106,000 households, which is 38 per cent of households in the area, receive some form of council tax benefit. It would aid the committee's inquiry if you could, through liaison with the Department for Work and Pensions, break down the figures to show the proportion of households that receive full benefit and the proportion that receive partial benefit. Will you ask your officials to assist the committee in finding out that information?

**George Lyon:** Yes. We will respond with that information as soon as we can.

**Tommy Sheridan:** We received evidence from Citizens Advice Scotland that a single 25-year-old earning £6,500 a year and living in a band B council tax property would not be eligible for a council tax rebate and so would have to pay a bill of £819 a year. Under the proposal that we are discussing today, that individual would be exempt, because their income was less than £10,000. How do you square that with your statement that those on the lowest incomes would not benefit under the bill?

**George Lyon:** The point that I was making was that those in receipt of full council tax benefits would be no better off. One can cite examples selectively to support your proposition, to support a local income tax or to defend the current council tax system. We expect the Burt committee to produce a definitive analysis of the systems that have been proposed, which will allow us to make the proper comparisons. It is easy to extrapolate figures to show whether individuals would be better off under different systems. The reason for setting up the Burt committee was to get a definitive view on these matters.

**Tommy Sheridan:** I do not think that you understand the concept of the bill, minister. The bill would exempt the first £10,000 of everyone's income; it is not about individual circumstances. Given that we would exempt that first £10,000, are you telling me that it does not stand to reason that if someone's income was less than £10,000 but higher than £6,000, they would be better off?

**George Lyon:** That analysis is correct, but one can cite examples across all the income streams to support any of the proposals that have been made to the Burt committee. That is why it is important to wait for its analysis of the various

systems and how they will impact on different income groups. It is important for us to have the facts before us.

**Tommy Sheridan:** I am sure that we can correct the record, because you said that those on the lowest incomes would not benefit, which is obviously not true. You said that the bill would leave local authorities near to collapse, because there is no consensus in Parliament about what should replace the council tax, so there would be no way of raising money for local authorities. Do you not see that that is a bit contradictory? If the bill is passed, there will be a way of collecting revenue for local authorities. That is what the service tax is.

**George Lyon:** It is important to note that the Parliament has debated your proposal for a national socialist service tax on five occasions, so the proposition that it will now suddenly be accepted does not bear scrutiny. The point that I was trying to make was that although we might agree to scrap the council tax—although it is debatable whether there would be enough cross-party support for that—there is no consensus on what should replace it. That is why the Burt committee was set up to allow everyone to feed into the debate and make proposals. I understand that all the political parties have submitted proposals and that all the parties other than the SSP are willing to wait for its report.

**Tommy Sheridan:** I do not know whether the convener has supplied the Executive with the note that the committee has, but you are aware that the bill could be amended at stage 2 to replace national setting of tax levels with local setting of tax levels, which would not contravene the general principles of the bill. The convener has ruled that the general principle of the bill is to replace the council tax with an income-based alternative. The method of collection and setting is not part of that general principle. Do you accept that if the Parliament voted at stage 1 to agree to the general principles of the bill, other parties could then present their proposals?

**George Lyon:** If you strip out that part of this 17-line bill there will be precious little left. My original remark was that there is currently no majority view on what would replace the council tax were we to pass a bill to abolish it.

**Tommy Sheridan:** I am going to ask you that question again to see whether I can get a straight answer from you.

**George Lyon:** That is as straight an answer as you could possibly get.

**Tommy Sheridan:** The convener has told us that the bill can be amended at stage 2 to remove the provisions on national setting and to change the methods of collection. I am asking whether,

given the convener's ruling, you accept that, if the principles of the bill were agreed to at stage 1, national setting could be replaced by a local setting.

**George Lyon:** I accept that that could happen. What I am saying is that there is currently no majority view in the Parliament on an alternative to replace the council tax. This seems to be nothing more than a political stunt to try to hoodwink the Scottish people into believing that there is such a majority. We need to take people with us in this debate if we wish to see the council tax system replaced or changed. The Burt committee, once it reports, will aid us in making progress on how we might go forward.

**The Convener:** Let us return to people on the lowest incomes, who we are told would benefit from the bill. Will you reaffirm that if someone currently pays no council tax, even if they still paid no Scottish service tax, they would be no better off under the bill?

**George Lyon:** That is perfect logic, convener.

**The Convener:** You will be aware that council tax benefit is complex. Will you confirm that council tax benefit would not disappear for all households at the figure of around £7,000 to which Mr Sheridan referred—for example, a married couple with one pensioner in a household would continue to receive council tax benefit up to an income level of £239 a week if they were in a band A house and £275 a week if they were in a band D house? Will you confirm that those figures go considerably beyond the levels of income that Mr Sheridan indicates and that, for families with children, the figures are higher still?

**George Lyon:** I would be happy to write to you to confirm that your figures are correct, when I have had the opportunity to examine them in detail, if you are content with that.

**The Convener:** To help you, I refer you to the briefing that the Scottish Parliament information centre researchers have produced.

**George Lyon:** I will ask my officials to have a look. We will write to confirm that we believe that those figures are correct.

**The Convener:** That brings us to the end of questions for the minister and his officials. Thank you very much for your time this afternoon.

We move swiftly to our second panel of witnesses. The first representative is a well-known face to the committee: Tommy Sheridan MSP, who is the main sponsor of the Council Tax Abolition and Service Tax Introduction (Scotland) Bill. He is supported in giving his evidence today by Gordon Morgan, who is a researcher for the SSP group. We welcome Gordon to the committee and Tommy in his new role of evidence giver to

the committee. We will start off by giving you the opportunity to speak to the bill and make the case for it. We will then go to questions and answers.

15:00

**Tommy Sheridan:** The bill poses a fundamental challenge to the committee. Do you accept the fact that there are shameful and persistent levels of poverty that scar our small but wealthy nation? If so, are you willing to use one of the precious few tools that we have at our disposal to do something about that instead of just talking about it?

The bill is primarily an anti-poverty measure. It would deliver a significant improvement in the disposable incomes of millions of hard-pressed workers and pensioners, releasing an extra £25 a week, on average—or £100 a month—for ordinary workers and pensioners to spend on themselves, their children and their homes. That would radically improve the lifestyles of those who are far too often forgotten about. An extra £1,000 to £1,200 a year in disposable income—I emphasise the fact that it would be disposable income—would be the difference between fuel poverty and a warm home; between a family holiday and no holiday at all; and between school trips for the children and their having to do without.

The single biggest growth sector in the army of the poor is the working poor—those who are compelled to take low-paid jobs and work unacceptably long hours to make ends meet. They and our pensioners are penalised by the council tax and the unfair benefit system that is attached to it and they would be the biggest gainers from the bill. Those who are currently eligible to claim exemption from council tax would also gain, from the removal of the means test that is attached to claiming for council tax benefit and from the removal of one of the very real barriers to moving from unpaid benefit existence into low-paid employment, which is the loss of benefits at a low income level.

The essence of the bill is to compel those who can afford to pay more to do so and to allow those who are on average and low incomes to pay less. It is a classic income redistribution measure with significant and positive side effects, on which I will conclude. One of the side effects would be extra money for local government. The bill would not just introduce a progressive tax that would tax the wealthy more and the poor less; it would produce more money for local government jobs and services. The bill would also provide economic expansion because of the basic economic fact that those on the lowest incomes would receive extra money, of which they would spend all or the majority, leading to economic expansion on the whole. It would also reverse the trend in taxation over the past two decades whereby we have seen

the introduction of regressive instead of progressive tax.

I have furnished the committee with opinion poll evidence from System 3, which shows that, in 2001, 71 per cent of the population said yes when they were asked if they supported an income-based alternative to the council tax. Last year, that figure rose to 77 per cent of the population—almost eight out of 10 of those who were questioned in an independent opinion poll said that they would support the replacement of council tax with an income-based alternative. For the sake of those eight out of 10 Scottish citizens, and for the sake of pensioners and workers on low or average incomes, I implore the committee to recommend that the Parliament support the bill.

**The Convener:** Thank you. I will kick off the questions. I have asked other witnesses how people on very low incomes would benefit from the tax. I have been trying to get accurate information on how many households are in receipt of full council tax benefit. Do you have an estimate of how many such households there are? If so, could you advise us what the source of that information is?

Secondly, you said that households that are not in receipt of council tax benefit will benefit from not having to comply with the requirement to fill in a form to apply for the current means-tested benefit. I understand the point that you are making, but could you confirm that the people who currently fill in the form and receive the benefit will be in a neutral situation in terms of the local taxation that they pay? They do not pay council tax and would not pay the Scottish service tax.

**Tommy Sheridan:** My evidence to you is that those who are currently in receipt of full council tax benefit would benefit from the introduction of the bill threefold. First, they would be excused the humiliation of having to complete a means-testing form in order to get their benefit. Those who are subjected to the means test consistently tell us that it is humiliating. Secondly, a significant barrier to those individuals entering employment would be removed. Currently, if the individual on £6,000 a year to whom I referred earlier were to get a job that paid £6,500 a year, they could go from getting full council tax benefit to getting no council tax benefit. That high taper effect of the withdrawal of benefit is a barrier to people entering employment at the lowest level. Thirdly, the poorest would gain because of the extra money that would be spent in the economy on local government jobs and services, which would improve not only the services that they receive but, hopefully, their chances of entering employment.

The contention in our policy memorandum is that nearly 75 per cent of households would benefit from the bill. Most will benefit directly in an

income sense and others will benefit from the lifting of the means test, the removal of a barrier to employment at the lowest level and an improvement in local services.

On the specific factual question that you asked, Gordon Morgan has figures that break down the numbers of people on full council tax benefit and partial council tax benefit.

**Gordon Morgan (Scottish Socialist Party):** Paragraph 56 of the policy memorandum states that, in August 2003, of the 523,900 households that received some council tax benefit, 178,300 low-waged households, including 107,000 pensioner households, still had to pay some council tax. Those figures come from quarterly statistics published by the Department for Work and Pensions and the Scottish Executive's "Benefits and Tax Credits in Scotland" report for August 2003.

Using figures from February 2004, the policy memorandum also states:

"The Department of Works and Pensions estimates between 28% and 34% of eligible households do not claim Council Tax Benefit"

Clearly, those figures relate to another group of people who are not in receipt of benefits but who would gain from the Scottish service tax.

**The Convener:** To be absolutely clear, you are saying that 178,300 of the 523,900 households that are in receipt of council tax benefit receive partial benefit, which means that 350,000 or so households are in receipt of full council tax benefit.

**Gordon Morgan:** That is the implication, yes.

**The Convener:** Mr Sheridan, I hear the argument that you are making about the removal of barriers to employment. However, the figures that we have just heard seem to suggest that, on the first day of the introduction of the Scottish service tax, 350,000 of the poorest households in Scotland would not benefit by a single penny to their disposable income and would benefit only if they moved into employment in the future or if the effects on local services that you predict came about. I want to return to that issue later, but will you confirm that, if their incomes remained the same, those 350,000 households would not be a single penny better off on the first day of the Scottish service tax than they were on the final day of the council tax?

**Tommy Sheridan:** Again, I refer you to the policy memorandum, which states that 72.68 per cent of households would benefit, and I continue to argue that those to whom you refer would benefit. People would be able to benefit financially through the removal of the real barrier to employment at that low level—to say that there is not a barrier would go against all the evidence

from the DWP. However, the benefit that I am talking about is the removal of the humiliation of the means test.

**The Convener:** Do you accept that there has been a mixture of universal benefits and means-tested benefits in the United Kingdom welfare state for many decades and that many people access cash benefits and other state means-tested benefits without suffering what you describe as "humiliation"?

**Tommy Sheridan:** Not at all, minister.

**The Convener:** I am not a minister, Tommy.

**Tommy Sheridan:** I am sorry, convener. I would have promoted you—I hope that the news from the past couple of days does not mean that your promotion is being put on ice.

Historically, it is clear that benefits that must be claimed and that are therefore subject to means testing are less claimed than benefits that are not means tested. As a result, we must introduce universal benefits systems if we want to help the poor. As a member of the committee, you must question whether benefits should continue to be given to millionaires, which you are defending in defending the council tax system.

**The Convener:** I am sure that we will discuss some of the points that have been made in the plenary debate. However, many of the wealthiest people in society will benefit through the provision of a universal benefit. The simple point that I was making was that there has been a mixture of universal benefits and targeted or means-tested benefits in the British welfare state system for many decades. I asked you to recognise that fact.

I want to make a simple point. We can probably debate until the cows come home your argument about the benefit of not having to fill in a form, but will you confirm that those 350,000 households will not be financially better off on day one of the Scottish service tax than on the final day of the council tax?

**Tommy Sheridan:** I have already confirmed that, but caution you about almost dismissing the benefit of not having to fill in a form. People around this table do not have to fill in such forms and therefore can easily dismiss the significance of having to fill them in, but I assure you that those who work with the lowest-income groups and those who must fill in the forms find the process intrusive and humiliating. Throwaway remarks should not be made about people not having to fill in forms, as not having to do so is a real benefit.

**The Convener:** I accept that and hear your argument, which I have said we could debate. However, I am simply asking whether the people in question would be financially better off on day one of the Scottish service tax. I hear your

argument about removing barriers to employment, but there could be other ways of attacking that problem—there could be a better taper of the benefits system, for example; we could also debate that issue all day. I simply ask, on day one of the Scottish service tax, would those 350,000 households be financially better off?

**Tommy Sheridan:** On day one of the bill's coming into force, those 350,000 households that you have identified and 1.6 million to 1.7 million others would benefit from the removal of the need to fill in a form, extra services that are provided as a result of the extra money that is generated and the removal of the income barrier, although the 350,000 households would not directly benefit from an improvement in their disposable income, unlike the 1.7 million others who would.

**The Convener:** The indirect way in which you have answered my question would benefit an Executive minister.

**Tommy Sheridan:** The difference is that I have answered the question.

15:15

**The Convener:** Before I bring in colleagues, I want to ask you about another matter. Again, I am sure that it will be no surprise to you that I am raising the question of how the bill's introduction would impact on the general Scottish economy and on public services. I raise that question not because I worry about the interests of multimillionaires who have highland estates, but from a genuine concern that the bill's impact would chase many high-earning but necessary public servants, such as national health service consultants, from Scotland to England.

Do you accept, as Professor Bell recognised when he gave evidence on the bill, that there would be a strong incentive for such high earners to seek to evade—he used the word “avoid”—the SST and that they might do so? Do you accept that that is possible? Do you think that it would be prudent to have a full economic assessment of the bill's impact on such individuals and the consequent impact on Scottish public services? Do you think that it would be appropriate to have costings for how much would be lost in income tax due to the SST's impact and for the higher cost of public services due to the need to pay higher pay to retain the individuals to whom I referred?

**Tommy Sheridan:** You are asking me whether I accept Professor Bell's opinion, which was all that he offered us. He did not give us any empirical evidence whatsoever to back up that opinion. In fact, the paper that he subsequently sent to us actually backs up the bill's argument because it determines that the income tax system can be manipulated, particularly at the lowest levels, to

encourage those not in employment to take up employment, if it is ensured that there are rewards at the lowest income levels through not withdrawing benefits.

I reject whole-heartedly Professor Bell's opinion on fiscal flight. I do not accept that there is an incentive in the bill for consultants on £90,000 or £100,000 a year to try to manipulate the tax system illegally to avoid paying legitimate taxes. Further, given the income breakdown in Scotland in which those on £90,000 per year represent 2 per cent of the working population, I do not accept that a tax system should be predicated on the suggested behavioural patterns of that minority of 2 per cent. We should base taxation systems on what is good for the majority, which is the other 98 per cent.

**The Convener:** It is not actually illegal for somebody to choose to work in Newcastle or Manchester as opposed to Glasgow or Edinburgh. By seeking to work in Newcastle or Manchester, an NHS consultant would face a tax bill that would be 20 per cent less. I was talking not about illegal evasion of taxes but about people's behaviour changing due to the taxation system and that having an impact on the NHS. We could debate many issues to do with Scotland's need to improve its health service, but I would not have thought that chasing away some of our most highly skilled consultants was a way of improving the health of the people of Scotland.

**Tommy Sheridan:** Yes but, with the greatest of respect, what you are talking about is your opinion, which you are perfectly entitled to display. You have done so at several of the evidence sessions, but you have produced not one iota of evidence to suggest that there are consultants in Scotland whose patriotism and commitment to the health service in Scotland is so frail that, if they were taxed a bit more for the benefit of pensioners and low-paid workers, they would up sticks and leave. In fact, the evidence from the Citizens Advice Scotland witness, who is a former doctor, was overwhelming. He made the point that the single biggest factor that determined where health workers work is not pay but the number of hours they must work and the general working conditions.

Given that, under the Executive's evidence, the bill would produce £313 million more for local government jobs and services and hundreds of millions of pounds more through the disposable income that would be available to pensioners and other workers to spend in our economy, we are talking about a win-win situation in which consultants and others with a commitment to the health service and Scotland would see a fairer Scotland. I believe that that would tie them even

more strongly to our country than it would encourage them to leave.

**The Convener:** With all due respect, it is not for me as a member to produce the economic analysis to prove or disprove the bill. It is incumbent on a member who is proposing a radical change in the taxation system to prove that they have undertaken all necessary research into the economic and social impacts of their bill. It may be just Professor Bell's opinion that the bill will have an impact on consultants. I am suggesting that, before you introduced a bill that would bring about a radical reform of the taxation system, it might have been prudent for you to have carried out detailed analysis of the bill's impact on individuals and hence the Scottish economy and public services.

**Tommy Sheridan:** I refer you to the only evidence that has been submitted on the question. The evidence that was submitted by Professor Danson et al, which referred to Kay and King, made the point clearly that all academic studies have shown that the idea of fiscal flight is anecdotal and not evidence based. Professor Bell's criticism of the evidence was that it was produced a long time ago. That is a fair enough criticism. However, until there is newer evidence to disprove the research by Kay and King, it is all that we have to go on. For that reason, I think that we have produced the evidence to indicate that there will not be the fiscal flight that Professor Bell and others suggest there will be.

**The Convener:** If it were proved to you that there would be fiscal flight and that it would result in a loss of consultants to the health service, would you withdraw the bill or carry on regardless?

**Tommy Sheridan:** The claim could not be proved, unless consultants are a bunch of people who are totally unconcerned about society as a whole. I reject that contention 100 per cent, because consultants tend to be dedicated to society and to serving our health service. However, even if it could be proved that the bill would cause fiscal flight, its other aspects are so important that I would not withdraw it. We are concentrating on a tiny percentage of people at the top. Why are we not concentrating on the pensioners and workers on average pay? Why are we not concentrating on those who would benefit from the bill? That is the crux of the bill. I would not withdraw the bill if it were proved that it would lead to fiscal flight. However, that is a completely nefarious argument, because it will not be proved.

**The Convener:** It will. I will move on to other questioners, but I make the point that I started by asking about the 350,000 households on the lowest incomes that would not benefit from the bill. The issue of consultants was a secondary line of

questioning. I did not ask solely about the potential impact of the bill on consultants.

**Mr Davidson:** Mr Sheridan, I take you back to your opening remarks. You said that pensioners and the working poor have problems with the impact of all forms of taxation on their lives. No one disputes that. Have you examined whether there are other taxation systems that could be amended to provide the same solution as the one that the bill is intended to provide? If so, what are your conclusions?

**Tommy Sheridan:** The investigation that I carried out before introducing the bill was based on the powers that the Scottish Parliament has. The Parliament has no power over council tax benefit. Sadly, it has no power over pension levels. However, we have power over local taxation; that lever is within our grasp. The Scotland Act 1998 may not have been written tightly enough, which has provided us with a wee chink of light that enables us to do something radical to tackle poverty. The power is there. We do not have the ability to increase the top rate of income tax. We are left only with the power to vary the basic rate by 3p upwards or downwards. The problem with that is that it would not reduce inequality. Instead, it would accentuate inequality, because varying only the basic rate of income tax hits hardest the workers on average pay whom I am trying to benefit.

**Mr Davidson:** I cannot agree. If we reduced the basic rate by 3p, everyone in the country would benefit. You have not considered that possibility, which is fair enough—you have given an honest answer.

You talked about extra money going to local government. I will not argue about the semantics or dispute the numbers and so on that you have quoted, but what guarantee do you have that the income from the service tax would go to local government? Would there not be costs to local government if senior members of staff had to be recruited to fill important jobs? Would not the extra tax rate that you are proposing make recruitment and retention more difficult? Would we not have to give those people exemptions or pay them more, which would reduce the amount in the local government pot?

**Tommy Sheridan:** Absolutely not. With any cost-benefit analysis, it is important to look at both sides of the equation. If we simply reduce general taxation across the board by 3p in the pound, there will be less money to spend on services. As a result, something that you suggest will benefit everyone actually represents a loss for everyone. That is why such a cost-benefit analysis must be carried out.

Every single penny of the money that the bill's provisions will generate has to be spent on local government because that is what makes the proposal legal. Under the terms of the Scotland Act 1998, the bill is legal only if the additional money is ring fenced for local government. It cannot be spent on any other area of expenditure. That guarantees that every single extra penny that is generated is spent on local government jobs and services. I have to say that the thought that the chief executives of the 32 local authorities, whose current average salary is £112,000, might up sticks and leave is not something that keeps me awake at night.

**Mr Davidson:** That comment is interesting. However, what happens if the role of local government changes and it assumes other, additional roles and responsibilities that have been removed from other departments? Where is the money for that extra spend going to come from? Presumably, if one ring fences money, one names the services for which it is being ring fenced. It cannot simply go through the local town hall coffers, because the local authorities might take over new duties such as running the trunk roads. Have you thought about that argument?

**Tommy Sheridan:** That argument was addressed by the Presiding Officer's legal team, which stated categorically that the proposal can remain legal only if the money that it generates is spent on local government jobs and services. If local government's remit expands to take in other services, those services will become local government services, the jobs created will be local government jobs and the money can be spent on them. Of course, if local government took on extra roles and responsibilities, we would expect central sources to make extra funding available for that. We sometimes forget—although I am sure that you, with your local government background, do not—that we are talking about a tiny percentage of overall local government finance. I am simply proposing that we manipulate a 20 per cent pot of money to reduce poverty in Scotland.

**Mr Davidson:** But you must accept that your proposal becomes risky if, as COSLA has claimed in certain documents, local government is already not funded adequately for certain statutory services—or for new burdens, as they have been called in some cases. How would diluting the amount of money available through any form of local taxation help you to achieve what you want to achieve?

**Tommy Sheridan:** I can debate with you only on the basis of the current situation. At the moment, the bill's proposals would generate in a much fairer way several hundred million pounds more for local government expenditure than the council tax. I am sure that you accept that I cannot

be held responsible for hypothetical situations such as any further reductions in local government expenditure that the Executive might make. There is no doubt that the bill represents a boost to local government.

**Mr Davidson:** If fiscal flight occurred, would your rates have to be increased to maintain—or even improve on—what you hope to be the status quo?

**Tommy Sheridan:** I do not expect fiscal flight to result in a rates increase for the majority of payers in Scotland. According to the detailed breakdown from the Inland Revenue, about 11,000 people earn an income of more than £90,000 a year. The percentage take from those people is small compared to the overall take; as a result, under your very hypothetical suggestion that 10,000 of those 11,000 would suddenly lose their patriotism, find that fair taxation does not suit them and leave the country, any surplus that would be generated would be reduced, but my arguments would remain robust.

**Mr Davidson:** Why do you assume that people who earn £90,000 or more a year would be most affected? Why do you not assume that people who are in the middle-income bracket and who have high mortgages and a young family would look over the border for a job?

15:30

**Tommy Sheridan:** The Executive figures show that the average salary in Scotland—the “middle-income bracket” to which you referred—is £20,000 per annum. If two workers earn the average salary, that gives their household an income of £40,000 and puts the household into the top 20 per cent in Scotland. Under the Scottish service tax, they would each pay £450 a year, so the combined commitment from the household would be £900 whereas, as you are aware, the average band D council tax payment is £1,095. Therefore, even the middle-income earners that you talked about will gain under the proposed tax system.

**Mr Davidson:** Such people do not see the matter as you have explained it, but I see where you are heading. People in the banking sector from Scotland who are sent to the Isle of Man to work have a fairly beneficial income tax rate, so their income in real terms has to be made up when they come back to Scotland. In other words, the financial sector accepts that tax is an issue in attracting people back to Scotland. How would that change under your proposal?

You gave a bit of a tirade about the means test. Is your thinking on the ability to pay based purely on income, on ownership of property or on both?

**Tommy Sheridan:** On the point about the Isle of Man, it is difficult to generalise based on a single example and you have not provided specific information. My argument is that Scotland as a whole will benefit from the tax, because of the £300 million-plus extra expenditure by local government and because of the extra disposable income of the overwhelming majority of Scots, who would then purchase more goods and services, which would generate demand. Given that evidence suggests that people on low incomes tend to spend extra revenue locally, the tax would have a beneficial economic effect on small local businesses.

Will you clarify what you said in relation to income?

**Mr Davidson:** I just asked whether, when you talked about removing the means test, your proposition on the ability to pay was based on income, ownership of property or on both.

**Tommy Sheridan:** The bill attempts to deal with people, some of whom are high profile, who use Scotland as a bit of a playground. They have large estates or property and pay a tiny percentage of their income in council tax—they usually pay the second-home rate, which is lower than the normal rate—but earn their living in England. Under the bill, owners of heritable property or beneficiaries of trust deeds for heritable property—people often put their property into trust deeds to try to hide the fact that they are the owners—would be liable to pay the service tax based on their UK income. Therefore, the Al Fayeds of the world and other prominent people who own large tracts of land in Scotland would not have such an easy existence. We would have a problem if an individual from a country that does not have a taxation arrangement with the UK bought a large tract of land here. If we could not establish such a person's ownership, we would have difficulty in taxing them. However, the bill's underlying principle is that, although income is not a perfect definition of wealth, it is the closest definition. Differences and exceptions will obviously arise, but we believe that income is the most accurate reflection of a person's wealth.

**Mr Davidson:** I have a point that was made to me at the weekend by two pensioners who had scrimped and saved over the years and had recently made wills. They came to me because the husband had become unwell and they were asking whether, if the husband died and the wife was left and still had a pension and a taxable income from savings over the years, she would have to sell her property under your bill—if it was passed—to fund that burden. In other words, they wanted to know whether she would have to downsize and move, even though they had been in their family house for years. It is always bad to use just one example, but I would like to hear your comments on that.

**Tommy Sheridan:** She would have to have a hell of a large income if that were to happen. You must be talking about £500,000 to £1 million.

**Mr Davidson:** No—but that is the threat that they see. How do you answer those people?

**Tommy Sheridan:** I answer by telling them that they are wrong. I hope, David, that you have not been misleading them.

**The Convener:** I do not think that that was a good example for you to reply to. It would be difficult to reply to that example.

**Tommy Sheridan:** It is one of the examples that are in the air.

**Mr Arbuckle:** Mr Sheridan, your party has made a submission to the Burt committee, but you are still progressing your bill here today. Can you tell us why?

**Tommy Sheridan:** That is simple. The Burt committee has been established with a specific remit; if the bill is not passed, the next line of battle moves to the Burt committee. Therefore, it would have been stupid not to have made that submission, given the confidence that we have in it. Andrew Arbuckle, as a Liberal Democrat, is convinced—I have 16 or 17 pages from his website telling me how convinced he is—that the council tax should go. He has made up his mind before the Burt committee draws its conclusions, so I am sure that he cannot berate me for making up my mind before listening to that committee.

**Mr Arbuckle:** It is not a question of whether I have made up my mind. What I am curious about is that you seem to be unprepared to let the independent Burt committee examine your proposal and judge it on its merits and its flaws. That is what concerns me.

**Tommy Sheridan:** With the greatest respect, you have just contradicted yourself. You have berated me for submitting our proposals to the Burt committee. Now you are berating me for not allowing it to examine and analyse our submission. You cannot have it both ways, I am afraid: either we are scared of the Burt committee or we are not, and we patently are not.

**Mr Arbuckle:** For you to say, "You can't have it both ways," when you are trying to have it both ways is quite incredible. However, I would like to move on.

**Tommy Sheridan:** I think that you had better.

**Mr Arbuckle:** In your introductory remarks, you mentioned that a large percentage of the population is in favour of a local tax, so I find it contrary that you would introduce a national tax.

**Tommy Sheridan:** I have given you a copy of the poll. It is among your papers.

**Mr Arbuckle:** The contradiction is between the people wanting a local tax and your wanting to introduce a national tax.

**Tommy Sheridan:** Let me answer the question. I know that it is uncomfortable for someone who campaigned to abolish the council tax not to now support a bill to abolish it. The question was quite clear: people were asked whether they believed that the council tax should be removed and replaced with a system that is based on ability to pay. That question was asked in 2001—you have it in front of you and can read it out if you wish—and 71 per cent of respondents said that it should. The same question was asked again, not by the Scottish Socialist Party but by System 3, which is an independent polling organisation, and the number of respondents who said that the council tax should be removed rose to 77 per cent. If you read further through the poll results, you will see that respondents were asked whether they would support my bill to replace the council tax, and 66 per cent said yes.

I originally wanted to introduce an open-ended bill in September 2003. In other words, it would have replaced council tax with an income-based alternative; I wanted a debate about what that income-based alternative would be. Unfortunately, the parliamentary authorities told me that that was not possible under our standing orders and that I had to submit a specific proposal, so I made our specific argument. I have been assured by the convener that, at stage 2, Andrew Arbuckle will be able to argue for his preferred replacement for the council tax. I look forward to hearing his detailed proposals.

**Mr Arbuckle:** I would not be worried about that.

**The Convener:** Before you go on, I would like to ask two supplementary questions about the polling information. First, I note that the questions start by stating that

"The Council Tax is unfair as a means of funding local government",

and by asking respondents to agree or disagree with that statement. Do you accept that asking a question in such a pejorative manner is more likely to lead to a particular answer?

**Tommy Sheridan:** The polling organisation would be expected to be able to answer that question, but it told us that questions are always asked in that way. The organisation said, "The council tax is unfair. Yes or no?" You think that is pejorative—others might not.

**The Convener:** A fairer way to phrase the question would be, "Would you support the retention of council tax or its replacement with a local government taxation system that is based on the ability to pay?" That question might produce

the same result—I do not know. However, putting a pejorative term in the question is likely to produce an unreliable result.

**Tommy Sheridan:** It is interesting that the same argument was used by critics of the YouGov poll on support for 90 days' detention without arrest. YouGov first asked whether people were frightened of terrorist attacks following the 7/7 bombings, then asked whether people supported 90 days' detention.

The question that you quoted may be leading, but it seems to represent how independent polling organisations work. The questions in the survey were not of our devising; System 3 insisted on devising the questions.

**The Convener:** I did not mention the opinion poll to which you referred, but I was going to. I presume that you adopt policies not purely on the basis of whether they receive popular support in an opinion poll, but on principle. Why, in that case, should we be encouraged to support the bill purely because an opinion poll suggests that it is popular?

**Tommy Sheridan:** Absolutely—I could not agree with you more about our policy. However, if you check the *Official Report*, you will notice that Andrew Arbuckle asked me about the opinion poll and I responded to his question. I do not think that a big part of the evidence for supporting the bill is that the overwhelming majority of Scotland supports it. That is not a bad reason, but it is not the overwhelming reason. The principal reason is that the bill would be an anti-poverty measure.

**The Convener:** I presume that you oppose what was proposed in the debate last week in the House of Commons, although the relevant opinion poll suggested majority support among the population.

**Tommy Sheridan:** Absolutely. If you stand up in Parliament in December to say, "I oppose this bill even though opinion polls say that we should support it," as I am sure you will, I will respect that position.

**The Convener:** My final point before I hand you back to Andrew Arbuckle is that we are discussing the opinion poll partly because you included it in the dossier of evidence that you submitted to the committee.

**Tommy Sheridan:** Absolutely. I am sure that the committee agrees that I should have done that. If I have background information that I will refer to, I should provide it.

**Mr Arbuckle:** Will you reiterate where you stand on debt write-off? As you heard, in excess of £700 million of tax is unpaid. You have previously said that you would prefer any debt to be written off after two years. Is that your position?

**Tommy Sheridan:** Absolutely. We do not disagree with the response that Nikola Plunkett gave today. We are debating not the amount of outstanding debt, but the amount of debt that can be collected. Gordon Morgan gave the Finance Committee a detailed analysis that took up most of the extra pages that he was asked to submit—it appears that one can be asked to submit extra pages but be criticised for doing so. In that analysis, he explained in detail how we arrived at our figure. It is not a question of saying that there is £X or a lower amount of debt. We accept the amount of debt. What you must question is whether that will be collected. Do you suggest that the £700 million will be collected? If you do, that runs contrary to experience of the past 10 years of collection.

**Mr Arbuckle:** I am asking the questions, not you. I will continue to ask the questions. Last week, a Chartered Institute of Public Finance and Accountancy representative expressed her unhappiness at the thought of debt write-off.

We will move on. I ask you to be in an optimistic mood for a moment. If your bill were to come into operation, what percentage of council tax would be paid in the period before it was implemented? If everybody knew that debt write-off was to occur, they might pay no council tax. People would say, "In two years' time, I'll not have to pay anyway." In that case, the debt write-off would not be your estimate of £140 million or £180 million, but hundreds and thousands of millions.

**Tommy Sheridan:** That scenario is interesting. Obviously, it suggests that the Lib Dems would find a backbone and that the SNP would stick by what it is supposed to fight for by voting for the bill. I know that that is a hypothetical situation, but if that happened, the current arrangements for the collection of council tax would ensure that, with the two-year run-in, we would be able to collect just as much as we are collecting now. Various arrangements are in place, including direct debit payments, wage deductions, and so on. I do not think that collection would be a problem. If that was the only reason why you were not going to support the bill, I encourage you to find the courage of your convictions and support it.

**Mr Arbuckle:** No, it was just another point about a seriously flawed proposal.

15:45

**Dr Sylvia Jackson (Stirling) (Lab):** I have several questions. You said earlier that fiscal flight and tax evasion by high earners is not the most important consideration for you, but that your main concern was about people at the other end of the scale. Is that correct?

**Tommy Sheridan:** Yes. I am sure that you, as a socialist, will share that concern.

**Dr Jackson:** I have a concern, which is why I must ask you the following question. Last week, an academic from the University of Strathclyde said that there is ambiguity about the amount of money that would be collected simply because there are unknowns. One of those unknowns is fiscal flight, but I am asking about tax evasion. If higher earners have to pay more tax, it seems to be logical to me—as it obviously did to Professor David Bell and to others—that people will try to find a way around that. They are doing so now. Therefore, as the lady from Strathclyde university admitted, it is reasonable to think that that will continue. Why are you not concerned about that? It would have a direct effect on the amount of money that would be collected.

Secondly, you have given us a document that clarifies the financial memorandum to the bill. In it, you say that your model

"derives from the actual tax collected by the IR the amount of tax which would have been collected in 2001-2002."

The difference would be that, according to your model, people would pay considerably more tax; therefore, the same ground rules would not operate as operated for the 2001-02 figures.

**Tommy Sheridan:** I hope that you will prod me if I have got your questions wrong. I will try to answer your first question first.

I do not think that we should be concerned about the highest earners, as the evidence for fiscal flight shows. I have a copy of the academic paper that the committee received last week. The most recent research from Connelly, McClelland, Schulze and Wenzel suggests that there are myriad motivations for people leaving a country but that the tax rate is one of the lowest factors in the table of considerations. Housing conditions, public services, employment satisfaction and family ties are all more important than tax rates. Therefore, in no way, shape or form do I find myself influenced by the fact that a tiny percentage of the highest earners in Scotland would pay more under the service tax. In fact, it is one of the benefits of the service tax that it is a positive boost to tackling inequality by ensuring that the people on the highest incomes will begin to pay more.

I know that Sylvia Jackson has been active in the Labour movement for many years; she will recall the tax rates that were set under the Thatcher regime. In 1979, when Thatcher came into power, the top rate of tax was 83p in the pound. In the budget, she slashed it immediately to 60 per cent, paying for that by cutting the link between earnings and pensions. The rate stayed at 60 per cent for nine years, and the evidence

shows that there was no fiscal flight. We are talking about returning to a top-rate tax that would be equivalent to 60 per cent, but would apply only to incomes above £90,000. I do not fear that at all.

I hope that I have answered your question. If not, I apologise, and you can ask me a supplementary.

**Dr Jackson:** I was asking more specifically about tax evasion—some of it legal, some of it not legal. An academic from the University of Strathclyde said that there was an element of doubt about how much money would be collected under the service tax. I am linking that to—

**Tommy Sheridan:** I thought that I had answered that point in response to David Davidson's questioning.

**Dr Jackson:** Okay.

**Tommy Sheridan:** If we were talking about a couple of million pounds extra being raised from service tax compared with council tax, your concern might become real, but we are talking about more than £300 million extra. You referred to a potential effect of increased tax evasion, which I do not accept. We do not accept people defrauding benefit, so we should not accept people defrauding taxation. We should enforce our taxes, if they are legitimate and fair. A loss of £13 million might sound like a lot of money, but it would still leave us with £300 million extra compared with the council tax.

**The Convener:** I fully accept Tommy Sheridan's figures for the top level of taxation at the time when the Thatcher Government came to power, and indeed when the change took place that reduced the top rate from 60 per cent to 40 per cent, which I think was in 1988. You have suggested that taxation has been a factor, albeit a small one in relation to other factors. We have mentioned issues such as family ties, language, public services and the quality of life. On fiscal flight from the UK prior to 1979 or 1988, such flight would on the whole have involved a considerable breaking of family ties and language barriers.

I put it to you that those factors would not apply to people who are UK born and who have all their family in the UK, and who will have no language barriers in moving from Glasgow or Edinburgh to Manchester or Newcastle. More of the factors stack up with respect to people being persuaded to move under your proposals—which carry a higher level of taxation within a unitary state where the same language is spoken throughout—than with respect to the UK as compared with other European countries prior to 1979. Do you accept that?

**Tommy Sheridan:** I do not accept that—perhaps because I do not accept that individuals

will so easily uproot from Scotland and go to England. Once someone has a family, a job and local ties, it takes an awful lot to persuade them to do that, particularly at the income levels that we are discussing. You might be talking about people who earn £150,000 to £200,000 per annum but, as far as the average worker is concerned, I have given figures from the Executive, which said that the average salary in Scotland today is £20,000 per annum. If two workers are earning £20,000 per annum, why would they up and leave Scotland because of the bill? They would actually gain under it if it were passed because they would pay less. There is no incentive, in that respect, for average workers to leave.

I have with me a tax table of Organisation for Economic Co-operation and Development countries, of which I can obtain copies if committee members need them. The table shows that none of the Nordic countries—which have the highest top-rate tax—has a population problem. Finland, which has the highest tax level in the whole OECD, has been awarded the most competitive country award for the third year in a row, according to the World Economic Forum. The idea that the bill would lead to depopulation or to a lack of competitiveness in the economy is patent nonsense.

**The Convener:** Do you accept that moving from Finland to other countries that have lower taxation would involve individuals having to overcome language barriers in order to maintain the same level of income? A person who moved from Glasgow to Manchester on the other hand, would not—unless they had a particularly thick accent—be likely to experience a language barrier.

**Tommy Sheridan:** They would have more than language barriers. You are suggesting that people want to move. I am asking who you are trying to identify as those people who want to move. We have used figures that have been supplied to us by the Executive. The figures tell us that the average salary in Scotland is £20,000 a year. I am saying that a couple who both earn the average salary would gain financially from the bill. Why would they want to move to Manchester?

**The Convener:** I hear what you are saying about people who earn average salaries. I take it that that means that you are fairly complacent about teachers, academics and doctors moving to Manchester and Newcastle.

**Tommy Sheridan:** I have provided you with evidence in a table that outlines the average salaries of teachers, firefighters, nurses and others and shows that there would be significant gains for them, as well. We are talking about a win-win situation for the overwhelming majority of Scottish workers. There would be no incentive to up sticks and leave Scotland.

**The Convener:** I am sure that we will continue to debate that point in Parliament.

**Dr Jackson:** Who devised your survey, where did you get advice about conducting the survey and how were the 900 people selected? Were they selected randomly?

**Tommy Sheridan:** Until recently, System 3 worked consistently for *The Herald*. The Tories despised those polls, claiming that they always undermined their support, and Labour enjoyed them, because they thought that they always inflated their support. In fact, at election time, the System 3 polls were always found to be accurate, within a percentage point either way.

System 3 devised the questions in our survey and established the breakdown of individuals. At the back of the papers that are before you, you will see a breakdown of the number of people who were interviewed, where they were interviewed and so on. One of the significant positive features of the poll is that it uses face-to-face interviews. Many opinion polls nowadays are phone polls, which are notoriously less reliable. You will find that the robustness of the poll will be defended by academia and by other polling organisations.

**Dr Jackson:** I have to say that I do not have the additional material that Mr Sheridan is talking about.

**The Convener:** What paper is that?

**Dr Jackson:** The paper that contains the extra information that Mr Sheridan has outlined to us.

**Tommy Sheridan:** All I can say is that I sent electronically the full report from TNS to the clerking team. That report has at the back of it a breakdown of the numbers of people who were interviewed, when they were interviewed and where they were interviewed. If it has not arrived in that form, we will send it again.

**The Convener:** Pages 4 and 5 of the report appear to be blank.

**Tommy Sheridan:** I do not know why.

**The Convener:** If you could send us copies of those pages, we will circulate them to members.

**Michael McMahon:** You will know that during our consultation on the bill there has been a debate about the democratic deficit that your bill might create in relation to local authorities. Last week, Mr Whittam trotted out the tired cliché that Parliament does not have tax-raising powers and that there is therefore no democratic deficit and challenge to the authority of this Parliament. However, that was proven not to be the case. We have the powers but choose not to use them, which means that there is no democratic deficit. As that argument did not stand up to scrutiny, have you any other arguments against the view

that your bill will create a democratic deficit in relation to local authorities?

16:00

**Tommy Sheridan:** I do not accept that Mr Whittam's argument had no basis. He said that the fact that Parliament chooses not to raise the money that it spends does not make it any more or less accountable to the electorate that it serves.

We would remove the right of local authorities to set council tax and we would replace the current system with a nationally set system of income-based tax. The benefits of that would far outweigh the removal of fiscal autonomy from local authorities.

In addition, we have argued consistently over the five years of debate that was referred to that local authorities should have returned to them the power to set their non-domestic rates. That would make the bill fiscally neutral, because while local authorities would lose their right to raise 20 per cent of their income through council tax, they would gain the right to raise their non-domestic rates, which currently account for 20 per cent of their income. Local authorities are judged more on how they deliver services than how they raise their money.

**Michael McMahon:** I agree with a lot of that, but not about Mr Whittam's answer. I would like to return to your point that to address the democratic deficit you would return to local authorities the power of setting and collecting business rates. Why does your bill not allow for that?

**Tommy Sheridan:** The advice that we received from the non-Executive bills unit was that the bill was already complex for a member's bill and that adding that measure would take it over the limit of what could be scrutinised. As I said in September 2003 when I submitted the first proposal, I would have wanted a different bill saying that we would replace council tax with an income-based alternative and that we would deliver the form of that alternative at stage 2. That was ruled out of order, so the bill is a product of parliamentary advice rather than of a lack of political will.

**Michael McMahon:** Your argument for local autonomy and democracy to be upheld is predicated on a return of the business rate to councils, yet your bill does not allow for that. We are being asked to take away from local authorities their tax-raising powers, but you are not giving us the power to give them something back. Regardless of its cause, is that not a major flaw in your proposal?

**Tommy Sheridan:** Not in the slightest, because even if we do not give local authorities the power to set their non-domestic rates, the bill will stand or

fall on whether it tackles poverty in Scotland and redistributes income. That is the most important aspect of the bill. Whether local authorities get to raise their own money is a secondary issue for me and, I assure you, for the communities that you and I serve—they want services to be delivered well and they want to live in a fairer Scotland where they pay less tax. Those are the most important considerations. However, you should bear in mind the fact that the Parliament has the power at any stage to return non-domestic rates to local authorities, which is where they belong.

**Michael McMahon:** Again, I could not possibly disagree with you that, although the non-domestic rate is a major consideration, it is secondary to income redistribution. That is where your financial memorandum comes in. It is supposed to give us information that we can rely on. You helpfully gave us your financial memorandum clarifications document, which you produced with Gordon Morgan following your discussions with the Finance Committee in order to answer some of that committee's questions. However, under the first heading, "Who Gains and Who loses from Abolishing the Council Tax", which you believe to be the primary motivation behind the bill, you state:

"The Financial memorandum only tangentially dealt with an analysis of winners and losers".

If that is the primary purpose of the bill, surely your policy memorandum, your financial memorandum and everything else about the bill should deal with winners and losers directly, not tangentially.

**Tommy Sheridan:** You have just answered the question: the policy memorandum dealt with the matter directly, whereas the financial memorandum dealt with it tangentially because it was a financial memorandum. In fact, when I appeared with Gordon Morgan at the Finance Committee, we were directed several times not to discuss policy, because that was not what we were there to discuss. We have done what we were advised to do. I would have thought that, rather than criticising us, you would want to applaud us for having taken the time to answer in detail the questions that were raised at the Finance Committee. The policy memorandum deals with gainers and losers directly.

It was suggested last week—when I had exhausted my questions—that the memorandum did not take into account those who are on partial and full council tax benefit. However, it takes that issue into account with a robust model based on all the Executive's figures about household income, council tax banding and the number of people in receipt of council tax benefit—all that was taken into consideration when we were constructing the model to provide us with the winners and losers table.

**Michael McMahon:** I am not going to disagree, although I am surprised by what you say. I am sure that I have heard you berating ministers in the Parliament for not producing robust financial memorandums to support their bills. If you are now saying that financial memorandums are not really that important—

**Tommy Sheridan:** What I am saying is that the financial memorandum is not the place to promote policy. You criticise me for not promoting the central policy in the financial memorandum. That is because we do that in the policy memorandum.

**Michael McMahon:** Let us look at the analysis of the financial memorandum clarifications document, which, under the heading "Methodology", refers to the breakdown of households in each income band. That is about households, yet in our evidence sessions you repeatedly referred to individual income and dismissed the collective household income figures. Why, if your methodology is based on an analysis of households, does your policy memorandum make such a play of individual incomes?

**Tommy Sheridan:** That is utterly wrong, Michael. It would benefit us if we concentrated on individual income, because the service tax is an individual tax. The SPICe research outlines assumptions not in our original model and does not take into account council tax and other benefits. The research illustrates that concentrating on household income rather than on individual income is more likely to undermine some of the gains.

All the research across the Scottish Executive relies on household income figures, which is why we use them. However, individuals live in households. Using household income is an accepted practice when researching an individual tax. Break down whatever household you want and we will say how much people will pay. However, I hope that your examples refer to the Executive's household income figures. We are told that only 17 per cent of households in Scotland have a household income—not an individual income—of more than £40,000 per annum. The examples that you have come up with in the past are in the top bracket rather than in the bottom 80 per cent.

**Michael McMahon:** I will repeat an example that I gave last week—and I commend Professor Cooper for her honesty in accepting the analysis that I put forward. My example concerned two people who earn less than £10,000 per annum each and are in the same household with a combined income just short of £20,000. It is quite feasible that they would pay nothing under the Scottish service tax. The example was also given of a binman who earns £17,500 per annum and is the only income earner in his household. Even

though he earns £2,000 less than the couple next door, he would be paying more than £300 in tax. I fully accept that he would still be making a saving of £10 per week, for which your proposals are to be commended. Your bill aims to address unfairness, but how can it be fair for a household that is just short of an annual income of £20,000 to pay nothing while their neighbour, who has an income of £17,500, would pay £300-odd? By concentrating on the winners and losers at the top and the bottom, you completely ignore the unfairnesses that your system creates for those who are on, as you said, poor incomes. Your proposals would treat them unfairly.

**Tommy Sheridan:** Michael, I am glad that you referred to your example, because it was a good argument in support of the bill. You recognise that a binman would save £10 a week under the proposal, but that two individuals—perhaps hospital porters or factory workers—on less than £10,000 a year would save more than the binman. We have a win-win situation—they are all saving.

**Michael McMahon:** Tell the binman that—he would be paying for his neighbours' services.

**Tommy Sheridan:** But he would pay less than he pays now.

**Michael McMahon:** I accept that.

**Tommy Sheridan:** Your argument is that the savings that everybody would get are not enough and that the binman should get more. That is fair enough. My argument to you is that we have to start somewhere. The bill is a fundamental assault on poverty, which would give the binman an extra £10 a week in his pocket and put extra income in the pockets of the two individuals on less than £10,000 a year. I am grateful that you accept that, but I hope that you also accept that, compared with council tax, the service tax would give rise to significant savings for all the workers that you spoke about.

**Michael McMahon:** If you accept that I see some merit in your arguments, is it not possible under any circumstances that you could agree that the council tax could be amended to address both the problem of the low-paid worker and the unfairness whereby a low-paid worker pays more than people in the house next door who have more income than he does?

**Tommy Sheridan:** No, for two reasons: number 1 is that we in Scotland do not have power over council tax benefit. Those who suggest that the way to make the council tax better is to amend the council tax benefits system—

**Michael McMahon:** I was not talking about the benefits system; I referred to council tax. I meant the bandings.

**Tommy Sheridan:** Inherent in all the evidence that the committee had from COSLA and others is that the council tax benefit system needs to be changed. Do you accept that?

**Michael McMahon:** Yes.

**Tommy Sheridan:** We do not have the power to do that, so to accept your suggestion would be to pass the buck and an abdication of responsibility. We do not have the power over council tax—

**Michael McMahon:** But we have the power to take the binman out of the tax band that he is currently in and put him in a lower band.

**Tommy Sheridan:** That is an interesting question, which you should perhaps ask the Scottish Executive. If you are suggesting that the binman who earns £17,000 a year can have his exemption under council tax increased, you might be questioning the Scotland Act 1998. Let us ask that question. You asked whether the council tax system could be amended to administer and deliver the anti-poverty measures that my bill proposes. My answer to you is no: number 1, because we do not have the power over the council tax benefits system; number 2, because property is no longer anything like an accurate reflection of a person's ability to pay.

If we had had this debate 30 years ago, property values could have been used as a much fairer reflection of income. We have to accept that, as property prices stand, many pensioners in Scotland who live in larger homes after bringing up their families and then seeing them leave are left with a huge burden because of the council tax that applies to the value of their home. If we were to alter the bands at the bottom levels, we would still not affect the people whose properties are in the middle-level bands and who are the ones being hammered hardest. So, no, I do not think that the council tax can be amended to deliver the radical anti-poverty measures that the bill proposes.

**The Convener:** I want to wind up questions, because we are over time. The member who has not spoken so far is Fergus Ewing. I might bring in other members to ask brief supplementaries, but they will have to be very brief.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** First, I am sorry that I was not here at the start of the minister's session. I was helping somebody to fill in a form, an issue on which Mr Sheridan remarked earlier.

My question is about an area that Tommy Sheridan has not yet covered—billing. As I understand his proposals, the SST would be collected by the Inland Revenue and deducted at source. I presume that that means that the current system, in which local authority departments collect the council tax, would be changed. How

many staff in Scotland's local authorities would be made redundant under the bill?

16:15

**Tommy Sheridan:** We asked COSLA—as I think the convener did last week—to provide us with a detailed breakdown of the number of staff in the 32 local authorities who are employed directly to collect council tax. COSLA told us that it did not have such a breakdown. I do not know whether the convener has been more successful than I have in getting those figures. We estimate that approximately 3,000 staff are deployed mostly on the collection of council tax. We suggest that those individuals will have to be retrained and redeployed in other income maximisation programmes. If we get our way and the rates system is relocalised—I know that Fergus Ewing opposes that—there will be extra work for staff with financial experience. In other words, there is no need for any redundancies. We have the money available for redeployment and retraining. If our proposal was that we would produce the same amount of revenue or perhaps a little more, Fergus Ewing's question would be a fair one. However, the fact that we will produce more than £300 million more means that it is his question, rather than staff, that is redundant.

**Fergus Ewing:** How much will it cost to retrain and redeploy the 3,000 staff whom you mentioned?

**Tommy Sheridan:** In the financial memorandum, Gordon Morgan estimates the amount that will be available for that. I think that it is about £6 million or £7 million.

**Gordon Morgan:** We assume a three-month retraining process. We could work out the average cost per member of staff.

**Fergus Ewing:** Yes, but that is only for retraining. You also mentioned redeployment. How much will it cost to redeploy 3,000 people? To put the matter neutrally, I should say that you have not specified what those people will be doing. How much will it cost to continue to employ those 3,000 people, on top of the £6 million in training costs that you mentioned?

**Tommy Sheridan:** For the benefit of Fergus Ewing, who often pretends to have a financial understanding, I point out that the £313 million saving that is mentioned does not relate to staff. There will be no reduction in the amount of money that is available to employ the current level of staff. In fact, we estimate that there will be a significant number of new employees in relation to the bill.

**Fergus Ewing:** As somebody who was an employer, I can tell you that, if you have staff, you have to pay their wages, and that costs

something. I did not have 3,000 staff, but each of those employees will expect to be paid and we want to know how much that will cost. I would expect to see such detail in the financial memorandum.

You said that there would be no redundancies and that everybody who is involved in the work at the moment would be redeployed in matters unspecified. On 25 October, you stated that the tax that you propose would be deducted at source by the Inland Revenue. You said:

“A saving would be made, because the massive administration that is involved in informing people of their bills would not be needed.”—[*Official Report, Finance Committee*, 25 October 2005; c 2928.]

What would that saving be and how would it be made up?

**Gordon Morgan:** Perhaps I could answer that. We are talking about less than 1 per cent of the people who work in the administration of local government. I have been involved in local government for 20 years, during which time there have been many changes, including regular reorganisation of departments and redeployment and retraining of staff. Within a reasonable period, there would be such changes and we would achieve savings on administrative costs by moving people into other functions. I accept that those other functions are unspecified, although we have identified the administration of non-domestic rates as an area of work by local government. People would be redeployed in other areas, too. At that point, we estimate that there could be a saving of £50 million in the central administration finance function.

**Fergus Ewing:** Will you explain how that £50 million is calculated?

**Gordon Morgan:** We think that 3,000 people are employed in the administration of council tax, but the cost of council tax collection comes from the Accounts Commission for Scotland, which produces accurate figures showing what the councils say they are spending on the administration of council tax each year. Although COSLA cannot break down the figures to show how many individuals are employed, we can take the figure of £50 million or so that is being spent—the accurate figures are in the policy memorandum—to make a rough estimate of the number of people.

**Fergus Ewing:** Are you saying that people are to be made redundant? Mr Sheridan has said no. If the £50 million is not made up of redundancy payments, how is it made up?

**Gordon Morgan:** On day one, those people would be in post. There would not be any savings. If, over three to four months, those people were deployed to other areas and other functions, we

would have saved £50 million. If we are talking about redeployment to other necessary services and the fact that normal turnover rates account for about 1 per cent of a corporation's staff over six months, there would be no redundancies or compulsory lay-offs. The Executive is continually finding new things for local government to do, so it is reasonable to say that there will be functions for those people.

**Tommy Sheridan:** When I have talked today about the surplus generated for expenditure on local government jobs and services, I have not included the savings that will arise from moving from a locally administered and collected tax to a nationally administered and collected tax. The reason why the extra revenue generation does not include those savings is that, in our proposals, we envisage that the money should be used for redeployment and retraining. There is therefore no need for any redundancies.

As Fergus Ewing knows, COSLA is opposed to the bill and to local income tax. I refer him to paragraph 5.12 of COSLA's written evidence, which says:

"There is little doubt that the collection of local income tax along with the national income tax would be technically possible. There would of course be initial set up costs, but these, together with the ongoing administrative costs, would be counterbalanced by significant reductions in the Valuation Office Agency and local authority Assessors and collection staff and associated overheads."

Even an organisation that is opposed to the proposal recognises that there are savings to be made in moving towards a nationally collected tax. We are arguing that those savings should be used to redeploy and retrain, which is similar to what we would do when we close down the nuclear submarine base at Faslane. We do not want to make people redundant; we would retrain them. I am sure that Fergus Ewing would agree that that is what should be done.

**The Convener:** Can we leave the debate on Faslane to another day?

**Fergus Ewing:** I am just trying to stick to the point, convener. I think that Mr Morgan used the word "if" a couple of times, but if we just stick with the £50 million or so savings, those savings will be made because the people who used to be employed in local authorities collecting the council tax will be working in another council department—for the sake of simplicity, let us call that department the redeployment department. Because their wages will be in another budget line—because they will be paid £50 million by the redeployment department—there will be savings of £50 million. Is that right?

**Tommy Sheridan:** No. I am sure that it is no surprise to the committee that Fergus Ewing is being deliberately mischievous. If I was suggesting

that an extra £363 million rather than £313 million—I would be including the £50 million extra savings from a change in administration—would be available to spend on local government jobs and services, you could say, "Wait a wee minute. How can you use that money twice? You can't use £50 million for extra expenditure in local government and for redeployment and retraining." However, I am not saying that. The money is not used twice; it is used only once. It is used to ensure the continuity of employment for those employees who no longer have a task because we have got rid of an unfair tax. I thought that Fergus Ewing wanted to get rid of an unfair tax—although perhaps, as with so many other things, when it came to the brink he decided to withdraw. That will remain to be seen.

**Fergus Ewing:** Well, I am asking the questions today. At present, local authorities collect water and sewerage rates for Scottish Water. Is the cost of doing that included in the bill's financial memorandum?

**Tommy Sheridan:** No, absolutely not. It is not part of our considerations. Water authorities pay local authorities an agency fee to collect their water and sewerage rates. We think that, from a political and policy point of view, it is confusing and unacceptable that water and sewerage bills continue to be issued along with council tax bills. That leads to arrears that are in fact water and sewerage arrears but are counted as council tax arrears for those who are on full benefit. It is time that the water authorities had their own system of collection rather than piggybacking on local government.

**Fergus Ewing:** That may be so, but if the water authorities do what you suggest, the money that they currently pay to local authorities—let us just call it £10 million for the sake of this discussion—would be lost to local government and, I presume, would have to be found from somewhere else. Alternatively, would it be met from the redeployment department income?

**Tommy Sheridan:** The money deployed for the collection of council tax includes the money that is paid for the collection of water and sewerage rates; it is all under the one heading, according to the Accounts Commission, so it is all part of the overall savings and loss.

**Fergus Ewing:** Well, I must say that I find that answer contradictory. However, Mr Sheridan is entitled to disagree with me, which, I am pleased to note, he usually does.

I move on to the burden of the proposed tax. Mr Sheridan, you have heard me asking this broad question of witnesses. The tax would add 20 per cent to the top rate of the existing tax system. I am sure that you would agree that everybody must

look at the tax system in the round and that we cannot pick one tax and pretend that it is the only part of the system that exists. The SST of about 20 per cent would exist in a system in which the top rate of income tax is 40 per cent and the national insurance contribution, although it stops at a certain threshold, is around 10 per cent. In broad terms, the total tax on income would be 70 per cent. That is what you are advocating.

On top of that would be the water and sewerage rate and on top of that would be other taxes—VAT, excise duty and all the other various taxes that are paid—which might bring the total tax paid to 80 per cent. Earlier, you mentioned Finland and Norway. Do they have tax regimes that impose such a high tax burden as the one that you propose? If not, and their tax burdens are higher than the one that you propose, have you modernised?

**Tommy Sheridan:** First, I reject your figure for national insurance—it is nothing like 10 per cent. The marginal rate of tax of 20 per cent to which you referred would kick in at incomes above £90,000 per annum. That accounts for 2 per cent of the Scottish population. It is touching that you are so concerned about people in that income bracket, Fergus. However, those people would face a 60 per cent combined rate only on their income above £90,000. I am sure that you understand the concept of a marginal tax, which would not be generalised on all their income but would apply only on the portion above £90,000. The combined tax rate in Belgium, for example, is 59.3 per cent; in Denmark, it is 62.9 per cent; in Finland, it is 56.7 per cent; in Sweden, it is 56.5 per cent; and, in Norway, it is 55.3 per cent. All those countries have a figure of around 60 per cent and they have neither a depopulation problem nor an economic competitiveness problem.

**Fergus Ewing:** Well, none of them, of course, pursues the policies that you advocate. However, we will leave that minor detail to one side.

Does your financial memorandum include one factor that, I put to you, should have been considered when producing your proposals? The factor is that there are currently various opportunities for individuals who earn handsome amounts of money to obtain tax relief. For example, by putting money into pension schemes, such as retirement annuity contracts and personal pensions, they can obtain tax relief at the top rate of 40 per cent. If they wish, they can put in lump sums to those schemes and avail themselves of unused relief going back seven years. I am not expressing an opinion on whether that is right or wrong; I am simply trying to get at the facts of your bill.

Does your bill make any allowance at all for the tax that is lost as a result of the ability of the wealthiest people—those who not only earn the high salaries that you talk about, but who have enough capital to make huge contributions to their pension funds—to evade totally the income tax burden, while those who are on lower pay cannot do so? Do you not think that your bill would have the effect of creating a huge incitement and encouragement to people such as those whom I have mentioned to further evade tax? If you accept that that must be the case, what specific allowance does the financial memorandum to your bill make for that? What sum have you predicted would be lost because of that practice?

16:30

**Tommy Sheridan:** There is no way of making provision for future behavioural patterns, as the committee has discussed in the context of fiscal flight. If we look to the evidence rather than to your suggestions, it tells us that there are many other factors that determine whether people try to avoid taxes. You seem to be hinting that, if the wealthiest members of the Scottish community were taxed a bit more, they would try to avoid paying their taxes. I find that regrettable and unpatriotic, but if you are aware of such behaviour by those individuals, perhaps you could ensure that the appropriate authorities are informed of their shenanigans, so that we can clamp down on them.

However, I do not think that that has anything to do with the crux of the bill. You mention those people whose incomes do not allow them to make lump sum payments to their pensions, but why would they want to do that? The overwhelming majority of Scots would benefit from the proposed new tax. You and I would pay more—on average, we would pay £2,500 more, but we can afford that. The pensioners and the ordinary workers of Scotland would pay less. That is what the bill is all about.

For your information, Gordon Brown doubled national insurance contributions from 1 per cent to 2 per cent last year; they are not 10 per cent.

**Fergus Ewing:** I am afraid that I disagree. If you check the NIC regulations, you will find that that is the level of the increase, not the level of the tax.

Be that as it may, we are not here to bandy about arguments about Trident, the shenanigans of the wealthy or anything else; we are here to study the bill under discussion. I asked, simply, whether the financial memorandum made any allowance for a scenario that I would argue is quite foreseeable, whatever one thinks of the individuals concerned. If we were to add 20 per cent to the tax burden, I do not think that it takes rocket

science to conclude that some people might not want to pay that extra 20 per cent and would consider legal means of not doing so.

I have one final question, because I am not sure that there will be a meeting of minds between us. One of your proposals is to write off council tax debt, which your financial memorandum tells us stood at £550 million in March 2003. Why do you want to write off that debt, when some of the payments are owed by people who can afford to make them? Is that not an encouragement to others who can pay to follow suit and bring the whole tax system into disrepute?

**Tommy Sheridan:** In the memorandum, we argue that it becomes uneconomic to pursue poll tax and council tax debts after a certain length of time. Today we heard from the Scottish Executive's adviser that some £400 million in poll tax is still outstanding. The poll tax was abolished some 12 years ago and we do not find it acceptable to continue to pursue 12-year-old, 10-year-old or eight-year-old debts. Most local authorities already have punitive penalties and efficient collection systems in place. We believe that they are collecting as much as they are going to.

We would rather start with a clean slate; that is why we want to write off those debts. We should stop wasting money pursuing bad debt. The figure that I mentioned to Andrew Arbuckle was the total figure that we think would be lost. It would not be £700 million but would be between £150 million and a maximum of £180 million. We believe that that is the amount of the outstanding debt that is actually collectable. The rest has proven impossible to collect.

Once the new system is in place, we will be absolutely rigorous—especially with the individuals who use whatever philosophy they can to justify avoiding paying tax. We will be rigorous in pursuing them to ensure that they pay the full amount.

**Fergus Ewing:** So would there be no further tax write-off every year under your proposals? Would you rigorously enforce tax payments from everybody? Would there be no further write-offs based on any judgment by you that people would be unable to pay after the Scottish service tax had been introduced? At the end of year 1, you would enforce payment of the tax by every person from whom it was due. Is that right? Or would there be further write-offs at some future date? If so, would you try to work out beforehand whether those who can pay will pay? Or would you just write it off, as you propose to do with the existing debt?

**Tommy Sheridan:** The collection rate for income tax is between 98 per cent and 99 per cent of bills levied. The collection rate for council tax is

between 88 per cent and 91 per cent of bills levied. We therefore cannot foresee any reason whatsoever to have debt write-off in the collection of service tax in future years. We expect that there will be a much larger tax take, both in gross terms and in percentage terms.

**The Convener:** A couple of other members wanted to come in with supplementary questions, but I do not think that we have time, as we have several other items of business to get through. When the issue comes to the chamber, members will obviously be able to make their points then. They will also be able to make points as we debate our report on the bill. I thank Tommy Sheridan and Gordon Morgan for their participation.

We have already been going for about two and a half hours, but we will have a short break before we take evidence from Tavish Scott on the next item on our agenda.

16:37

*Meeting suspended.*

16:44

*On resuming—*

## Subordinate Legislation

### Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005 (Draft)

**The Convener:** I apologise to the minister and his officials for the fact that we are running a little bit later than intended. I am sure that they will appreciate that we got into some detailed and interesting discussion about the Council Tax Abolition and Service Tax Introduction (Scotland) Bill; there will be an interesting debate when the bill comes before the chamber.

We move on to another important issue. Under agenda item 4, we will deal with two draft pieces of subordinate legislation on the establishment of regional transport partnerships and the transfer of rail functions to Scottish ministers. We are required to deal with both draft orders individually because they cover separate issues, albeit that they have a relationship to each other.

I welcome Tavish Scott, the Minister for Transport and Telecommunications, to the committee for the purpose of addressing the draft orders. Graham McGlashan, Ian Kernohan and Richard Hadfield are here to support him.

As usual, I give the minister the opportunity to make introductory remarks on the first of the draft orders, which is the draft Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005. There will then be an opportunity for members to question the minister and officials on the detail of the contents of the draft order. If members want responses from the officials, they need to ask questions at that stage because when we enter the formal debate only members of the Parliament, including the minister, will be able to participate.

As time is moving on, I ask the minister to keep his remarks as concise as possible so that we can make progress with the rest of our business.

**The Minister for Transport and Telecommunications (Tavish Scott):** Thank you. I will do my best to hurtle through my remarks.

I am very pleased to be able to bring the draft order before the committee. Parliament gave a clear welcome to the Executive's proposals for regional transport partnerships when it voted through the Transport (Scotland) Act 2005. The scrutiny carried out by the committee and the amendments adopted by Parliament have produced legislation that will and must deliver. Through the 2005 act, Parliament placed a duty on ministers to establish regional transport

partnerships throughout Scotland. The draft order fulfils that duty.

A first version of the draft order was sent to the committee on 5 April to support the stage 2 deliberations. A revised version was sent to councils on 21 July following Parliament's approval of the bill at stage 3, and a number of further comments were received, mainly on boundaries and membership. We have worked over the summer to resolve those issues.

Inevitably, it has not been possible to find arrangements that meet everyone's first preference. However, the draft order before the committee today represents a series of agreements that councils are willing to work with. It is the outcome of consensus working, compromise and a healthy degree of common sense.

During the passage of the 2005 act, the committee made a number of important points that are reflected in the draft order. The committee proposed that councils should be able to appoint more than one member to an RTP. The figure was raised at stage 2 to a maximum of 4 and again at stage 3 to a maximum of 5. The draft order uses the full range of 1 to 5 members per council. In each region we have tried, as far as possible, to reach agreement on membership and voting with the councils concerned.

The committee also proposed that Dumfries and Galloway should be able to have its own regional transport partnership, and the legislation was amended to clarify that that would be possible. The draft order now proposes the creation of single-authority RTPs in south-west Scotland and Shetland, which will in each case bring together the council, the health board and the enterprise company to develop strategies and deliver public transport services. That is the outcome that both councils sought from the outset. Reaching a consensus was straightforward in the case of Dumfries and Galloway, but less so in the case of Shetland. I am grateful to the six Highlands and Islands councils for working with me on the matter over the summer—the assistance of the six conveners was vital in reaching a consensus. The current proposal to allow Shetland to have its own regional transport partnership was unanimously supported in August by the Highlands and Islands conveners and leaders group, the representations of which were an important consideration in my recommendation to the Parliament.

The current proposals therefore give the most balanced strategic transport groupings to meet the needs of each individual area and are based on boundaries that reflect the particular circumstances, including the geography, of both Dumfries and Galloway and Shetland.

Since taking on the transport portfolio, I have been impressed by the readiness of councils, the existing RTPs, Strathclyde Passenger Transport and others to work with, and within, the new partnerships and to make them a success. Local authorities, SPT and the existing voluntary RTPs have worked up quite a head of steam in preparing for the new partnerships. Following their advice, I have proposed the creation of statutory RTPs in early December, which will give them a four-month head start over what we had originally planned.

There is positive momentum building behind the RTPs and a real desire to use them to bring about significant improvements in transport in Scotland. I encourage the committee to support the motion, to send a clear message to those involved that Parliament is right behind them in this work. I am happy to take questions.

**The Convener:** Thank you for those remarks.

**Mr Davidson:** The minister will know that we did not support the RTPs, but we are now at a different stage. What cost provision will be made for the statutory RTPs? We note that Shetland will have in place a unitary organisation. The minister will remember that I sought to make the Transport (Scotland) Bill permissive rather than prescriptive. What procedures will be followed if a new authority is set up, if a change of administration in an authority takes place or if authorities want to come together? Is the minister minded to consider that point, given that those circumstances could arise at a later date, such as after the 2007 election?

**Tavish Scott:** I will get my colleagues to cover technical aspects of the procedures. There is no particular block—nor should there be—on our considering different arrangements. However, I hope that Mr Davidson will accept that we are putting in place a series of groupings that provide the strategic overview that we think is necessary for transport on a regional basis. Any Administration would want that arrangement to settle down to see how it worked over a period of time. In the context of the national transport strategy, on which we are hoping to consult early next year and which is important for the regional transport strategies, it would be odd, to put it mildly, for us simply to rip up the arrangements and start again. I have no proposals so to do. In principle, Parliament can decide anything, but this Administration will not change the arrangements quickly and I rather doubt that a future Administration would choose to do so.

We are discussing individual RTPs' running costs with them. We have been clear about assisting RTPs with their formation and with such costs. I hope that Mr Davidson will accept that I do not believe that we want to set up expensive bureaucracies. I want to streamline the

arrangements and ensure that they are effective and efficient. That will be the overriding principle in my consideration of submissions on on-going costs.

**Mr Davidson:** Will the partnerships be paid for out of the current budget? Will there be an additional cost?

**Tavish Scott:** We have made provision for the start-up costs of the RTPs. I hope that Mr Davidson accepts that we have discussed the matter with the individual bodies—indeed, such discussions are continuing. I assure Mr Davidson that the figures on individual RTPs will be transparent, in the public domain and in the transport line in our budget.

**Michael McMahon:** During the discussions on the Transport (Scotland) Bill, a number of issues arose in relation to the transfer of Strathclyde Passenger Transport to the new RTP. I know that Paul Martin has a substantive question on that, so I will stick to presentation. Concerns have been expressed about the loss of brand recognition of SPT. What feedback can you give us on the discussions that have taken place on that? Will the SPT brand be identified when SPT is transferred to the new RTP?

**Tavish Scott:** I assume that Michael McMahon is talking about the overall transport services that SPT provides. I certainly accept the point about the benefits of a brand that is understood and is relevant to the people who use the service day in, day out when they go to work, take the children to school or for social purposes. It is a fair and relevant point and when I am in discussion with the new west of Scotland RTP, I want to ensure that we use the advantages of the SPT brand as we roll out the system in future. It would not be appropriate if we were to rip up an understood and proven brand that has grown and which has encouraged more people to use public transport in the west of Scotland. I strongly believe that we will work on that during discussions with the new west of Scotland RTP.

**Paul Martin:** I seek clarity on the arrangements that have been entered into under the Transfer of Undertakings (Protection of Employment) Regulations, with particular reference to the new west of Scotland regional transport partnership.

**Tavish Scott:** Which part of the SPT service are we talking about? Obviously, we will deal with rail later.

**Paul Martin:** You will probably appreciate that there are issues around the future of the staff who are currently employed by Strathclyde Passenger Transport Executive. Will you follow the TUPE arrangements that formed part of discussions that we had at earlier committee meetings?

**The Convener:** I will expand on that question, minister, because it is probably best if we deal with all the SPT staff in one go. I anticipate that some members of staff might be regarded as part of Transport Scotland, the new strategic transport agency. However, the majority of SPT staff will become employees of the new west of Scotland regional transport partnership. It would be useful if you could clarify whether that is your understanding and expectation of how TUPE will apply to each of the different groups of staff.

**Tavish Scott:** The short answer is yes, it is. My understanding of the arrangements—which have been subject to many discussions—is that the appropriate transfer obligations under the TUPE legislation would apply. Where staff transfer because their responsibilities and functions transfer to the new west of Scotland RTP, TUPE will very much apply, and it is appropriate that it should apply in those circumstances. It is very important that we provide clarity and certainty for staff and that we end any uncertainty as quickly as we possibly can, because I appreciate that there are concerns.

**Paul Martin:** During any exchanges that have taken place on the issue between yourself and the SPTE, have you been absolutely clear that members of staff can expect to be protected under TUPE?

**Tavish Scott:** I have made sure that all the advice that I have received on staff transfer has been discussed, as I am sure Mr Martin appreciates, at official level at many meetings for many months. That advice has been based on staff transferring their rights and being protected under the appropriate employment legislation. Anything else would not be fair on those members of staff. The right arrangements will be in place when the transfers occur.

**Fergus Ewing:** This morning I received notice of something about which I believe your civil servants have been advised. Legal advice has been received by SPTE that—[*Interruption.*] I am sorry; I have moved on to the next instrument. I had the wrong piece of paper in front of me, so I shall start again.

Who will decide which strategic projects are regional and which are national?

**Tavish Scott:** That is a fair question. I have a pretty strong view that in constructing the national transport strategy, we need to set out some clear principles. We must make as clear a distinction as we can.

I will use an example to be helpful. Edinburgh sits next to a certain estuary that strikes me as being pretty strategic for Scotland and the UK. Any transport options that we considered for that estuary would be of strategic importance to

Scotland. On the other hand, an RTP might believe a local road to be very important and so in need of upgrading. In such a context, you and I might agree that the end of a particular fixed link across the estuary should be an RTP priority, although it would be for the RTP to decide whether it was a priority.

Nevertheless, I absolutely accept the point that it is important to try to achieve a degree of clarity around strategic, as opposed to regional, projects. It is, after all, in the interests of the RTPs that we do that through the guidance, which I am more than happy to share with the committee over the coming weeks.

17:00

**Fergus Ewing:** Can you say when the decision will be taken on who will decide which strategic projects are national, which are regional and who will deliver the projects?

**Tavish Scott:** We will do that through the different bodies. There are capital transport investment projects under way—we have discussed them with the committee before and will do so again—that are clearly strategic and, in many ways, of pan-Scotland significance. At the moment, the voluntary RTPs are taking forward a range of transport priorities and capital investments that they consider to be of regional importance. We support those projects financially and we work in partnership with the voluntary RTPs to deliver them.

In 2006, we will set out in the national transport strategy the process and the set of principles that will apply. Of course, the national transport strategy will be subject to parliamentary scrutiny and approval by next summer. The RTPs will be very much part of that in setting out how they see things and, more to the point, the projects in their areas that they consider to be of regional importance. As the strategic project review flows from the national transport strategy, that will provide an opportunity to refine and assess the process further. I do not, however, discount the central point that Mr Ewing makes about the need for clarity around the structure of those decisions.

**Fergus Ewing:** I have listened carefully to what the minister has said and I think that I understand his reasoning. Does he agree, however, that there are concerns—most cogently and directly expressed by Janette Anderson of First Engineering at the business in the chamber event—that the landscape is cluttered? There is a quicksand or quagmire of quangos, and her company—an important Scottish company, which has a turnover of £200 million and wants to get on with the projects—is looking to expand by 15 per cent a year. Will the minister bear in mind—and

perhaps meet me to discuss—the offer that has been made by the Scottish National Party, as the official Opposition? We are anxious to see delivery, and if that means scrapping the current byzantine and protracted parliamentary procedure for consideration of the various projects—such as the Glasgow airport rail link, which we want to see progressing soon—we are up for that. I hope that colleagues in other parties will be up for it, too. I know that that is a slight departure from the technicalities of the draft order, but I am sure that we all want to move swiftly towards project delivery, not just the creation of new bodies.

**The Convener:** We all share that aim, although that issue departs quite a bit from the draft order on RTPs that we are considering. The minister can respond to the point if he wants to, but I ask him not to take up too much time in doing so.

**Tavish Scott:** I will be brief. I have met Janette Anderson and have discussed those issues with her. I do not wish to disparage Mr Ewing's argument, but I do not think that that is quite her view. However, I would be happy to discuss the matter with Mr Ewing on another occasion.

As I said during the debate on rail on Thursday, I am more than happy to work with all parties to ensure that we improve our systems and that we get right the proposed TWA bill—the terminology is unfortunate at times; I refer to the proposed transport and works legislation that is designed to improve the process. As you know, the proposed bill has been the subject of some discussion in the Procedures Committee in recent weeks.

**Tommy Sheridan:** I refer you to the letter that you sent me today in response to my inquiries about staff transfer. Can you put a number to those who will transfer from SPT to the concessionary travel unit in Transport Scotland? How many people do you envisage will stay with SPT to manage the rail franchise?

**Tavish Scott:** The letter was also sent to the convener and should have been available to all members. I hope that I can give a straight reply to the points that have been raised, although Mr Sheridan is straying slightly into the discussion that we will have on the second draft order. I also hope that he accepts that our discussions with SPT need to be concluded and that, therefore, I cannot give him the numbers—as he puts it—around staff transfers. It would be inappropriate for me to do so until those discussions, which are about specific people—after all, we are talking about working men and women—have been concluded.

**Tommy Sheridan:** Okay. Will you confirm that, as you state in your letter, we are talking not about redundancies, but about absorbing existing staff on terms and conditions that are no less

favourable than those on which they are currently employed? Will you give a commitment that, following actuarial advice, staff will not lose benefits under the civil service pension scheme in comparison with those that they have under the local government pension scheme?

**Tavish Scott:** I can certainly give Mr Sheridan an assurance on his second point, as I think I did in my letter. He makes an entirely fair point. We would all expect the pension rights of staff to be protected when they transfer, and my letter absolutely confirms that.

On job losses, it is important that the functions and the roles that are being transferred are carefully separated from the individual men and women who are involved, as it would be inappropriate for me to go into issues to do with an individual's employment rights and their current role. We have been clear in our discussions—as I am sure the committee would expect—about the rail and concessionary fares functions that we expect to be transferred. I apologise, but I cannot go any further than that because functions are the issue at this stage and it would be wrong for me to be drawn on numbers or individual circumstances.

**Tommy Sheridan:** Your letter to me states that you seek to

“achieve an outcome which will result in staff transferring seamlessly and painlessly.”

Do you accept that the concern of the staff who are involved will be more than justified if you are not prepared to give a commitment today that there will be no redundancies? Paragraph 5 of your letter states:

“Scottish Executive officials will be holding discussions with their counterparts in SPT and with officials from UNISON and staff representatives to explain in detail the terms and conditions which will be on offer.”

I understand that the transfer will take place at the end of this month—in two weeks' time. Do you accept that those discussions should have been conducted much earlier and that it is regrettable that they were not?

**Tavish Scott:** I could not agree more with that. I assure Mr Sheridan that I am frustrated that we are now into November and the discussions have not been concluded. If I had my way and was allowed to do things differently, they darn well would have finished much earlier. I do not like the uncertainty that staff have been left with and am very frustrated about the time that the process has taken. You should be under no illusion about my desire for matters to be concluded and I am frustrated that they are not.

I deliberately used the phrase “seamlessly and painlessly” in my letter, and it is entirely fair of Mr Sheridan to point that out. I mean what I said—I

described what needs to happen, and it is important that that happens—but I cannot and will not be drawn into individual circumstances. It would be unfair to pull me into suggesting something that I do not want to suggest—which can happen in politics—and into saying something that Mr Sheridan wants me to say. I will not say that there will be redundancies; to do so would mean not understanding the process that must be gone through for sensibly managing circumstances that involve individual men and women. I can put things only in those terms. I do not want a member to say, “There are going to be redundancies,” when they leave the committee room, as that would be a fundamental misunderstanding of the sensible discussions that must take place to deal with functions and employees’ particular positions.

**Tommy Sheridan:** I reassure you that I am not seeking to leave the committee room with suggestions about redundancies or anything else. I have simply been asked by several members of staff to seek the assurances that you have now given fairly and robustly. However, I am sure that you realise that the fact that the transfer is imminent leaves the staff feeling insecure. I hope that you accept that I asked the question in that spirit.

**Tavish Scott:** I accept that that is fair, and I can only repeat that I agree with Mr Sheridan and, indeed, every committee member about the length of time that the process has taken. Irrespective of our views on the political and policy context of the matter, we are talking about the jobs of individual men and women. I, too, want to end the uncertainty. I hope that the committee will agree to approve the draft orders, which will allow us to bring that uncertainty to an end.

**Dr Jackson:** On a point of clarification, will you remind us how the process of establishing the RTPs will be monitored and reviewed? Obviously, we want flexibility in the system, but we might want the partnerships to share examples of good practice. How will that happen?

**Tavish Scott:** I have two points to make in answering that question. First, each RTP will produce a strategic overview of its area and present it formally to ministers and, by definition, to Parliament. Given the way in which the partnerships have been constructed and will operate, their interaction with local authorities, health boards, local enterprise companies and the private sector will allow a healthy dialogue to take place that should give rise to a good degree of visionary thought about what is needed in certain parts of Scotland. Such an exercise will be open and transparent and provide the local check that I imagine that Sylvia Jackson seeks. I should also

point out that the system contains a number of such checks.

Sylvia Jackson also raised a good point about best practice. Indeed, I should have said to Mr Ewing earlier that Transport Scotland, which we hope to discuss with the committee more properly and say more about in the coming weeks, will play an important role in that respect. After all, it will be responsible not only for rail services across Scotland but for delivering our strategic capital investment, for example, and what might be called our run-of-the-mill investment in roads and so on. We have set up the agency in a way that allows private sector expertise of the best quality to bring many new disciplines to the delivery process, and RTPs will be able to use that expertise very successfully where necessary and appropriate. I hope that that approach will disseminate good procurement and design practice throughout Scotland, and that RTPs can use it to assist their work.

**The Convener:** The proposal to introduce RTPs flows from the commitment in the partnership agreement for strong regional transport partnerships that will deliver transport systems in their areas. Apart from their responsibility to determine regional transport strategies and to recommend a particular set of transport priorities, what will be the RTPs’ functions?

**Tavish Scott:** As you have pointed out before, various models apply in that respect, from model 1, to which I think your question might allude, to model 3, in which the RTPs have a much fuller involvement in the delivery of transport services. I certainly want to encourage the partnerships to develop their thinking and delivery processes through those models. Indeed, I was interested to hear Charlie King, the chairman of the Highlands and Islands strategic transport partnership, say at the Highlands and Islands convention a week past Monday that its regional transport partnership will move towards model 3. That showed that Mr King was thinking about the future of his area, what he wanted to do and how he might suggest such a direction to colleagues. I suspect that that will happen in other parts of Scotland, too.

On the basis that, with respect, you and I do not have complete knowledge of the matters involved, the important point is that the partnerships think through how they want to proceed and have a clear vision of where they want to go and how quickly they want to get there. I will be more than happy to encourage that process and to facilitate the move to model 3—to the full transport-service powers—if that is how the partnerships develop.

17:15

**The Convener:** Do you envisage the new partnerships, should they wish it, having powers

and responsibilities to promote and deliver on a regional basis major improvements to transport infrastructure?

**Tavish Scott:** I suspect that the answer is yes. However, as I said in answer to Sylvia Jackson, the new national transport agency will be important in supporting the partnerships. It will not be in any of the RTPs' interests, nor will they be big enough or, most important, have sufficient in-house experience, to procure such projects, but they will have Transport Scotland on which to call. Several other delivery mechanisms exist in Scotland for the procurement of large projects—the one that comes to mind in the Edinburgh and Lothians area is Transport Initiatives Edinburgh. I do not want to get into the issue that was raised earlier about the difference between strategic and regional projects. Enough bodies exist with expertise in large strategic capital projects, road schemes and passenger transport projects to assist RTPs in what they seek to do.

**Fergus Ewing:** I have a question on the appointment of the non-councillor members of the partnerships. In the appointment process, will the Executive seek individuals who can demonstrate experience of and expertise in transport issues rather than look for people who serve in an ex officio capacity in businesses or other organisations? Has the Executive reached a conclusion about the sort of people whom it will seek to serve alongside councillors on the RTPs?

**Tavish Scott:** That is an interesting question that we could discuss all night, dare I say it. I have a strong desire for the people who sit around the table to take off any other hats that they wear to think about transport in the regions. I will be as open minded as possible when I consider the lists that the shadow RTPs provide to me, as I want the partnerships to be about new thoughts and ideas. We need people who bring something to the table; otherwise, Janette Anderson's concern—that we will simply create bodies whose members sit around the table and talk—might be fair. It is important that we get the membership right. Ian Kernohan is more on top of the details than I am, but I am sure that we can share with the committee the guidance on membership that will be circulated to the RTPs. I give Mr Ewing and the committee an absolute assurance that I want to be open minded and to bring new thinking to the bodies. Perhaps Ian Kernohan can add something on the process.

**Ian Kernohan (Scottish Executive Enterprise, Transport and Lifelong Learning Department):** We have prepared draft guidance for local authorities, the existing regional transport partnerships, the new regional transport partnerships and people who might be members of the new RTPs. We would be happy to share the

draft, which is being discussed at official level, with the committee if it so wishes.

**The Convener:** That would be useful.

We now move to the debate on motion S2M-3510. The Parliament's procedures allow the debate to last no more than 90 minutes, but I am sure that we all expect to get through it in considerably less time.

**Tavish Scott:** I do not want to take up any more time than is necessary because we have already discussed the issues. I simply point out that the arrangements in the order represent the outcome of widespread consultation, genuine consensus working and a healthy dose of practical compromise. The order provides a sound footing for the RTPs to get on with the job of improving transport throughout Scotland.

I move,

That the Local Government and Transport Committee recommends that the Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005, be approved.

**The Convener:** I have supported the introduction of regional transport partnerships, and we will have to wait and see whether the partnerships lead to enhancements in Scotland's transport infrastructure. I hope that the RTPs will build on the past success of organisations such as SPT in the west of Scotland, and will ensure that all the regions of Scotland have substantial improvements in their transport infrastructure.

As the minister knows, I was originally sceptical about the proposal to have an additional single RTP for Shetland. However, I would not want to hold up the process of establishing RTPs just because I am concerned about that area. We should look into whether that RTP can make things better for the people of Shetland in the way that they believe it can. If it does, I will be pleasantly surprised and give credit where it is due. If it does not, we should be open-minded about whether the RTP should rejoin the Highland RTP. However, I will support the motion.

**Fergus Ewing:** I will support the motion but with some reservations. As the minister says, there is much more work to be done. Detailed discussions will be required with the shadow RTPs on a number of matters such as budgets, which are not as clear as I might have expected at this stage, although I appreciate that there have been many changes.

We do not really know how much it will cost each RTP to produce a regional transport strategy and I hope that that cost will be looked into closely in assessing the budgets. We are not quite clear whether RTPs will function as agents of the Scottish Executive and, because we do not know

what the RTPs' powers will be, we do not know whether they will be—to use a phrase that I have used from time to time—tigers with teeth or tabbies with dentures.

Looking on the positive side—as I always seek to do—I would say that RTPs offer an opportunity that I have always said we should grasp. We have argued that the model with strong powers is appropriate. I am encouraged by Charlie King's views. HITRANS has produced an excellent body of work and has a proven track record of delivering important local projects.

I do not wish to be churlish about the minister's pan-island proposal. I can quite understand why the proposal was made and I know that some people even on the Western Isles felt that the minister's idea was good—even if that was not the official view that emerged. There is a real risk that people on the islands will feel that decisions are taken elsewhere. There has also been a particular fear in relation to voting. HITRANS has worked on a non-voting basis and the islands have been comfortable with that. There is a fear that voting will leave people in a constant minority. We will now never know whether there are grounds for that fear. However, I welcome the proposal that has emerged.

I wish Shetland well. I am a soothmoother, and I point out that I do not confuse my estuaries with my firths.

**Tommy Sheridan:** I, too, will support the motion. I hope that a robust mechanism will be put in place for future reviews of how the RTPs are working, and I hope that the RTPs will draw heavily on what has worked in the past—in particular, the practices of Strathclyde Passenger Transport. SPT has been very effective for many years.

Another reason for supporting the motion is what the minister said about staff in his letter. When we talk about strategic proposals we sometimes forget that there are men and women behind them who have given many years of commitment, particularly to SPT. I will take the minister's commitments in the spirit in which he made them. I am sure that he will stick to the letter that he has given us and that he will ensure that there will be no diminution in wages, conditions or pension rights for any staff who transfer.

**The Convener:** Do you want to respond to any of the points, minister?

**Tavish Scott:** I have just two or three points to make. I agree with Mr Sheridan's point. If I put my commitment in writing, I expect him to hold me to it. I also give that commitment to the entire committee.

On Mr Ewing's points, I, too, am positive about HITRANS and what it has achieved, which is no mean achievement, given the disparate areas that are covered. I believe that HITRANS will continue to play a strong role in the future. On voting, it is important to recognise that there will be one member from each council, and they will have a weighted vote. Again, that arose through debate of how the arrangements in the north would work. In addition to that check, the transport minister of the day will have to approve any proposals. Let me be blunt: if there is a bun-fight over something, I rather suspect that Mr Ewing—or, indeed, any member from that area or whatever area—will be chapping at the minister's door saying, "For goodness' sake, sort this out." Therefore, there are a number of parliamentary checks in the system.

**The Convener:** If there is a bun-fight, Fergus will be in the middle of it.

**Tavish Scott:** Finally, convener, I take your point about the particular island group. If it does not deliver, I will be the first to knock on its door.

**The Convener:** Thank you for those final remarks, minister.

*Motion agreed to.*

That the Local Government and Transport Committee recommends that the Regional Transport Partnerships (Establishment, Constitution and Membership) (Scotland) Order 2005 be approved.

### **Transfer of Rail Functions to the Scottish Ministers Order 2005 (Draft)**

**The Convener:** The second instrument for consideration is the Transfer of Rail Functions to the Scottish Ministers Order 2005. I welcome to the meeting Executive officials Caroline Lyon, Bill Reeve and Ian Turner, who are here to support the minister, who has the opportunity to make introductory remarks about the order.

**Tavish Scott:** This is the final legislative stage of delivering our commitment in the 2004 white paper on transport to transfer the relevant rail powers of SPT to Scottish ministers. In late 2004, Parliament approved the Scotland Act 1998 section 30 order, which provided the required legislative competence. In January 2005, Parliament approved the passage of the Railways Act 2005 and, with it, the most extensive devolution of powers to Scottish ministers since the Parliament's creation in 1999.

Throughout 2004 and 2005, Parliament extensively debated and then passed the Transport (Scotland) Act 2005, which will bring a new approach to the delivery of transport infrastructure and services in Scotland. The 2005 act included the power to transfer by order powers from SPT to Scottish ministers.

I believe that we need to take a consistent approach to rail and that Scottish ministers should have strong powers over the railways in Scotland. That view was supported in the important and useful debate that we had in Parliament just last Thursday.

We already have significant new powers through the Railways Act 2005. The order is the right step to take to ensure further a coherent and consistent approach. We cannot afford to have a fragmented structure as we try to improve railways and their role in Scotland's integrated transport system. The order's main consequence will be that Scottish ministers will have direct responsibility for the ScotRail franchise and its delivery, which will be simpler and more effective than what is in place. When combined with our new powers and responsibilities for transport and rail strategies, rail infrastructure and major rail projects, the planning and delivery of rail services for the whole of Scotland will be brought together for the first time.

17:30

The lines of accountability, which are a subject that I know is of significant interest to members, are clear. First, ScotRail will be directly accountable to Transport Scotland, which will be directly accountable to the minister with responsibility for transport, who is, of course, directly accountable to Parliament. That is a level of clarity that has not existed before.

None of that is to say that we do not recognise the importance of rail to the west of Scotland. On the contrary, we have always been committed to SPT—and, in future, the west of Scotland regional transport partnership—having a role in the development, management and monitoring of rail services. The order provides that SPT can enter into agreements with Scottish ministers to enable it to have that role. We have been discussing such an agreement with SPT and, after discussions with the chairman of its authority and the director general of its executive last week, I believed that we had been able to reach agreement and that SPT would work to support and assist Scottish ministers in the monitoring and management of rail services, which would retain experience and expertise within SPT.

As I said last week, I wanted us to move forward together by building on the success of rail services across Scotland, particularly the growth in the use of rail services in the west of Scotland and, as I said earlier, I wanted to end the uncertainty for SPT staff, which is what I am asking the committee to help me to achieve today. However, despite the agreement at the meeting last week, it now seems that SPT feels that it cannot recommend signature to its authority. That is, at best, unfortunate; it is hugely frustrating and,

above all, it is unacceptable, simply because of the impact on staff.

If SPT does not sign, it will no longer be able to work on the management and monitoring of rail services. The staff who are involved in those functions will transfer. I reassure the committee that any staff who transfer will not be disadvantaged by the move. Through the transfer of staff to the Executive, we will retain their experience and expertise, which we need to do if we are to continue to improve rail services in Scotland. I have also made that clear in the letter that we discussed in the earlier session.

The committee will want to know why this state of affairs has arisen. SPT has lobbied hard for the retention of its statutory powers. However, as I have said—and as my predecessors have said before me—the new structure for the creation of strategy and the delivery of services in rail requires a consistent and strong lead. We have been clear and unambiguous in our statements to Parliament that a transfer of powers would take place. After all, rail passengers want to know that their trains will run on time and will be clean and affordable. That is a shared agenda for this Government and our transport partners.

The approval of this order by the Local Government and Transport Committee is an essential step that will enable the Executive to take a strategic approach to rail services across Scotland and to secure the best possible deal for rail passengers.

**The Convener:** You referred to discussions between you and the chair of SPT last week. It was reported in the media that there had been broad agreement on the outcomes of the meeting. Obviously, members of this committee have not had full sight of all of those outcomes. Will you explain to members what the broad agreements were? Is it possible to share those fully with us?

In the discussions that took place on the new west of Scotland RTP's role in monitoring the rail franchise in that part of Scotland, will you clarify that one of the commitments that was made was that any role that the RTP would play would run at least until the end of the current franchise?

**Tavish Scott:** It would be unfair of me to go through everything that was said at last week's meeting without the agreement of the other party, given that, although it was conducted in an appropriate and positive way, the meeting was between two parties of which I am only one. I can say that I thought that we had reached an agreement. In particular, the chairman of SPT sought assistance in providing staff with additional reassurance and, indeed, cover, not just for a short period but for the length of the franchise. I was more than happy to reach an agreement with

him on the matter and to move forward on that basis. That answers your second question. I thought that we had a clear agreement, about which I was genuinely pleased—not least because of the questions that were being asked earlier about the uncertainty for staff.

The new west of Scotland RTP will have a monitoring role for the period of the franchise. That is appropriate. There is a good balance to the responsibilities that we have placed on the RTP. It will have the necessary expertise and experience. It is important not only that we use that expertise and experience in the west of Scotland but that we use the west of Scotland RTP's good working knowledge to improve services throughout Scotland. Sylvia Jackson asked whether we could use best practice in one part of Scotland to help the rest of the country. That is precisely what I want to achieve.

**Mr Davidson:** Your predecessor, Nicol Stephen, stated to Parliament that he expected SPT to continue

“to have a direct role in the management and development of rail services in the west of Scotland”

and said that

“passengers in the west of Scotland can look forward to further development of SPT's powers and functions”.—  
[*Official Report*, 16 June 2004; c 9099.]

Can you confirm that? In November 2003, we were told that SPT would continue to manage, develop and monitor rail services in the area. However, last week SPT indicated that it perceived that there was a written threat that it would be removed altogether from rail operations. Is that a fact, or is SPT wrong?

**Tavish Scott:** I have said what the Transport (Scotland) Act 2005 says and what the legislative process is for ensuring that we have a unified system across Scotland. Powers relating to rail in Scotland are vested with Scottish ministers, who are accountable to the Parliament, but will be delivered through the transport agency. SPT's role is to continue to provide services. I am sure that Mr Davidson has been watching developments, so he will know that it always was and still is the case that after 1 April the new west of Scotland RTP will provide monitoring of, assistance to and development of our operations in relation to the franchise. It is important that we move forward in a constructive way. I want the west of Scotland RTP, like the other RTPs, to be at the heart of those matters after it formally takes up its responsibilities.

**Mr Davidson:** Do you agree that, given what your predecessor said—his comments are recorded in the *Official Report*—there has been a change to what the Parliament perceived would be

delivered when the Transport (Scotland) Bill was passed?

**Tavish Scott:** I do not accept that. Mr Davidson cannot have been listening to the debate that took place either in the committee or in the Parliament during the passage of the Transport (Scotland) Bill. The partnership agreement indicated that there was to be a unified structure. The Government's intention in the Transport (Scotland) Bill, which became the Transport (Scotland) Act 2005, was that that should happen, alongside the transfer of rail powers from London to Edinburgh. It can hardly be a secret that that was the case and that, as I indicated in my opening remarks, the process included the transfer of functions from SPT to Scottish ministers, who are accountable to the Parliament. That was made clear repeatedly. Mr Davidson should not start to suggest that there was any other policy intent behind the proposals or the process that has been gone through. If the Conservative position is to ensure that there is a fragmented system of rail delivery across Scotland, I disagree with it.

**Mr Davidson:** We have not yet reached the debate. You must be aware, because it is now fairly common knowledge, that there has been an opinion from senior counsel to SPT regarding its current situation. You referred to that opinion. Have you taken legal advice on that? If so, can you share it with us?

**Tavish Scott:** It is important that Mr Davidson should understand the difference between the order that is before him today and the agreement in relation to particular matters. The order was shared with SPT—a draft was provided to it on 2 September—and it provided comments on 6 and 8 September. On 9 September, we incorporated SPT's comments into the order that is before the committee today and, on 23 September, that order was laid. Only today was I told that SPT's legal advice is that it cannot sign the order.

I repeat: we provided the order to SPT on 2 September; SPT provided comments on 6 and 8 September; and on 9 September we incorporated SPT's comments. I assume that SPT took legal advice at that time, yet only today did it tell us in a fax that my office received this morning—on the day of the committee meeting—that it cannot sign the order on the advice of legal counsel. I find it difficult to understand how SPT could have agreed the draft order on 9 September—it was laid on 23 September—yet could tell me only today that it has received legal advice that it should not sign it.

**Mr Davidson:** I take it that you have not sought legal advice since you received that response this morning.

**Tavish Scott:** I have sought legal advice, but as Mr Davidson knows—and I do not wish to bore

him—we do not publish Government law officers' advice. One can always obtain legal advice. The important point is that there was any amount of opportunity between 9 September and 23 September, when the order was introduced, and even up to today for SPT to bring these issues back to us, but that did not happen.

**Mr Davidson:** I have a final question—

**The Convener:** No, I want to make progress.

**Fergus Ewing:** We are where we are. We have the e-mail about the advice. I have not seen the legal opinion, but its views have been summarised. Can the minister assure us that he is satisfied that what he proposes to do is not unlawful?

**Tavish Scott:** That is a fair question. I hope that the committee will approve the order for two reasons. First, it will end the uncertainty for staff involved in rail functions, who will transfer to the Scottish Executive. I repeat what I have said time and time again: I wanted an agreement between SPT and the Scottish Executive on its continuing its role. Today, we can end the uncertainty over the issue and ensure that the position of staff in relation to rail functions is secured. The situation with regard to the legal position will no doubt be on-going.

**Fergus Ewing:** I appreciate that it is difficult for you to answer the question having received only an extract from the legal opinion that was given to SPT. Is it correct that you have not received the whole of the legal opinion that SPT has received?

**Tavish Scott:** With respect, it does not matter to me what SPT's legal opinion says. It is quite entitled to gain its own legal opinion. My concern is the order. The order is legally competent—I should have given you that answer right at the start—and it will allow the appropriate staff to transfer to the Scottish Executive in respect of rail functions. That is what we have said all along. That will end the uncertainty and protect those workers' rights, which are an issue of concern.

**The Convener:** In case members were thinking about this, I clarify that there is no opportunity for the committee to delay consideration of the order. We need to publish a report by 21 November to meet the 40-day deadline for Parliament's consideration of the order on 24 November.

17:45

**Fergus Ewing:** I am grateful for that clarification. I was going to query the position, so you anticipated my question.

I appreciate the distinction between approving the order and the legal questions, which I understand relate to whether, after the order is

approved, the Scottish ministers have legal competence to enter into an agreement with SPT. I understand that that is where the legal doubt arises. The minister referred to the need to remove uncertainty for staff, which I entirely accept is desirable and should be achieved. However, I feel slightly uneasy that SPTE has not had and—according to what the convener said—will not have the opportunity to put its side of the case, because we always want to listen to the other side in any debate. I am also aware that senior counsel do not always provide opinions swiftly, so the advice might only have been received recently—we do not know and I certainly do not know.

In the light of the minister's assurance that what we are being asked to do is legal and necessary, I intend to support the order. However, I hope that, thereafter, the difficulty that has been identified will be dealt with in a direct response to SPTE—difficulties can often be cast to one side—and that an agreement will be reached about the best way ahead.

**Tavish Scott:** I cannot say much in response to Mr Ewing. However, I assure him that I do not seek out fights in life. I am interested in finding solutions, which I genuinely thought we had last week. I say with the greatest respect to Mr Ewing's professional background that sometimes lawyers get in the way of, rather than facilitate, these things. I will pay a lot of money to lawyers who help me to sort things—full stop.

**Fergus Ewing:** That is an offer that I must refuse.

**The Convener:** That brings us to the end of questioning, so we will proceed to the debate. I ask the minister to move the motion. Given that we have had an extensive discussion, he need not reiterate the issues.

*Motion moved,*

That the Local Government and Transport Committee recommends that the draft Transfer of Rail Functions to the Scottish Ministers Order 2005 be approved.—[*Tavish Scott.*]

**Mr Davidson:** I am sorry, minister, but having listened to your answers, I intend to oppose the motion. I will do that not merely because I oppose the transfer of SPT's rail powers to ministers, but because I believe that the Executive—whether on purpose or not—misled the Parliament on SPT's future in the stage 3 debate on the Transport (Scotland) Bill. I agree that it would help if SPT were here to give its view and to back up the allegations that its local council has made, but it has not been able to appear. On that basis, I simply say that I will not support the motion.

**The Convener:** For clarity, I draw to the committee's attention the fact that this draft of the

order was laid before Parliament on 30 September and is close to the end of its 40-day period. I understand that an affirmative resolution on the order is due to be considered in a meeting of the Parliament next week. The order has been in the public domain for quite some time. The minister has given his assurances about the legality of the order. It would have helped to make any challenges far earlier in the process.

We need to make progress on the matter. Another issue that we missed in the discussion is the fact that the transfer of rail functions to the Scottish ministers, of which the order is part, is extensive. It is the biggest transfer of power to the Scottish ministers since devolution. In the overall scheme of things, in years to come, the devolution settlement will benefit considerably from the additional powers that the Parliament will have. I intend to support the motion in the minister's name.

Does the minister wish to respond to any points?

**Tavish Scott:** I do not accept that Parliament has not known in any way that the order was coming. I apologise to the committee, but I can only repeat what I said at the start. The order represents the last legislative stage of delivering the commitment that we gave in the 2004 white paper to transfer the relevant rail powers of SPT to the Scottish ministers. In late 2004, Parliament approved—I presumed that the committee had oversight of it—the order under section 30 of the Scotland Act 1998 that provided the legislative competence. Throughout 2004 and this year, Parliament has extensively debated and passed what became the Transport (Scotland) Act 2005. There can be no doubt whatever about the policy intent, which flows from the partnership agreement. I defy anyone to argue that the policy intent and thus the procedures and appropriate mechanisms that we would follow to achieve it were not absolutely clear.

**The Convener:** The question is, that motion S2M-3442, in the name of the minister, be agreed to. Are we agreed?

**Members:** No.

**The Convener:** There will be a division.

#### FOR

Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Sheridan, Tommy (Glasgow) (SSP)

#### AGAINST

Davidson, Mr David (North East Scotland) (Con)

**The Convener:** The result of the division is: For 6, Against 1, Abstentions 0.

#### *Motion agreed to.*

That the Local Government and Transport Committee recommends that the draft Transfer of Rail Functions to the Scottish Ministers Order 2005 be approved.

**The Convener:** Our decision will be confirmed in the report that we will submit to Parliament before the debate next week.

That brings us to the end of the agenda items in public. I thank for their attendance the minister, his officials and members of the public or press who have been present for our proceedings.

**Fergus Ewing:** Before we go into private session, I belatedly offer Bruce Crawford's apologies. I think that he could not attend the meeting because he had to attend an appointment this afternoon. I, too, offer apologies. I have another meeting that I must attend now, so I cannot stay for the rest of this meeting. However, I support the budget paper.

**The Convener:** That will be recorded.

17:51

*Meeting continued in private until 17:58.*



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