

# **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

Tuesday 13 February 2007

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2007.

Applications for reproduction should be made in writing to the Licensing Division,  
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ  
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate  
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR  
Donnelley.

---

# CONTENTS

**Tuesday 13 February 2007**

**Col.**

<b>SUBORDINATE LEGISLATION</b> .....	4557
Non-Domestic Rate (Scotland) Order 2007 (SSI 2007/2) .....	4557
<b>PETITIONS</b> .....	4573
Common Good Assets (PE875) .....	4573
Listed Buildings (Consultation on Disposal) (PE896) .....	4573
Common Good Land (PE961) .....	4573

---

## **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

### **4<sup>th</sup> Meeting 2007, Session 2**

#### **CONVENER**

\*Bristow Muldoon (Livingston) (Lab)

#### **DEPUTY CONVENER**

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

#### **COMMITTEE MEMBERS**

\*Dr Sylvia Jackson (Stirling) (Lab)

\*Paul Martin (Glasgow Springburn) (Lab)

\*David McLetchie (Edinburgh Pentlands) (Con)

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

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

\*Tommy Sheridan (Glasgow) (Sol)

Ms Maureen Watt (North East Scotland) (SNP)

#### **COMMITTEE SUBSTITUTES**

Ms Rosemary Byrne (South of Scotland) (Sol)

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 ALSO ATTENDED:**

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

Mr Brian Monteith (Mid Scotland and Fife) (Ind)

#### **CLERK TO THE COMMITTEE**

Martin Verity

#### **SENIOR ASSISTANT CLERK**

Alastair Macfie

#### **ASSISTANT CLERK**

Rebecca Lamb

#### **LOCATION**

Committee Room 1



## Scottish Parliament

### Local Government and Transport Committee

*Tuesday 13 February 2007*

[THE CONVENER *opened the meeting at 14:01*]

### Subordinate Legislation

#### Non-Domestic Rate (Scotland) Order 2007 (SSI 2007/2)

**The Convener (Bristow Muldoon):** Good afternoon. I welcome members to today's meeting of the Local Government and Transport Committee. Mike Rumbles and Maureen Watt have intimated their apologies. John Farquhar Munro is here as substitute for Mike Rumbles.

For agenda item 1, I welcome Brian Monteith MSP, who is here to speak to the motion in his name. I also welcome George Lyon MSP, Deputy Minister for Finance, Public Service Reform and Parliamentary Business, who will participate in the debate. The minister is accompanied by two officials: Laura Sexton, who is a senior policy adviser on non-domestic rates; and Colin Gilchrist, who is a solicitor in the office of the solicitor to the Scottish Executive.

Mr Monteith has lodged motion S2M-5541, which proposes that the Local Government and Transport Committee recommend that nothing further be done under the Non-Domestic Rate (Scotland) Order 2007. Before we proceed to the debate on the motion, members will have the opportunity to ask technical questions of the minister and his officials. I will allow the minister to make initial remarks on the order and then invite members to ask only technical questions. There will be plenty of time to raise political issues once we move into the formal debate on the motion.

**The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon):** Briefly, the Non-Domestic Rate (Scotland) Order 2007 sets the rate poundage for non-domestic rates in Scotland for the financial year 2007-08. The order prescribes a rate of 44.1p per pound for 2007-08—down from 44.9p in 2006-07—as the non-domestic rate to be levied throughout Scotland.

The poundage has been set in accordance with our policy of fully equalising the Scottish poundage with that of England by 1 April 2007. In April 2006, we halved the gap between Scotland and England. We intend to completely remove that gap

from April 2007 by setting the same poundage as in England. The order will fulfil that commitment.

The new rate for Scotland represents a decrease of 0.8p from 2006-07. The order will mean that the average non-domestic subject in Scotland will pay around £800 less in 2007-08—a reduction of around 9 per cent—as a result of our policy of equalising the poundage with England.

I trust that that explains the purpose of the order and the reason for the poundage that we have set. My officials and I will be happy to answer questions.

**The Convener:** There are no questions for the minister, so we will move straight to the debate. I invite Brian Monteith to speak to and move motion S2M-5541. After that, we will move into open debate.

**Mr Brian Monteith (Mid Scotland and Fife) (Ind):** I welcome the opportunity to have the minister appear before the committee to debate non-domestic rates not just with committee members, but with other MSPs. My intention is to welcome the cut in non-domestic rates, which is important. Naturally, I say that it is overdue, but I do not want to prevent the cut from going ahead—the sole purpose of my lodging the motion of annulment was to make available to me and to other members who wish to take it up the opportunity to quiz the minister. Although I will move the motion for the sake of procedural niceties, so that we can have the debate, I do not intend that the debate should go to a vote, unless other members wish it to.

My purpose today is to hear the minister elaborate on this non-domestic rate cut and on why it goes no further. Based on the logic of the arguments that the minister, on behalf of the Executive, has put forward in favour of the cut, one would anticipate further cuts in the future. Notwithstanding the facts that there are elections to come and that the Executive is committed to Government programmes that are a number of years down the road, in my view it could have been announced that cutting of non-domestic rates would be an on-going process.

In his ministerial statement of 13 December last year, Tom McCabe said:

“Growing the economy is, rightly, our number 1 priority, and we are committed to ensuring that Scotland is populated by successful businesses that drive the kind of economic growth that will assist us in closing not only the all-important opportunity gap but that substantial fiscal gap that others try so hard to deny.”

He argued that cutting non-domestic rates so that the rate poundage is the same as that in England

“will provide them with an all-important competitive edge.”

The theme of giving Scottish businesses or businesses located in Scotland a competitive edge ran throughout the minister's statement and his answers to questions. He said:

"I want to assure the chamber and the business community in Scotland that we will continue our search to see what more we can do to support business, especially small business."—[*Official Report*, 13 December 2006; c 30276.]

My answer, if the minister wishes to look up the Brian Monteith manifesto, is that we should support business by extending further this year's cut to non-domestic rates—obviously, that will not happen—or, at least, that the Executive should commit itself to revisiting the issue and to cutting non-domestic rates in future years. Indeed, in response to questions on his statement, the minister said that he was

"determined to give Scottish businesses a competitive edge"

and that

"we can enthuse business, grow the economy and bring more people into economic activity. That is the core of the Executive's being."—[*Official Report*, 13 December 2006; c 30279.]

One cannot be more profound, fundamental or secure in what one believes the Executive's core being to be than to express it in the chamber as Mr McCabe did.

I put it to the minister, the committee and to those who are listening or watching that, if the minister's words had meant anything, the policy would be further cuts to non-domestic rates. There is no need to search, to have reports and inquiries, or to look under bushels—the minister has already made the argument that cutting the poundage will give Scottish business a competitive edge. I suggest that the cut could have been larger and that it should be continued in future years. Why do I suggest that? I am conscious that we have had this debate on several occasions in past years, but I reiterate that there is among academics a body of opinion that is backed up by research, that reduced business taxation can accelerate economic growth.

In no way do I denigrate the good work of Scottish businesses, be they corporate businesses or self-employed people, in driving the economy. In many respects, the economy is doing pretty well. The minister might throw at us information about benchmarks, targets and outcomes in arguing that we are doing pretty well, but I do not want to get into a debate about that because I am willing to accept that we are doing pretty well. I am talking about an opportunity cost, in the sense that we could do even better were we to give Scottish business a competitive advantage. The Scottish National Party estimates that we could have about £8 billion more economic activity. That may or may

not be right, but I have no doubt from the evidence that I have read and studied that the economy would be larger if we gave Scottish business that competitive edge.

There are several areas for which a reduction in the business rate is particularly necessary because of the nature of the tax. As we all know, it is a charge rather than a tax, in as much as it goes on a business's bottom line, irrespective of whether the business makes a profit. The business rate is a charge on the value of the property from which businesses operate. It is no wonder that people are loth to criticise the small businesses that are the heart and soul of our high streets when they go out of business, and that the finger is often pointed at the supermarkets. However, if one visits high streets, we often find that local small businesses, some of which do not have the privilege of the discounts that other small businesses receive, compete directly against what are in fact retail chains, although they are known to us as charity shops. Charities attract rate relief of 80 per cent, if the local authority has granted that. The local small businesses, even those that sell more or less the same type of retail goods as charity shops sell, do not compete on a level playing field; instead, they compete against businesses that receive a significant discount in the business rate.

The rate reduction issue goes further and applies not only in the high street, where charities compete against local shops, but in other areas. I will give an example from the centre of Edinburgh. If we add up the rateable values of the Traverse Theatre, the Royal Lyceum Theatre, the Edinburgh Festival Theatre and the King's Theatre, which are the civic theatres of Edinburgh, the total bill is still less than the rates bill that the Edinburgh Playhouse receives because of the discount to which they are entitled as a result of being deemed charitable enterprises. However, all those theatres operate in broadly the same market.

I am trying to point out perceived injustices in the nature of non-domestic rates that would at least be minimised by reducing those rates. My point is not that I want the reductions that the civic theatres enjoy to be removed, but that theatres that pay 100 per cent of the rateable value should be given greater benefit by having their rate poundage reduced. Of course, if we reduced the rate poundage, those businesses would be the greater beneficiaries, because they pay 100 per cent rather than 20 per cent of the rateable value. Those are examples of how the business rate system of collecting tax or charging businesses is more inimical to business than are other forms of tax that businesses face, such as corporation tax, which is based on the profit that businesses make

and is not just a flat charge based on property values.

14:15

The business rate relates to how we grow the economy. It is often said that we should cut business taxes. To members who are attracted to that, and who have argued at committee in the past that that should be the preferred route, I say simply that that option is open neither to the committee nor to Parliament.

If we are to take the minister at his word—which was that he wants to give Scottish business a competitive advantage—and if we are to say that that is the core of our belief, we should not wait until we have those powers. We should instead look to using Parliament's existing powers at every opportunity. Instead of saying that we should have more powers, we should set an example to the businesses that wonder what we are doing with the powers that we have at present. By going further in trying to help businesses, we would show what we can do with those powers.

I have covered the majority of the points that I wanted to make. After the debate, I may wish to pick up on other points in my summing up. Fundamentally, my interest was in hearing from the minister why the order is such a good thing. Having done so, I am buying into the idea—he has sold it to me—but why stop at this? Why will the minister not go further?

I move,

That the Local Government and Transport Committee recommends that nothing further be done under the Non-Domestic Rate (Scotland) Order 2007 (SSI2007/2).

**The Convener:** Thank you, Mr Monteith. I invite the minister to respond to the points that Mr Monteith made, after which I will open up the meeting to general debate, at the end of which I will bring the minister and Mr Monteith back in.

**George Lyon:** I am pleased to respond to the concerns that Mr Monteith has raised. I recognise that Brian Monteith welcomes the direction of travel; indeed, given the lonely furrow that he has ploughed on the subject in committee over a number of years, he should take some comfort from the fact that the Executive has travelled in the direction of his long-argued view that we should move towards a lower business rate in Scotland.

Mr Monteith asked whether the cut could not have been greater. The Executive considered and discussed the matter. However, our promise, as set out by the First Minister some two years ago, was that we would equalise the business rate with that of England. The decision was taken that that was the target for which we should aim. Indeed, that is what the order that the committee is

considering today will deliver for the business rate poundage.

Clearly, it is not for me to forecast what the next Administration will do or what its direction of travel will be. From some of the public pronouncements that we have heard, I have no doubt that Mr Monteith will take comfort from the direction of travel that has been signalled by those who hope to have some influence in the next Administration.

As I said, I cannot sit here and commit the future Administration to a direction of travel. I welcome the cautious welcome that Mr Monteith has given to the direction of travel that the Executive has achieved over the past two years.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I recall that the first political speech I made, which was in Dunoon in 1985, was on business rates. Members will find this hard to imagine, but that speech was truly dreadful, although not because of the message. I said that it was surely wrong for businesses in Scotland to pay higher business rates than those in England. It was wrong that Scottish businesses, particularly small businesses, had to pay a high burden for operating in Scotland. It took a long campaign to level the playing field. It was eventually achieved in 1995, after 16 years of Conservative rule, during which business rates in Scotland were higher than those in England.

The change was testament to the campaigning efforts of people such as Craig Campbell of the Scottish Council for Development and Industry, Bill Mann of WM Mann & Co (Investments) Ltd, and the late and much-missed Bill Anderson of the Federation of Small Businesses. They articulated their case across parties in a non-party-political way and they eventually succeeded, although things often take much longer than one would wish in politics. Gil Paterson, too, campaigned on the issue. Through me, he raised a case under the European convention on human rights that Scotland was being discriminated against. That case was held to be inadmissible because Scotland is not a nation in its own right, so it is pleasing that the matter is being dealt with today.

The backdrop is that the gap between Scotland and England that the order will reduce was created by the First Minister when he was the Minister for Finance. The first thing he did when he was Minister for Finance—after not looking carefully at the Holyrood books—was decouple the rate in Scotland from that in England. We have had a higher business rate for each of the eight years of Labour-Liberal rule. We have had that higher tax, so the Executive's record is that for each of the eight financial years in which it has had financial stewardship of the Scottish budget, it has set a higher business rate than that in

England. Only at the commencement of the next financial year will that end.

When the then Minister for Finance, Mr McConnell, announced in 1999 that he would set a higher tax than that in England, I christened it "Jack's tax", because I felt that it was only fair to give credit where it was due. I am pleased, however, that the Executive's new policy is to end the gap that the First Minister created. In that respect, the order is not so much a piece of law as it is a confession of guilt, but I am happy to accept it.

We can go further, particularly for small businesses. The small business discount scheme should be extended radically to help small businesses cope without the burden that business rates pose. As has been said, business rates do not relate to the ability to pay—they are a fixed cost that must be paid irrespective of how the business performs.

The Scottish National Party has campaigned against Jack's tax since Mr McConnell introduced it in 1999. I am pleased that the First Minister now admits that his policy was folly, that it was wrong and that it should be scrapped, as it will be if the order comes into force.

**David McLetchie (Edinburgh Pentlands)**  
(Con): I begin by apologising to the committee and to Mr Monteith for arriving a little late and for missing the first few minutes of Mr Monteith's erudite address. I am sure that they were as good as the subsequent minutes were, which we all listened to and enjoyed and which were spoken in his usual entertaining manner.

I welcome the order and will support it. Fergus Ewing is right to draw attention to its antecedents and to how the disparity arose, although some rewriting of history has occurred on the Scottish National Party's role, because the policy was first advocated by the Conservative party in Parliament then adopted by the Scottish National Party. Belatedly, the Scottish Executive adopted the policy of parity.

It is fair to point out that, in the intervening seven financial years, Scottish businesses have paid more than £1 billion more in business rates than they would have if parity had existed from the outset. That context of the order should be considered and we should reflect on the fact that we have taken a long road round all the houses before returning to where we started. The starting point was a uniform business rate throughout the United Kingdom, which the previous Conservative Government established following abolition of the power that local authorities had to set business rates. When that power existed, no uniform business rate existed even throughout Scotland. Having established the principle of a uniform

business rate—which every other party opposed at that time—the Conservatives then established the principle of a uniform United Kingdom business rate. I am delighted that, at long last, after seven years and the cul-de-sac of Mr McConnell's tenure as the Minister for Finance, Scotland will revert to the situation that existed in 1997. We will have a uniform United Kingdom business rate: let it always be so.

I will take up a couple of other points that Mr Monteith made. He highlighted well the concerns that relate to the competition that charity shops provide against small businesses in suburban shopping centres and small towns. The issue is how we address that without penalising legitimate charitable enterprise and fundraising and without having an impact on the voluntary effort of people who support charity shops. An enhanced scheme of support for small businesses, which several parties have discussed and which might be introduced after the election, might provide a desirable way to redress the imbalance without adversely affecting the charitable sector.

Mr Monteith was right to ask what is the logic of having just parity and why we do not go further if the justification is that we will give Scotland a competitive edge. Logically, his point is right: if we want Scotland to have a small competitive edge, why should we not want it to have a large competitive edge? However, I probably differ from him because I think that such propositions must be considered in the round. We have been told that the present Executive could not cut business rates because they did not need to be cut—the Executive said that the rates burden was the same and it maintained that line for four or five years—and because we could not afford to do so without creating a financial disaster zone for public services. That has been shown to be nonsense, as we maintained it was all along, and business rates have been cut in the past couple of years.

The answer to Mr Monteith's question why we do not go further is that budgets must be considered in the balance. Parliament has limited taxation responsibility. Apart from business rates, the main and most keenly felt tax for which we are ultimately responsible is the council tax, as it impacts on our citizens. We have done our bit to return to where we started with the Conservatives through the business rate cut—10 years late—so if more is in the kitty from all the millions of efficiency savings that Mr Lyon and his boss keep telling us the Executive has found, it might be appropriate to use some of the additional revenues to cut significantly the council tax burden. I suggest that that is the answer to Mr Monteith's question but, like him, I will support the order and I welcome the fact that we have at long last got back to the future and back to where we started.



**Tommy Sheridan (Glasgow) (Sol):** I understand why David McLetchie, when discussing business rates on the Conservatives' behalf, does not mention local democracy and the inherent right of local authorities to set business rates in their areas. The Conservatives have never been big proponents of local democracy, as their period in office proved clearly. I understand why he does not support the expression of democracy via returning to local authorities the power to set non-domestic rates.

However, I do not understand why Fergus Ewing did not mention that on the SNP's behalf. I had understood that the SNP champions democracy at a local authority level. I would have thought that part of that is the right of local authorities to set business rates as they used to and as they should be able to. It would be interesting to hear whether any Labour member is willing to champion the cause of local authorities and to echo the calls of the Convention of Scottish Local Authorities on behalf of local authorities, and those of Unison on behalf of local authority workers, which back the return to local authorities of the power to set non-domestic rates.

14:30

It will be even more interesting to hear the minister's comments, because the Liberal Democrats have long been the apparent champions of local democracy and of the return of the setting of business rates to local authorities. I hope that Mr Lyon will be able to tell us his party's position and his ministerial position, given that ministerial and party responsibilities are often separated in debates in Parliament and in committees. In that context, I pay due regard to the consistency of John Farquhar Munro's approach, because he signed my proposal for a bill on the setting and retention of non-domestic rates, which would return setting of non-domestic rates to local authority control, in line with the approach that his party has always championed. I will be interested to find out whether Mr Lyon has John Farquhar Munro's courage.

**Dr Sylvia Jackson (Stirling) (Lab):** I welcome the order—at least two people are enthusiastic about it. Although the minister did not mention this, it is a question of affordability. It is obvious that the Executive thinks that its approach is affordable.

Bill Anderson, whose work Fergus Ewing mentioned, did much service for small businesses on behalf of the Forum of Private Business. During our discussions, concerns were expressed from which emerged the small business rate relief scheme. The commitment of Bill Anderson and others to small businesses should be on the record.

Tommy Sheridan said that non-domestic rates should be locally determined. There is no doubt about the difficulty of making equitable arrangements across local authority areas, so there is not much more to be said on that. I support the order.

**The Convener:** I am intrigued that Mr Monteith does not intend to press his motion. I would have thought that the logical approach would be for him to set out clearly what he thinks the appropriate level of the rate should be and to press the motion to a vote in the hope that the Executive's order would be defeated and the Executive might return with an order that met his aspirations. Mr Monteith had an opportunity to press the Executive and to seek support from members of the committee who might want to go further than the Executive, which is equalising the poundage.

My comments also apply to Fergus Ewing. If he aspires to go further than the Executive, he could have joined Mr Monteith in pressing the motion, to put pressure on the Executive to produce an alternative proposal.

We have discussed the equalisation of the poundage. The Executive has previously made the point that rateable values are generally lower in Scotland than they are elsewhere in the United Kingdom and that what matters to businesses is what they actually pay. People must accept that—if they did not, they would not regard the equalisation of the poundage as giving Scottish businesses an advantage. Opposition members who have suggested that Scottish businesses were disadvantaged by previously high levels can hardly now claim that businesses are at a competitive advantage because the poundage is the same as it is in England. It seems that they have accepted the argument that lower rateable values in Scotland give businesses a competitive advantage.

The broader issue to do with why taxation and spend must be considered carefully is that there is not a straightforward equation whereby businesses contribute and other people in society gain through public spending. Businesses gain from public spending too, because it provides Scotland with a well-funded infrastructure and a well-educated and talented workforce. Businesses are also directly supported through organisations such as Scottish Enterprise. We must consider carefully whether reductions in any forms of taxation will result in disbenefits not only to society in general, but to businesses. It cannot simply be said that any further cut in business taxation would automatically benefit business. There would, for example, be a significant disbenefit to businesses if a further cut meant that a future Scottish Executive found it more difficult to find resources to fund a new Forth crossing. Many people do not

want money for a new Forth crossing to be found from tolls; it now seems that some members do not want the required money to be found from any form of taxation. The Executive's ability to deliver a bridge could therefore be compromised.

Mr Ewing commented on the aspiration to go further in cutting business taxes. I counter what he said by referring to recent reports and to Professor Midwinter's comments last week on the fiscal deficit that the Scottish National Party would have to face up to if its aspiration to have a separate Scotland were ever realised. A separate Scotland would not have the luxury of being able to consider whether to reduce business rates further; it would face the serious problem of having to raise taxation significantly in order to bridge the spending gap—or drastically cut public services. Small businesses should take the promises from Mr Ewing and his party with a pinch of salt.

Mr McLetchie said that the previous Conservative Government introduced the uniform business rate. It is fair to point out that the uniform business rate was introduced in the dying days of that Government and that there was no uniform business rate for the vast majority of the period in which the Conservatives were in government. Local authorities set business rates, so they varied significantly throughout the country—even in Scotland.

On what Tommy Sheridan said, of course there is a legitimate debate to be had on the local determination of non-domestic rates, but the case for the local determination of non-domestic rates has not been made. Local authorities such as Glasgow City Council often make the case that they would gain if they could set non-domestic rates locally, but any gains that individual local authorities would make through receiving more revenue from non-domestic rates would almost certainly be cancelled out by balancing adjustments that would be made to central Government support to them. The money that a local authority receives is assessed on the basis of the services that that authority needs to provide. An individual local authority's need to provide a range of services will not depend on whether it determines its non-domestic rates, so I do not think it is likely that any local authority would be a significant gainer as a result of doing so. If local authorities would not gain from determining their non-domestic rates, I do not know what case can be made for making such a change.

I look forward to Mr Monteith explaining why he has not come forward more boldly with his own tax-cutting agenda. He often criticises his former colleagues in the Conservative party for not being bold enough on such issues. I do not know why he has been so timid.

**George Lyon:** The debate has turned into a political hustings rather than a committee discussion about the merits or otherwise of the Non-domestic Rate (Scotland) Order 2007, but I will do my best to respond to the points that have been made.

When there was a debate in the Executive on whether we should go further in cutting this year's business rate, the Confederation of British Industry argued strongly against such a move, which was interesting. I wonder whether businesses throughout Scotland support the position it took.

The key issue, which Bristow Muldoon and other members have raised, is that rateable values in Scotland have always been lower than those elsewhere in the UK. The argument that Scottish businesses have paid over the odds for several years is therefore misleading. Indeed, if Scottish businesses had had the same average rateable values as those in England and the English poundage rate had applied, they would have paid around an additional £1 billion more in rates between 2000-01 and 2006-07. It can be argued that Scottish businesses have enjoyed a competitive advantage because of the lower rateable value here and, indeed, that they will enjoy a much greater competitive advantage as a result of our moves to equalise the rate poundage.

One of the key factors that will help to determine our future prosperity is the success of our economy. I believe that the lowering of the rate poundage will help to strengthen that priority. Rightly, growing the economy is our number 1 objective. We are committed to ensuring that Scotland is populated by successful businesses that drive the kind of economic growth that will assist us to close not only the opportunity gap but the substantial fiscal gap that others try so hard to deny. We are helping businesses in a variety of ways—for example, through business improvement districts and the small business rates relief scheme, which has benefited 70 per cent of businesses in Scotland.

Businesses have told us that the business rates that they pay can impact on their profitability and have argued for a level playing field with their competitors south of the border. We have listened, we have acted and today we are delivering on our promise. On 1 April 2006 we halved the gap between the Scottish and English poundages. We are now going further, and removing the gap completely from 1 April 2007. The poundage that the order sets fulfils our pledge and meets the expectations of small businesses in Scotland. The average rates bill per subject in Scotland is already £1,317 lower than the average rates bill per subject in England in 2006-07, as a result of lower rateable values. As I said earlier, Scottish businesses already enjoy a competitive

advantage. The lowering of the poundage will deliver a further advantage to them.

I do not want to say much more. From Mr Monteith's earlier comments, I understand that he will not press his motion. I hope that the committee will support the Executive proposal to equalise the rate poundage in Scotland with that in England.

**Tommy Sheridan:** The minister has not answered my question.

**George Lyon:** I apologise to Mr Sheridan. The Liberals have never been in favour of returning decisions on this matter to local government.

**Mr Monteith:** I have listened intently to the debate, which has served the purpose that I intended—to elicit from committee members their personal and party views on the issue and, in particular, the view of the minister, George Lyon, on the Executive's policy. I remain unconvinced by the minister's arguments and do not believe that he has explained the logic of limiting to a sole cut a policy that is predicated on providing Scottish business with a competitive edge.

Members and the minister touched on what a competitive advantage is. In this instance it derives from the rateable value of the property, not from the poundage the Executive sets. By allowing the poundage to be the same as that in England, which is set relative to the inflation rate and to no other concern, we are giving our businesses an advantage simply because their properties are worth less and are valued at a lower level. If the Scottish economy grows, as I like to think it will, and if it grows faster, in relative terms, than that of the rest of the UK, our competitive advantage will evaporate, because the poundages are equal: property values will begin to climb, rateable values will reflect that and the competitive advantage will be eroded.

We all want our economy to grow, and to grow relative to that of the rest of the UK. We can achieve that and guard against erosion of our competitive advantage by reducing the poundage further. The real competitive advantage can be gained by considering not only the value of the property but the value of the poundage—the charge itself—because those two components deliver the competitive advantage. It is not possible to find the advantage in the poundage alone, which is why I argue for the cut.

14:45

I will respond to a number of points that members have made. These days, I am not particularly interested in scoring party-political points, but we have heard often enough that there was no uniform business rate because the Conservatives did not tackle it. That is not the real

reason. There were enough people who thought that it should be tackled—not only in the Conservative party, but in others. The real reason it was not tackled was the body of opinion that said that business rates should be set by local government. That meant that there was no uniformity across Scotland, never mind across the border with England. The business rate was set nationally, on the way to achieving a uniform business rate with England and to guard against the rapaciousness, as one must describe it, of many local authorities that viewed businesses as cash cows because there was no democratic accountability for the charges they were asked to pay. That is why the uniform business rate came about.

Mr Sheridan talks about local accountability, but there will be no accountability for businesses if the business rate is given back into local authority control. I am quite happy to defend the Tory party's record on local democracy. It created 32 stronger local councils that could be more accountable than the smaller number—it was less than half—of regional councils. We do not have to worry about records, because the record speaks for itself.

**Tommy Sheridan:** You are good.

**Mr Monteith:** I thought you would like that.

**Tommy Sheridan:** You should be on the stage, mate.

**Mr Monteith:** I thank David McLetchie for his broad support for what I have been arguing for. I have covered parity, but he mentioned the affordability of making changes, as did Sylvia Jackson. One must take proposed changes in the context of all the other taxes and spending. David McLetchie mentioned the council tax. As a tax cutter, I support cutting other taxes, but I point out that total Executive spending is £30 billion or so and that the £1.9 billion revenue from non-domestic rates can be reduced further without serious impact—without any real impact—on service delivery.

Notwithstanding the efficiency gains about which we hear from the Executive—which are always ploughed back into greater spending rather than reductions in taxation—non-domestic rates have raised more money than expected. I will add another factor into the pot: some 10 per cent—possibly 12 per cent—of the business rates that are paid are paid by local authorities and other public bodies that are given the money to pay the rates by the Executive. There is a circular process whereby nearly £200 million of the £1.9 billion is the Government paying itself.

The idea that affordability is a hurdle can be ruled out. We could go further if we wanted a greater competitive edge. The convener asked

why I am not being bold and going further, although I am accusing the Executive of not being bold. Perhaps I have learned from previous discussions, at which I pushed the issue to a vote. Members will recall that, last year, when I wanted to push it to a vote, most of the discussion at the outset was about whether my proposal would mean sending out further letters and what expense it would be to recall the previous notice. I did not want to focus on the mendacity of the practicality of changing the rate; I wanted to focus on the sole logic of the minister's argument, not go into whether we would change the rate.

I do not have a vote because I am not a member of the committee and we know what would happen if I pressed the issue to a vote. Last time, only David McLetchie was willing to support me and this time I thought that focusing on a further cut in the rate would be a distraction. If I were to suggest to the minister that he should cut the rate by a further 12.5 or 15 per cent—which I would prefer and which is eminently affordable and would not cause any problems to services—the focus would not be on the minister's logic, which I think is faulty, but on what I was offering. That is not what I am offering and, because I did not propose such a cut at the beginning, I mention it only now at the end. Because of that, we have not had a debate about it, so I think I chose the right course of action to focus the debate on the minister's logic.

Such a cut could be afforded not only according to housekeeping economics but according to Laffer curve economics. Even people such as—God bless her soul—Margaret Thatcher, the late departed Ronald Reagan, Kennedy and Roosevelt used tax cuts to grow the economy, to have greater revenue and therefore to afford the public spending that many of us around the table advocate. A further cut in business rates would not be the problem that has been claimed. A further cut can be afforded and it would help to give Scottish business a competitive edge and grow our economy. If those things are at the core of the Executive's being, it should not stop now.

Either those words meant something or they meant nothing. There is no need for me to press the matter to a vote. The minister told us that the Executive discussed the matter before the decision was made. That is quite a revelation in itself. We can all make up our minds. Debates on motions to annul serve a useful purpose. I thank the minister for coming along and the committee for making him available. Thank you.

**The Convener:** Mr Monteith does not wish to press the motion to a vote. Does any member of the committee wish to do so?

**Members:** No.

**The Convener:** In that case, the motion is withdrawn. As the order is subject to the negative procedure, there is no need for us to vote on it. I ask members to confirm that we agree on the contents of our report on the order, which will be the discussion that we have just had. We have nothing to report beyond that. Is that agreed?

**Members** *indicated agreement.*

**The Convener:** I thank the minister and his officials, and I thank Mr Monteith for stimulating a debate on the issue.

## Petitions

### Common Good Assets (PE875)

### Listed Buildings (Consultation on Disposal) (PE896)

### Common Good Land (PE961)

14:52

**The Convener:** Agenda item 2 is consideration of petitions PE875, PE896 and PE961, on issues of common good. Members have a paper by the clerk that suggests possible courses of action and outlines some issues on which the committee might want to express a view. I will open the discussion up in a moment, so that members can express their views on how we should respond to the petitions.

I am not convinced that we need to recommend legislation to tackle the issues the petitions raise, but the petitioners raise the important issue of how local authorities administer their common good funds. I suggest that we write to the Deputy Minister for Finance and Public Service Reform and summarise our views, but that we do not recommend that the Executive legislates on the matter.

The paper includes a series of questions. It asks members whether they are satisfied with the responses we received from various bodies and what role local authorities, the Scottish Executive, Audit Scotland and non-departmental public bodies should have. I ask members, when they give their views on how we should respond to the petitions, to do so in a way that addresses those questions. We will then put together an appropriate response to the petitioners and the Executive.

**Paul Martin (Glasgow Springburn) (Lab):** I have an open mind about whether we need legislation. I would welcome a response from the minister to the points in our paper.

I did not see anything that led me to believe that a consistent approach to record keeping is taken throughout the 32 local authorities. Some authorities have good record keeping, but others do not, which was highlighted by some of the witnesses.

Audit Scotland said that record keeping is improving. I appreciate that Audit Scotland has a role in ensuring that information improves constantly, but we have to set clear standards for what we expect from local authorities. I would welcome information from the minister on whether guidelines on that can be put in place.

I do not think that there is enough involvement of communities, which could provide transparency. Communities could be involved in developing common good funds and considering how they could be best promoted. In my constituency there are good examples of where Glasgow City Council promotes the common good fund, but improvements could still be made.

There are a number of areas in which local authorities have to make improvements. I have an open mind about legislation, but at the very least there should be some form of policy guidance from the minister, with a timeframe attached to see whether things improve. If things do not improve, we could consider introducing legislation to ensure the best use of common good funds.

**Tommy Sheridan:** I agree with Paul Martin that we should not yet take a decision on the suitability or otherwise of legislation. I would really like to see a detailed response from the minister to the good questions that we asked. I do not think that you will have a problem with that, convener. The spirit of what you suggested was that we should try to elicit answers before we take a decision. If the answers are good, legislation will not be required. However, they might be inadequate, so we should keep an open mind about whether legislation is required.

The petitioners have done us a service by raising the issue, which they have pursued with vigour and great commitment. They are seeking legislation as a form of security to ensure that all local authorities are required to keep records and be transparent about them. I am not sure whether they are right, although they have made persuasive arguments. They have almost persuaded me, but I would like to hear what the minister has to say in response. I do not think that we should have legislation for legislation's sake, but some of the responses that we have had from Audit Scotland and some local authorities are inadequate. The record keeping is not anything like as good as it should be or could be.

I support the convener's recommendation about writing to the minister and asking him to respond to the suggested questions. We should await his reply before we take a final decision on whether to recommend that legislation is required in this area.

**Michael McMahon (Hamilton North and Bellshill) (Lab):** We should commend the petitioners for lodging the petitions and allowing us to consider the issue. When I first heard from the petitioners and, later, when this committee took evidence from them, I was struck by how much knowledge about common good assets is out there in communities—there is probably more knowledge about them in communities than there is at formal local government level.

I agree with the convener, Paul Martin and Tommy Sheridan: we should not say that we need legislation at the moment, but ask the minister to tell us what part regulation could play in ensuring that community planning takes account of the common good assets and see whether that is a mechanism by which communities can participate in ensuring that common good land is recognised and used to the best effect.

15:00

This is about putting local people at the heart of the process—and it is what should come out of the petitions. People's wealth of knowledge about the subject has clearly come through in the various discussions that we have had. Formal groups such as historical societies know what exists. Individuals, too, have an awareness of what belongs to their local community. That knowledge should feed into local authorities in some way, so that it can be used to best effect. That is what we should seek to get out of our consideration of the petitions.

**David McLetchie:** I agree with the views that other committee members have expressed: I compliment the petitioners on the energy and enthusiasm with which they have pursued the topic.

As other members have said, I do not think that the case for new legislation has been made. The inadequacy of some of the accounting for common good assets has been clearly demonstrated, however. Following the evidence that was given, I concluded that there is a lack of rigour in separating out common good assets, assets held on trust by councils and assets held by councils pursuant to their statutory powers, and in determining what those differences actually mean with respect to how different funds can be applied. Far more rigour is required there.

There seem to be three categories of asset: common good assets, assets held in special trusts that are not common good funds and assets held in connection with local authorities' statutory powers. Within the common good fund is a sort of subdivision between the common good funds of the four main cities and the common good funds that apply in the rest of Scotland.

There seems to be a case for examining the accounting of common good assets. The current law, broadly speaking, provides for them to be accounted for and documented properly, but the evidence suggests that that is not being pursued with the vigour that it should be pursued with. We should ask the Scottish Executive to address that.

Some broader issues, relating to the application of the funds, came out of the petitions. It was suggested at one point that a common good fund,

like the assets or income derived from it, should not be applied for a statutory purpose, but should be held by councils and applied for non-statutory purposes. Then again, we noted some bizarre consequences of that. It was suggested in oral evidence that it had been ruled improper for Glasgow City Council to pay the mobile phone bills of members pursuant to their statutory powers, yet it could do so out of the common good fund. That did not strike me as a use for common good funds that would win universal acclaim, but it is an example of the somewhat bizarre distinction between a statutory purpose and a non-statutory purpose.

A further issue concerns funds held relative to particular areas. I am referring to the old burghs. A couple of questions were posed in our papers about the degree of community involvement in the management and disposal of such common good assets and about whether such bodies as community councils should have the old common good funds for their community vested in them. Having regard to the statutory basis, I do not think that there is a case for vesting ownership and direct control of common good funds back in such community bodies. Overall, the local authority must have regard to the interests of communities, but there are also wider interests among communities of which old burghs may form part that local authorities should rightly take into account in any disposal.

It may be that one thing we should examine with respect to any potential statutory change is whether it would be appropriate—if, indeed, it is necessary—to write into a statutory provision that there should be some formal or statutory consultation with a community council relative to the disposal of any common good asset arising in the area that that community council covers. If the law does not provide for that at present, that might be one relatively modest change that we could recommend or that the Executive might wish to take on. That would satisfy some of the concerns of the petitioners.

**Fergus Ewing:** We are indebted to the petitioners, one of whom is present in the public gallery, for raising this issue, because there is no doubt that it is of concern to people throughout Scotland. The most basic question the petitioners raise is whether, in this day and age, there is any purpose in making a distinction between common good assets and other assets. To me, the answer is yes. The first reason for that is that common good assets were generally speaking acquired not through government funding, but through the generosity of individuals who felt a civic pride in their part of Scotland and who wanted their city or burgh to benefit in some specific way. It is right that we remember the generosity of such people.

A second reason why we should distinguish between common good assets and other assets is not about bookkeeping, but about an opportunity. A proper register of common good assets will lead to more debate throughout Scotland about what it is best to do with the assets. People cannot have a full debate about that unless there is clarity on what the assets are. All too often, when stories about common good funds in various parts of Scotland hit the front pages, there is a sense of bafflement and surprise and people think, "We didn't know anything about that." That really is not good enough. I hope that more debate about the assets would in turn lead to a rebirth of civic pride and that people might start to think actively about benefiting their areas. I see that as an opportunity.

In paragraph 13 of the paper on the petitions, we are asked whether the existing records are adequate or unsatisfactory. It is plain that they are variable, but we need clarity. On whether legislation is needed, I hope that it is not. I am not convinced that legislation would necessarily achieve the intended benefits, although I agree with the members who suggest that, before we dismiss the possibility of legislation, we should find out what the Executive's response is. The impression that I got from George Lyon's evidence was that the Executive's approach may be broadly sympathetic. Of course, the issue is not black and white. As we heard from Audit Scotland, all councils have an asset register at present. It is correct that they should have those registers, but they should draw a clear distinction between common good assets and other assets.

One of the petitioners asked for all common good property to be marked on Ordnance Survey maps. I am not convinced about that, simply because it might involve a particularly arduous and burdensome task. It could be done but, as the Society of Local Authority Lawyers and Administrators in Scotland argued, it might impose a substantial administrative burden that we would not want to impose. Local authorities would not thank us for imposing on them an unduly burdensome task, although it might depend on the range and extent of common good assets in each council.

There should be what we used to call—as Mr McLetchie will recall—a common law description of the properties, by which I mean the street address, the name of the property and a statement of whether it is a church, an office or an area of ground. There should be a description of each property that is held so that it is readily identifiable by people in the area. That does not seem to be a particularly onerous task. On whether there should be a distinction between heritable and movable assets, I believe that such a distinction is required and that it would have to be maintained in the registers.

One aspect of the questions that not all members have addressed directly relates to the powers of councils in relation to common good assets. I am not convinced that we should place specific duties on councils in relation to how they handle common good assets. I take the simple view that local government elections are the time when people decide who should represent them. That may be an imperfect process, but it is the best one we have. I am not sure how such powers could be exercised in a way that would necessarily achieve the intended purpose, although I will be interested to hear what the Executive says about that.

If the Executive has suggestions that could help to meet some of the petitioners' concerns, I am happy to consider them, but I find it difficult to conceive how a two-tier system of property management could operate effectively without imposing quite a substantial additional administrative burden on local authority finance departments.

I do not think that new legislation will be necessary. There should be an asset register. Indeed, given that the Executive appears to have accepted that principle for it and for NDPBs, it should also apply to local authorities. We should know what Scotland's common good assets are.

**Dr Jackson:** I was interested in David McLetchie's comments about a statutory duty on local authorities to involve community councils in disposals. I am not sure whether legislation is needed. We might need subordinate legislation, but we should certainly ask whether, if legislation is not needed, there are any other routes that we can take. Mr McLetchie's suggestion does not go as far as the proposal that is highlighted for discussion in the briefing paper—that

"statutorily constituted community bodies"

should

"be able to take back title to their common good assets at no cost"—

but he seems to feel that community bodies should play a part. Such an approach sounds appropriate.

We should also ask how guidance on this issue could be processed through the Parliament.

**The Convener:** Members seem to agree that the petitioners have raised important and valid issues for the Parliament and that the current arrangements for identifying and managing common good assets are not as consistently good as they should be. In light of members' comments, our response should draw attention to the lack of consistent and transferable standards for local authorities on identifying and managing common good assets. Moreover, we should point out that

common good assets and the common good fund should be promoted better to allow communities to understand what they can be used for and, therefore, how they might have more influence over their use. There should also be more public involvement and consultation if there is any intention of disposing of an asset that was originally donated and that forms part of the common good fund.

We will note that we prefer a solution that does not involve new legislation, but that we are keeping that option open if members are not satisfied with any guidance or regulations that the Executive proposes.

The clerks will draw out members' key points from this discussion. I think that we should be able to come together and make a submission to the Executive on this matter. We will also publish our response on our website and write to each of the petitioners to advise them of our view. Are members agreed?

**Members** *indicated agreement.*

**The Convener:** That brings us to the end of today's meeting. I thank members for their attendance.

*Meeting closed at 15:13.*



Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Friday 23 February 2007**

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at Document Supply.

Published in Edinburgh by RR Donnelley and available from:

#### **Blackwell's Bookshop**

**53 South Bridge  
Edinburgh EH1 1YS  
0131 622 8222**

**Blackwell's Bookshops:**  
243-244 High Holborn  
London WC1 7DZ  
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

**Blackwell's Scottish Parliament Documentation**  
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

**Telephone orders and inquiries**  
**0131 622 8283 or**  
**0131 622 8258**

**Fax orders**  
**0131 557 8149**

**E-mail orders**  
**business.edinburgh@blackwell.co.uk**

**Subscriptions & Standing Orders**  
**business.edinburgh@blackwell.co.uk**

#### **Scottish Parliament**

**RNID Typetalk calls welcome on**  
**18001 0131 348 5000**  
**Textphone 0845 270 0152**

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers