

LOCAL GOVERNMENT COMMITTEE

Tuesday 11 December 2001
(*Afternoon*)

Session 1

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LOCAL GOVERNMENT COMMITTEE

33rd Meeting 2001, Session 1

CONVENER

*Trish Godman (West Renfrewshire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

*Mr Keith Harding (Mid Scotland and Fife) (Con)

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

*Tricia Marwick (Mid Scotland and Fife) (SNP)

*Iain Smith (North-East Fife) (LD)

*Ms Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Peter Peacock (Deputy Minister for Finance and Public Services)

WITNESSES

Professor Peter K Brown (Liverpool John Moores University)

Peter Gibb (Land Reform Scotland)

Fred Harrison (Land Reform Scotland)

Professor Arthur Midwinter

Dr Duncan Pickard (Land Reform Scotland)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Neil Stewart

LOCATION

Committee Room 1

Scottish Parliament

Local Government Committee

Tuesday 11 December 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:00*]

Items in Private

The Convener (Trish Godman): Okay, comrades, we can start the meeting. Rita Hale will not join the committee today because flights have been cancelled from London city airport as a result of fog.

Agenda item 1 is consideration of whether to take agenda items 4 and 5 in private. Item 4 is the findings of the external research project on council tax rebanding. The researchers will present their report to the committee. As the report is a private document, the committee must take the item in private. Agenda item 5 is consideration of a draft stage 1 report on the Marriage (Scotland) Bill. Does the committee agree to take items 4 and 5 in private?

Members *indicated agreement.*

Local Government Finance Inquiry

The Convener: Agenda item 2 is the local government finance inquiry. Professor Arthur Midwinter is professor of politics at Strathclyde University. He has been unwell, so I am glad that he is at the meeting. I hope that you are feeling better, Professor Midwinter, and that you will feel as good at the end of the session as you feel at the beginning. You have been before the committee previously, so you know the drill. You may say something and the committee will then ask questions.

Professor Arthur Midwinter: I am pleased to be giving evidence to the committee. I apologise for the weight of papers that I have submitted. I submitted an early draft, but as I was publishing research during the committee's inquiry, I submitted two other papers.

I want to try to clarify issues for the committee rather than advocate a particular solution to the problem. I suppose that I am influenced by my experience as an adviser. I want to try to help the committee to consider options rather than say, "Here is what I think ought to happen."

My views have had to be modified over the past few years. I believe that the prospect of a strong local government system has receded for two reasons: the abolition of the regions and the creation of the Parliament. There is now a much more complex set of relationships. I will give a word of warning to the committee before it makes any recommendations. The history of local government finance is littered with disasters and the more radical the proposals that the committee makes, the more likely they will be to fail. The committee should look for modest, incremental change.

The key issue that I want to address is not the fairness of the taxation system—it is what can be done to clarify accountability in respect of public financial decisions in the current set-up.

When I was one of those who urged the committee to carry out a review a couple of years ago, my major concern was about the framework of controls rather than the system of taxation. I have no difficulties with the council tax as a tax. I was concerned about capping controls and issuing guidelines—everything that seemed to be unnecessary interference in the rights of local authorities to take their decisions.

Two years later, most of my concerns have been addressed. I am happy and support the changes that the Executive has introduced since devolution in ending capping and abolishing guidelines and I

support the introduction of three-year settlements. Things never stand still in this game. Only last week, the Executive announced the incorporation of specific grants and earmarked funds into the block grant. That is also a step forward and in line with some of the recommendations that the committee has made to the Executive. Overall, I am pleased with the changes to the framework of controls that have been introduced.

I have views about local income tax, which is one of the issues that the committee is considering. If I was asked for my view, I would find it difficult to support income tax at this stage. First, if a local income tax was established, it is not clear what that would mean for the tax-varying powers of the Parliament.

Secondly, it is not clear what would happen to council tax benefit, which provides a large sum of money to local authorities. There are very strong parallels with the £20 million for free personal care. Council tax moneys come from the Department for Work and Pensions budget. If we were to try and raise the same amount of money via a local income tax, the whole lot would have to be raised rather than just the proportion that is currently provided by council tax benefit. On a previous occasion I did a calculation that that could add 7p to the bill.

Thirdly, the Parliament now has tax-varying powers. To shift from a property tax to a local income tax would put too much pressure on a single form of tax. Unlike others, my own view is that there is no need for every tax to be progressive. What matters is that the whole system of taxation is progressive. Those who would argue to change the property tax just because it is not fully progressive would not be making a judgment that I could support.

I have given you three reasons for having grave doubts about local income tax as one of your options.

The second question is about the non-domestic rate or, as it is more popularly known, the business rate. My view traditionally has been that when the business rate was removed from local government control, the studies that were carried out for the Department of the Environment in England found no systematic link between business rates, employment and economic development in local areas. With the removal of the business rate from local authority control, and with the creation of the Parliament, I suspect that the Convention of Scottish Local Authorities has been asking you to give back the business rate.

I would be cautious about that. The Parliament's powers are extremely limited. It has a 3p tax-varying power, plus the business rate. The business rate raises twice as much as the 3p from

the tartan tax. If local authorities are saying that they need to raise more of their own funds and the Parliament ought to give them back the business rate because, almost overnight, that would double the money that they raise, surely the same argument applies to the Parliament. The Parliament needs tax powers in order to have flexibility.

If there were no Parliament, I would have no hesitation in supporting the return of the business rate to local authorities. Although current relations over funding with Westminster are easy, that might not always be the case. The business rate would be a useful tax power for the Parliament to retain if there was a repeat of the spending conflict of the 1980s.

The headlines in today's newspapers are wrong. I was not advocating an increase in the business rate at the moment. I am saying that the Parliament should keep the power rather than transferring it back to local authorities, because they would then be raising approximately 40 per cent of their income, while the Parliament would be raising nothing, unless it used its tax-varying powers. The same arguments apply to the devolved Parliament as apply to local government.

In local government, I suspect that it will be difficult for the Executive to find an acceptable tax. We have been through a lot of the arguments about the financing of the Parliament and what is an appropriate tax for devolved or decentralised government. My instincts are that the high level of dependency that exists in the current system is likely to remain for local government.

In my initial submission, I suggested that you could consider making greater use of the business rate and also consider the council tax banding system as a way of increasing resources within the current system. I know that you have taken up the latter suggestion and have commissioned research on it. I look forward to reading that research in due course. Again, I am setting out options, not making recommendations.

There is scope for examining whether accountability can be clarified in the grants system. There are two reasons for that. Until last week, there was a growth in increased earmarking and ring fencing of funds, whether as part of the block grant or as specific grants and special initiatives. In particular, there is increasing Executive intervention in giving advice about education. I read a statement in the press a couple of months ago, when the current First Minister was Minister for Education, Europe and External Affairs, suggesting that he would monitor closely the spending of local authorities on schools. That was totally contrary to the advice from Angus MacKay, the then Minister for Finance and Local Government, about the need for greater discretion

in local government.

We should examine local government services and decide whether education is truly a local service. By a local service, I mean one in which we want to see local discretion over the levels and quality of provision. If education is a national service that we expect to be provided to broad national standards across the country—as is the case with police and fire where there are specific grants—the logic would be to move towards a specific grant so that it is quite clear who is responsible for the spending. At the moment, authorities spend close to the grant-aided expenditure on education, and they spend exactly GAE on police and fire, which are treated as national services that are locally provided. In my view, if a service is not to be determined by the discretion of the local authority, it is not truly a local service. If ministers are to continue to give directions on education, there is a strong case for making it a specific grant or, even more radically, a service level contract, such as is used in the health service, as a way to ensure accountability for the funding.

Most of the remainder of local services, including social work, are highly discretionary. Social work statutes are heavily discretionary, leaving a great deal of choice to the local authorities to decide what the level of need is and what should be provided. Leisure, libraries and toilet provision—that gained a half-page in one of the national papers this month—are all highly discretionary services and should be funded by a block grant in the conventional way.

I did some research, which is included in my submission, into what had happened over the past couple of years when ministers were giving clear indications that they wanted education, police, fire and social work to be priorities. Overall, the councils delivered what the ministers were looking for, but not all the councils did so. There was a range of variation that showed that local choice was still being allowed for. In social work, the figures ranged from a 2 per cent cut to a 16 per cent increase in the budget. However, overall, spending was moving in the way that ministers had directed, suggesting that national priorities can be met in a block, while achieving local variation.

The grant formula is an area of continued dispute within and between local authorities on the best way to distribute grant. I tend towards the unscientific approach to such matters, because I know that there is no rocket science for grant distribution. In one of the papers that I have submitted to the committee—I have also submitted a copy to the Executive—I have argued for a core-and-margins approach in the form of a Barnett-style formula.

At the moment, the grant calculations are made and then there are something like six adjustments to the initial needs assessment to get authorities back to a figure that is close to where they were in the previous year. There are all sorts of safety nets and ways to tweak the formula. My argument is that instead of going through all those stages, we should start from where the local authorities were and give them allocation on the margin on the basis of population. That would deliver stability and would be more transparent. They would not blame the mysteries of regression analysis in the formula for the outcomes, as some people are wont to do. It would permit a genuine unhypothecated block grant. Instead of providing a certain amount for education and another amount for social work, the Executive could simply provide a specific sum of money for the general provision of local services.

That would avoid the need for regression analysis, which is fraught with problems and is understood by few. Fortunately for the committee, your adviser is one of those few people in this country. I remember doing some initial work on the system when it was first introduced, and as a parting warning shot, I should point out that when I examined spending on social work services I found a correlation between authorities and alphabetical order. The closer that authorities got to Z, the more they spent. That connection might seem implausible, but it serves to warn the committee about relying on statistics, particularly where large sums of money are involved. Strathclyde Regional Council and Shetland Islands Council were the two at the top end.

14:15

The Convener: Thank you. I will kick off and then try to catch the eye of other members.

Like other witnesses, you are obviously interested in the balance between central and local funding. As you have said, your solution is to transfer responsibility for education, police and fire services to central Government. That is interesting, given that, at Westminster, the Home Secretary has transferred responsibility for the police to the Greater London Authority. Although you touched on the subject in your opening remarks, will you expand on your position? Furthermore, where does subsidiarity come into the equation?

Professor Midwinter: On the matter of police and fire services, the joint boards are not particularly conducive to accountability processes. As people are appointed to those boards by the authorities, how can the public hold the police authority to account? The system has taken us back 25 years. All the arguments about the need to get away from joint boards that were raised

before the previous reorganisation were simply recreated during this reorganisation by the decision to introduce joint boards.

Through the police inspectorate, ministers keep close control over what happens in police forces and exert a strong influence on decisions about staffing levels. The inspectorate used to be an approved staffing establishment, although that has recently been dropped. The Executive provides 51 per cent of the grant and an element of revenue support grant, which means that ministers provide nearly all the funding for police and fire services. Because of the joint boards, special grant funding and so on, local authorities do not have the same kind of discretion that they do for services that they are directly responsible for.

If ministers want to ensure that resources go to those services, they should remember that Michael Forsyth wanted to spend a lot more money on the police and at one stage he guaranteed that every pound would be met with 51p. My concern is accountability. If we carry on as we are, there will be a pretence that local authorities are taking decisions; however, any study on police authorities that I have seen has not suggested that everything is driven by national demands.

The Convener: Are you suggesting that we should return to the old regional council system?

Professor Midwinter: I thought that this was an inquiry on local government finance. If that was a serious proposal, I would not have any difficulty with it.

Tricia Marwick (Mid Scotland and Fife) (SNP): As someone who is fortunate enough to live in Fife, I am grateful for all the services that we retained there.

You seem to suggest that if ministers provide all the funding for the police and have control over the service, accountability should be through the Scottish Parliament and ministers. That is a de facto national police force. I know that you are an expert on financial matters, but is that your position?

Professor Midwinter: Not necessarily. I have not thought about or examined the matter in any great detail. However, although I am not advocating a national police force, I think that the idea merits consideration in the new situation. At one time, there were rumours afoot that we were going to move towards having three police authorities, in line with the water authorities. That was only two years ago. All I would say is that that is something that ought to be considered at some stage, given the problems with accountability in the current system.

Mr Keith Harding (Mid Scotland and Fife) (Con): Thank you for your evidence, which, as always, was interesting and thorough. I am glad to see you moving more and more in my direction.

Professor Midwinter: I am staying in Falkirk; I am not moving to Stirling. [*Laughter.*]

Mr Harding: I am interested in the fact that you now advocate the retention of business rates at the centre. You obviously advocate the current policy, because the Executive recently took advantage of the opportunity to set a higher business rate than that levied down south—we have moved away from the United Kingdom uniform business rate. I had not considered that; the reason that I did not want to return the business rate to the councils was that I thought that they might use it as a means of increasing revenue.

If the Executive were to take over responsibility for education—a move that the Conservatives have been promoting—as well as for the police and fire services, how long would it be before the Executive assumed all responsibility for social care? I do not advocate that, but I think that health-related issues such as social care should be moved. What functions would remain with the councils?

Professor Midwinter: I appreciate your remarks about the business rate.

Social work and community services are very different from the education, police and fire services, where there has been central involvement in manpower levels for a long time. Those standards do not exist in social work at the moment. Now that new regulatory arrangements are in place, such services may be moving towards a more uniform system, but there are incredible variations in the level and quality of home help services, for example, across the country. The statutes are written in such a way that it is left to authorities to define need. I do not, as yet, see social work being in the same category as the education, police and fire services, which have historically been driven by national concerns for staffing levels.

I can see that there is a strong case for examining the links between health and social work. At the moment, unless we were to rewrite the legislation completely, I would expect social work to remain with the local authorities. However, that is an area in which ministers have become increasingly directive. There is a move on at the moment to standardise charges, which vary from nothing to almost full cost from council to council, because that was left discretionary. If social work became a national service, the expectation would be that every elderly person in Scotland would be entitled to exactly the same service. That is not

written into the legislation at the moment in the same way that education is seen as broadly a national service.

Mr Harding: What is the total gross revenue budget for 2001-02 for local government?

Professor Midwinter: I would need some time to answer that question properly. It is roughly £6 billion or £7 billion.

Mr Harding: What would that budget be if full responsibility for the education, police and fire services was transferred to central Government?

Professor Midwinter: The local government budget would be reduced by about 50 or 60 per cent if central Government became fully responsible for the education, police and fire services. I was arguing for specific grants. If the Government wanted to take those services away from local authorities altogether, but retain local delivery, there would have to be what is known in the health service as a service level contract, identified by the centre.

Mr Harding: If those services were removed, what effect, if any, would the diminution of the role of local government have on councils' ability to attract high-calibre councillors and staff?

Professor Midwinter: I would be guessing and going beyond my expertise if I tried to answer that question. That model applies in Australia and Canada, where education is treated as the middle tier in a federal system.

Mr Harding: Do not you feel that that would have a detrimental effect on trying to encourage better-calibre councillors to come in?

Professor Midwinter: I am not convinced of that.

Ms Sandra White (Glasgow) (SNP): Is it because they are national priorities that education and the police and fire services are being taken out of the hands of local authorities and put back into Executive hands, or is it because of the pressure of initiatives put on local authorities by the Executive?

Professor Midwinter: It is for the second reason. All the services, including the police, fire and education services, have developed under strong national guidance. In more recent years what you are calling pressures, Ms White—I would say intervention or direction—have been growing. Ministers have been concerned to deliver the outputs that they wish for those services, which is why they have been earmarking portions of the RSG, ring-fencing moneys and opting for specific grants of small amounts of money. That does not seem particularly conducive to accountability.

Ms White: Perhaps the pressure would be alleviated if the ideas or direction came less from

central Government and more from local government.

Professor Midwinter: That would alleviate it, but my instincts tell me that ministers—of all parties—find it too easy to intervene, and always have done.

Dr Sylvia Jackson (Stirling) (Lab): Does the question of the variety of need and meeting that need not seem to be something of a grey area? You mentioned education and the police. Are you saying that there is no particular variation in those services, whereas there is variation in social work? I do not quite see the difference. From my education experience, I know that there is huge variation in the way that different authorities deliver the service, particularly in such areas as specific needs. I do not see how education is different from social work in that respect. I do not understand your argument that responsibility for one should be held centrally, while—

Professor Midwinter: I think that what you are describing could also be said of the national health service. Differences in the mode of delivery are likely to be driven by the professionals in the organisations concerned, as much as by councils.

There is great uniformity in staffing levels and spending on the education, police and fire services compared with social work, in which the overall volume of service varies hugely—in fact, there are incredible differences. Some authorities provide twice as much in home help as the lowest provider. That cannot relate just to differences in need in the technical sense; differences in political values are being allowed to be exerted. In education, such a degree of variation cannot be found, yet there will be variance in delivery among health boards, which are driven by the circumstances of the areas concerned.

Dr Jackson: I will ask another question, which leads on from what Trish Godman has been saying about subsidiarity. You have said that political direction perhaps accounts for the big differences in social work and so on, but could that not also be linked to subsidiarity, in so far as that is what the various electorates are demanding?

Professor Midwinter: Yes.

Dr Jackson: Is the direction that you are taking, or appear to be taking, Professor—and Keith Harding is quite happy with this—totally against the idea of subsidiarity and of getting more local involvement in decision making? If people wanted more community policing, for example, would it not be easier to effect such a change through local control, rather than through free-standing police boards?

Professor Midwinter: Today, I have simply been advocating handling the financing of

education in a different way—the police and fire services are already there, in that they have specific grants.

I do not think that everything should be localised. It is quite valid for somebody to decide that they want a service to be a national priority. However, I object to people saying that a certain matter is a matter for local government while continuing to interfere. In that case, the public do not know who is responsible or accountable. If ministers decide to give out a block grant, which local government is free to spend as it likes, they cannot add, “provided you spend £100 million extra on pre-school places”, for example. That does not indicate clear lines of accountability. It is that, rather than the notion that everything should be local, that concerns me.

Mr Michael McMahon (Hamilton North and Bellshill) (Lab): I was quite supportive of your idea of evolution rather than revolution—under devolution.

What would you say to the local authorities that have come to the committee and stated publicly their concerns about the capping that they have had to endure and the poor GAE assessments that they have experienced? You argue that, for the foreseeable future, spending assessments should not change dramatically, but perhaps take into account marginal considerations such as population change. How would you address the cries for help of those local authorities?

Professor Midwinter: You mean individual authorities?

Mr McMahon: Yes.

14:30

Professor Midwinter: I do not know of a single authority in Scotland that thinks that the grant distribution is fair. Everybody thinks that they should have more. Almost everybody who makes representations to you will make a case. Dundee and Orkney and so on have made cases. They were all able to produce factors that do not fit into the grant. The grant system will never be refined to a level where everybody is happy with it.

I would ask local authorities whether they would rather have a grant system that brought stability, or one that they might do well out of under some future review. Remember how many times over the past couple of years Glasgow has asked for a review of deprivation? There have been at least three reviews in the past five years but hardly any change as a result.

I am not convinced that the client group methodology will ever satisfy the aspirations of any authority. Argyll complains that not enough allowance is made for its remoteness, Dundee

complains that too little account is taken of poverty and Edinburgh says that not enough account is taken of population growth. We will never get them to agree. That is the lesson of the grant system over the past 20 years. It is a continual process of change and fix. Somebody comes in with another idea, but it does not take enough account of something so it has to be reconsidered. In the 20 years that I have been considering this there have been five major reviews of deprivation. Hardly an extra penny has been allocated as a result of those reviews. If I were offered stability in grant I would take it.

Mr McMahon: Would you consider that what might be required is for everyone to accept the formulas by which assessments are made so that they are seen as being fair? Would that alleviate some of the concern? There is always the complaint that one area benefits more than another or that there is unfairness in the system.

Professor Midwinter: The formula was unproblematic at first, but it has been completely discredited since reorganisation. Without boring you with the technicalities of the statistics—I will be as simple as I can about it—the method assumes that if an authority spends high it does so in response to need; if it spends low it does so in response to low need. However, in the real world, that is not necessarily the case because authorities can decide to spend more and they can decide to spend less.

After reorganisation we were left with a situation where there had been capping controls. Authorities had been spending what the cap said they should spend rather than according to their judgment of need. That discredited the statistics. The statistics were frozen for three years, so no changing needs at all came through in the system. Because of the way reorganisation was handled, authorities were left with a pattern of expenditure that reflected central Government decisions more than their own expenditure decisions in that transitional period. That is why I gave the example of Shetland and Strathclyde being closer to Z. The theory assumes that if you spend more it is because you need to spend more, but there are other reasons why authorities spend more that are unrelated to need, such as their political desire to spend more. Separating out those reasons is impossible.

Mr McMahon: It may well be impossible. However, you mentioned your concerns about regression analysis as a model for dealing with that type of thing.

Are there other multilevel modelling techniques that might be able to tease out the factors that would create the impression of a fairer distribution system?

Professor Midwinter: Multilevel modelling does not do it either; it just refines it. It does not make it any more accurate. We had the example of the use of multilevel modelling in health for the Arbuthnott report, where they produced a model with about 40 variables in it and reduced it to about 12. However, they did not get the result they wanted so it went back. The model is now simplified and has four factors that are delivered on a judgmental basis. Multilevel modelling will not overcome the problems, nor will regression analysis, in my view.

Mr McMahon: If neither regression analysis nor multilevel modelling—

Professor Midwinter: Regression analysis still requires judgment. The judgment that has to be made is whether the figures that the statistics suggest are reflective of need. There is no way that the statistics can do that.

Mr McMahon: I ask you for a judgment—

Professor Midwinter: Somebody has lectured you about multilevel modelling. I can see that.

Mr McMahon: I remember it from my days at university, as it were.

If you had a completely free hand, what changes would you make in the structure, functions and financing of local government in Scotland?

The Convener: You have two minutes to answer.

Mr McMahon: I remember such questions also from university.

Professor Midwinter: I am never going to get a completely free hand. I will not be able to answer that in the way that you would like me to. I cannot produce a simple response to it. In the way in which I look at the world, we are always constrained by where we are. Drawing exercises on a blank sheet never work in the real world.

My position was clear at the time of reorganisation: I was in favour of regional tiers. I was not convinced that there was any need for reorganisation when it took place. I am trying to come to terms with the complications that have been added to the process by the creation of the Parliament, which makes drawing a simple map of local government much more difficult than it was before.

There was much less scrutiny under Westminster. The local government revenue support grant order went through without a peep every year for the 20-odd years that I was watching it. The committee has a role in the process now. There is no equivalent to that at Westminster.

It is perfectly feasible to leave the current set of

functions in the hands of the local authorities, but it requires the Executive to be willing to allow authorities to make decisions and judgments. If the Executive is not willing to do that, let us clean up the system and go for the specific grant so that we know who is accountable. Let us not pretend that all the current functions are matters for local choice, but reserve the right to intervene directly on specific things. That is my main concern. If ministers were happy and content to allow local discretion on such matters, there would be no reason why education could not remain a local service.

On the basis of the last couple of years, in which the Executive has been increasingly interventionist, my concern is to try to promote central accountability rather than local accountability. That is why I favour making explicit the choices that are being made. If central Government determines what happens, the Executive should be accountable for that.

Iain Smith (North-East Fife) (LD): You paint a fairly gloomy picture of the future of local government.

Professor Midwinter: There is nothing new in that.

Iain Smith: You seem to be suggesting that, with the loss of the regional tier and the advent of the Scottish Parliament, the strong role for local government that was always called for is not an option. You also seem to be suggesting that, unless there are significant changes in the way in which the Scottish Executive operates, a lot of the functions that local government provides are not really discretionary and therefore local government may as well not provide them.

Professor Midwinter: I am not saying that local government should not provide those functions. I am saying that, with respect to finance, which is what the committee's inquiry is about, if central Government determines how much is spent, it should be accountable for that, rather than for the block grant for those key services. Central Government does not care much about how much is spent on other services. There are huge variations in how much is spent on libraries and leisure services throughout the country.

I did not intend to paint a gloomy picture; I intended to paint an accurate picture of what is happening. It used to be said that, if the regional councils had continued to exist, they would not have been able to co-exist with the Parliament. I was never fully convinced of that, but there is a strong body of opinion that that is case. It is time for fresh thinking about what we expect from local authorities in the new context.

Iain Smith: What role do you envisage for local government in the next 10 to 15 years?

Professor Midwinter: There will be a range of services for which local authorities will be responsible. My view is that, currently, they are not the responsible authorities for the police, fire and—increasingly—education services because of ministerial intervention.

Iain Smith: Where do you draw the line? There is a national waste strategy into which local waste strategies must fit. Some strategies cross council boundaries.

Professor Midwinter: Things were very different in early local government. There was a saying in the language with which I am familiar: the centre concentrated on high politics and left low politics—waste management and cleaning the streets, for example—to local elites. The saying was used to distinguish the concerns of the two tiers of government. Nowadays, high politics has become what local authorities provide—that concerns central Government now in a way that it did not 100 years ago. The relationship is much messier and more complex than it has ever been.

I suppose that the committee is convincing me that I am pessimistic, but the prospects of a strong local government system that I would have seen 25 years ago have receded. I have no great answers, but I am trying to guide the committee as to ways in which it could clarify accountability for the financing of local government, rather than tinker with its structure and functions.

Does Iain Smith want to ask about local income tax, which has long been a favourite subject of the Liberal Democrats?

Iain Smith: Another member may be scheduled to ask about that. I want to ask about the non-domestic rate. You seem to suggest that the non-domestic rate is not a local tax any more and that that should be recognised and accepted.

Professor Midwinter: It is not a local tax, but I am saying more than that. Ideally, the Parliament should have greater fiscal powers than it was given. When the Parliament was set up, the expectation was that the non-domestic rate would be returned to local government—that is why I was so critical of only a 3p tax power. I did not think that that was conducive to accountability at all, particularly as the Parliament would be the only body in the country with such a power. If the power were used, it would stick out like a sore thumb. In local government, everybody has a tax power, but the Parliament is not like that. Scotland is the only area in the country where the 3p tax power might be used.

In the Labour party's 1995 policy review, it committed itself to returning the business rate to local government. When the Parliament was established, that commitment was changed to consultation. Now, the business rate will be kept

centrally. Currently, it is not a local tax—it is set nationally. The so-called level playing field that the business community would like to have established is an entirely meaningless concept—there can be a level playing field for tax, but not for the values of properties. Even if there were a uniform business rate across the whole of the UK, the property tax bills for Celtic Park and Old Trafford would still be different because of the values of the properties.

The tax bills matter, not the tax levels. I have never been convinced that a UK-wide uniform business rate is necessary. My argument is more about giving flexibility and autonomy to the Parliament by retaining the business rate. If it is given to local authorities, they will raise 40 per cent of their income and the contrast with the Parliament would be striking. Nothing would be raised by Parliament unless the 3p tax power was used. That has changed my thinking. It cannot be assumed that there will always be an easy and harmonious relationship with Westminster—politics is not like that. There could be a tax-cutting Government at Westminster and an Administration in Scotland that wants to spend. What are the mechanisms through which it could do so?

Ms White: Some of the things that you have said have certainly depressed me.

Professor Midwinter: It is Christmas time.

Ms White: That is true. I suppose that we can get depressed at Christmas time. When the Parliament was set up, there was an adage that it was Strathclyde revisited. You seem to have rubber-stamped that.

Professor Midwinter: Do you mean Strathclyde University revisited?

Ms White: I mean Strathclyde Regional Council revisited. When the Parliament was set up, I thought that we would have the opportunity to move forward and be ambitious. I do not intend any disrespect, but after listening to you, I want to crawl under the table. The Parliament does not seem to have such ambition.

I want to get back to the radical point. You said that radical change is not welcome.

Professor Midwinter: I did not say that it is not welcome—I said that it would not work.

Ms White: I have written, "radical change not welcomed", but, meaning no disrespect, I shall check the *Official Report*. I might have taken it down wrongly.

Everyone wants to see some change in the way in which local government is financed. I want to ask about local income tax and get back to the radical edge. If the Parliament has that radical edge, we should use it. You mentioned that, many

years ago, you were in favour of local income tax, but that since the onset of devolution you have felt that it would not work.

Have you ever thought of using local income tax alongside council tax? If that were feasible, would it lessen your concerns about the conflict between Westminster and the Scottish Parliament? In your submission you mentioned a shortfall to Holyrood from Westminster of £300 million.

14:45

Professor Midwinter: I have to be honest and say that I am more concerned that the Parliament gets tax powers than that local authorities do. That is the devil in the question. Here we are with two tiers of decentralised government and think of the struggle to find a tax power for the Parliament that was acceptable to the Treasury. Corporation tax and VAT will never be devolved to Scotland. The tax options are very limited.

I find the issue problematic because I am not sure that it is constitutionally okay, given the tax-varying powers that exist. I would need a lawyer to tell me that that was possible. I am not 100 per cent convinced. I do not know whether you have had advice on that.

The Convener: No, we have not.

Professor Midwinter: Would it count as tax-varying if the Parliament gave powers relating to income tax to local authorities? I am not sure.

Ms White: It is an avenue worth exploring.

Professor Midwinter: You are talking about it in the classic Layfield sense, as a supplement to the council tax. Would there be reduced grant?

Ms White: That is something that we would need to look into and discuss.

Professor Midwinter: The Treasury has powers to intervene if local self-financed expenditure grows more than the average for England on a consistent basis. One wants to have a tax power only if one is able to use it.

Ms White: Yes. We have a tax-varying power, although some people are reluctant to use it. You do not seem to think that it is enough. It works in Sweden. Have you examined any other models?

Professor Midwinter: I am not saying that it cannot work. However, Britain has a particularly curious set of conditions in relation to those matters. If we are going to change something we should change it from the point that we are at, rather than from where we would like to be. Otherwise we come up against all sorts of problems. The poll tax was a classic example of that. It was really radical. It might have been radical in the way that you did not like, but it was

certainly radical—an ill-thought-out mess. Look what happened—it needed £2 billion extra in subsidy. That is what happens if you try to develop a system that does not fit easily with where you are.

Perhaps in your inquiry you will discover that it is possible to have local income tax as a supplement to council tax. I would not have any great unease about that if those were your findings. I do not know the evidence to support it at the moment. That is my concern. As I say, I have always been concerned about the lack of fiscal accountability in the Parliament. If there are to be new taxes, my instincts are that I would rather that they were for the Parliament than for local authorities—at least at the moment.

Ms White: That is a very honest answer. Local income tax exists in other countries.

Professor Midwinter: It is not nearly as widespread in use as people imagine. In many of the studies, the federal tier is combined with the local tax whatever the middle tier is. Property tax remains the most common local tax in the world.

Ms White: You have certainly not cheered me up, but thank you for your answers.

Mr Harding: Correct me if I am wrong, but I think that you made a point about retaining the business rate so that the Executive could, if it wished, raise it to increase resources.

Professor Midwinter: Retaining it would give the Executive the flexibility to do that if it so chose.

Mr Harding: My understanding is that all the money that is collected through the business rate is channelled back to the Exchequer and then returned to Scotland.

Professor Midwinter: No, it is not channelled to the Exchequer in London. It is collected by the councils and divvied up.

Mr Harding: Is it not taken into account in the Scottish block?

Professor Midwinter: No. It is outside the Scottish block and classed as locally self-financed expenditure.

Mr Harding: I understood that the non-domestic rate was all part of the Scottish block.

Professor Midwinter: Ministers have three options. I will run through the scenarios. Ministers can decide to raise more and, as a result of that, cut the RSG and use the grant for other purposes. Alternatively, they can increase the non-domestic rate and leave the resources with the local authorities, thereby increasing the funding of local authorities. Ministers can also decide to reduce the rate and put more on the RSG or council tax.

Mr Harding: Thank you for clarifying that.

Tricia Marwick: I am glad that you mentioned the poll tax. I was listening to some of your comments about local authorities. Correct me if I am wrong, but I think it was the Adam Smith Institute that, in the 1980s, said that it envisaged local governments meeting once a year for a dinner and to hand out the contracts. That does not seem to be a million miles away from what you see as the future for local government.

Professor Midwinter: I am certainly not advocating anything that the Adam Smith Institute would advocate. What I suggest is that we need to clarify who is responsible for services. If it is to be local government that is fine, but let us not have ministers interfering in targeting funds by being involved in a high level of detail or in small amounts of money.

If we think that education is a national service with little cause for local variation, then it should be funded with a specific grant. Central Government should decide how much is to be spent on it, because it is a national service. That is not a deliberate attempt to downgrade local authorities; it is a reflection of what has been happening to local authorities. I am arguing for clarification one way or the other.

Tricia Marwick: In your submission, you advocate moving away from attempts at needs assessment and introducing simple expenditure assessments. How does your approach differ from the percentage grants and resource equalisation grants that were a feature of local government in the 1950s?

Professor Midwinter: It is very different, because expenditure assessment is the simplest conceivable grant system. That is how the Parliament is funded. It requires people to accept that the current differentials are broadly defensible, as with Scotland spending more than the UK average, whatever the figure. That is then entrenched in a system in which the starting point for next year's allocation is what the expenditure is now. The sum of resources is increased on the basis of population share. That happens with the Barnett formula. Such a system gives slightly more money to local authorities with growing populations and slightly less to those with declining populations, but only at the margins. The historic basis is kept and stability is built into the system.

That is a million miles away from someone trying to work out an equalisation formula that requires someone to say how much they think should be spent, what a standard service is and how much it would cost. That theory has underpinned most grant allocations in Britain for the past 20 to 30 years. Those constructs are entirely artificial; they

do not exist in the real world. They allow regression analysis to do the calculations for them. Nobody has ever defined a standard service for education or social work. Regression analysis calculates average spending rather than what is a standard service. Expenditure assessment is a very clear and simple way of calculating funding.

Ms White: I have a quick question about business rates. You mentioned that local authorities are able to keep the money raised by business rates but the only option open to the Parliament is to raise money through its 3 per cent tax-raising powers. When I asked the then Minister for Finance and Local Government whether Glasgow City Council would be able to keep 100 per cent of its business rates, he said that the grant would be cut accordingly. That is swings and roundabouts, is it not?

Professor Midwinter: That is the case. A couple of years ago, when Glasgow first raised the issue, I asked the then director of finance whether he realised what would happen if Glasgow City Council was allowed to keep its business rates. The RSG is used to equalise councils' incomes up to the level of their assessed need, so it would be cut if the needs assessment remained the same. If a council's income from its business rates was greater, it would get less RSG.

Ms White: Thank you. I wanted to have that confirmed. It means that it is hardly worth while doing that.

Professor Midwinter: Under the current system, that is what would happen.

The Convener: We have asked all the questions that we planned to put to you.

The thrust of what you are saying seems to be that we need to clarify who is responsible and accountable for the decisions that are taken by local authorities, including how they spend their money. You are not saying that the absolute answer is to centralise those functions. You are saying that, if priorities are laid down and functions are centralised, we will know who is accountable if they do not work. Right now, the situation is blurred.

Professor Midwinter: That is the central thrust of my message.

The Convener: In some ways, you have given us a reality check—a different way of looking at the things that we have examined in the past. What you had to say was very interesting.

As you know, the committee is also examining how to encourage people to become more interested in local government, to go out and vote for local government and to get involved in local government. When you began to speak, I was worried that if powers were taken away from local

authorities, people might become less interested in local government because it would no longer affect them and they would not see the links. However, when you talked about knowing where the accountability is, you clarified the position.

Professor Midwinter: Even with a specific grant for education, a lot of the detailed decisions about which schools should stay open or should be managed locally and so forth would remain with local authorities. I am talking about financial accountability.

The Convener: Thank you for what has been a useful session. If we need to get back to you, we will do that. We are to see you again later, although you will be wearing another hat.

Professor Midwinter: Thank you.

I am not sure whether you are aware that I have been appointed to work for the Finance Committee, as of the new year.

The Convener: Does that mean that we cannot get you?

Professor Midwinter: As yet, that has not been clarified. The Finance Committee is creating a new post of standing adviser on the budget. From 1 February, I will work regularly for the Finance Committee.

The Convener: Well, if we cannot get you, we will have a fight with the Finance Committee.

Professor Midwinter: I thank the Local Government Committee for using me in the current year. No doubt, that is part of the reason why I have the new appointment.

The Convener: Okay, comrades, we will move on. I welcome from Land Reform Scotland Peter Gibb, the executive director; Fred Harrison, the director; and Duncan Pickard, also a director. The witnesses have listened to Professor Midwinter's evidence, so they know the procedure. I understand that Peter Gibb will make a presentation, after which I will open up the meeting for questions from committee members.

Peter Gibb (Land Reform Scotland): Thank you for the opportunity to appear before the committee.

Professor Midwinter offered members what are, to my mind, extremely cautious, exclusively focused and rather gloomy arguments and proposals. We do not believe that, in the new Scotland, such an approach is sufficient. Specifically, he spoke about the poll tax and warned that a radical approach was doomed to failure. The poll tax did not fail because it was radical; it failed because it was unjust.

I am the executive director of Land Reform Scotland. On my right is my co-director Fred

Harrison, who is also executive director of the Centre for Land Policy Studies in London. He is the editor of *Geophilos* journal, which the committee has a copy of, and *Land and Liberty* magazine. Fred is a consultant on fiscal policy to the Duma—the Russian Parliament—and yesterday returned from St Petersburg where, with his colleagues at the Russian Academy of Sciences, he has provided advice to the Russian Government on the reform of its land and tax laws. The committee may be aware of the difficulties that Russia presently faces at the hands of the World Bank's privatisation programme.

15:00

On my left is Duncan Pickard, who is also a director of Land Reform Scotland. He is a member of the council of the Henry George Foundation of Great Britain. Dr Pickard has an academic background in agricultural science and he is an owner-occupier farmer of 800 acres in Fife. Dr Pickard's latest book, "The Lie of the Land", will be published in the spring as the third in the "Inside Story" series on tax and land reform.

Land Reform Scotland is a voluntary organisation, which—I quote from its constitution—seeks

"fundamental social justice through radical land and tax reform".

It was established in 1997, was constituted as a company limited by guarantee, is managed by a board of seven directors and has a membership. Land Reform Scotland is part of a growing international network of 70 organisations around the world that advocate the introduction of land value taxation—or resource rents, to use the more inclusive and modern term. In our everyday work, we retain the counsel of a group of internationally based specialist advisers. We can offer the committee their expertise and dedicated assistance in its deliberations.

Land Reform Scotland is Scotland's sole dedicated land reform organisation. As committee members will be beginning to realise, our work straddles the land and tax agendas. Any careful analysis will reveal that the two are inseparable.

I will say a few words about our evidence, which is on land value taxation. We are all used to considering taxation as the normal source of public revenue, but taxation in all its forms inevitably and necessarily harms us as individuals and as a society. Taxes on labour stifle enterprise and reduce the wage of the working person. Taxes on capital stifle investment and dissuade us from saving. Taxes on goods stifle trade and increase the cost of the basics of life beyond the reach of many. The existing tax structure distorts production and distribution and perverts the economy to such a degree as to render its effects

almost beyond our comprehension. For that reason, it is often the case that the statements and analyses of would-be experts in the economics profession fail to persuade the average person.

We know from experience that there is much that does not quite make sense in the ruminations of the economists. We know instinctively that something somewhere is badly wrong in our society and in our economic systems, but we find it difficult to put our finger on it. For poverty is surely not a part of the nature of things. After all, there is no poverty in nature. Why then would poverty and wide disparities in the distribution of wealth seem to be such unavoidable corollaries of the way in which we organise our societies? Is not there a way of settling our social and economic affairs that would result in social justice for everyone—an arrangement of our affairs that would eliminate the spectre of involuntary poverty side by side with ugly opulence; that would ensure that we are all able and willing to give from our lives to our maximum capacity; and that would ensure that we are all able to enjoy the full returns of doing that?

Such an arrangement of our social affairs does exist. It is based on a radical social analysis that has its roots in the 18th century Scottish enlightenment. That thinking, born here 250 years ago, is now taking root throughout the world as a new global green economics. The ideas spring from a radical reappraisal of the perceived notions of property and of the nature and locations of the private and public realms. They ask us to consider more carefully our existing theories of property and to recognise that our current taxation systems appropriate much that is private, such as wages, savings and purchasing power, to the detriment of the many in society. At the same time, they deposit in private hands much that is public, such as the value of the natural fruits of the earth and the benefits that flow from our common social initiative. That is to the unjust private enrichment of the few.

The practical manifestation of all this thinking is the public policy measure known as land value taxation. In spite of that common name, it is not a tax; it is a user fee for the monopoly of a natural or social resource. It is a fiscal, land and social policy all rolled into one. Land value taxation raises public revenue without resort to taxation and is without taxation's attendant problems. Land value taxation is the subject of our witness to the committee today.

The Executive is carrying out an assessment of the potential of shifting Scotland's public revenue system to a land value taxation basis. Down south, the Labour Land Campaign argues quietly for the policy. Recent Government initiatives, included the auctioning of the 3G mobile phone network

spectrum. Although flawed in its execution, that is an example of land value taxation. In its wider sense, LVT is more clearly described as the socialisation of the rental value of natural resources.

The SNP has long shown grass-roots interest in land value taxation. Most recently, that was expressed in national conference motions in 1999 and 2000 and in the establishment of a members' study group last year.

The Liberal Democrats have land value taxation as policy at federal, UK level although they do not seem to talk about it much. They have just passed a new Scottish policy, which is

"to campaign for the Scottish Executive to abolish Council Tax in favour of a fairer and more sustainable method of funding local authorities ... in particular, to consider reforms to introduce"

inter alia

"land value taxation".

The Scottish Green Party has land value taxation as a core economic and social policy and members will be aware that Robin Harper has offered his assistance to the inquiry.

The Scottish Socialist Party is also beginning to investigate the area and has drafted long-term proposals for introducing speculation taxes.

I am afraid to say that the Tories, in their most recent manifesto, have come out contrary to the opinion of their adopted muse, Adam Smith. Kirkcaldy's most famous son was an advocate of the public collection of land value prior to the imposition of any additional taxes. We do not often hear the Adam Smith Institute promoting that element of Smith's basic philosophy. It seems that the Tories' position has not been reviewed since a certain H L Smith, whom we understand to be a legal adviser to the Scottish Landowners Federation, came out in favour of land value taxation in *The Scotsman* in the summer. He explicitly suggested that its adoption as Conservative party policy had the chance of being the party's long-term saviour in Scotland.

In the next few minutes, we will tell the committee about land value taxation and what it can offer the people and the Parliament of Scotland. What we have to say may, at first blush, sound odd. It might seem difficult to get to grips with and perhaps in some ways will appear hard to believe. It is none of those.

The world in which our ancestors lived was, to them, flat, right up to the moment when Galileo's penny dropped. So it is with land value taxation's penny. Land value taxation offers us a completely new social paradigm. After all, the structure and character of our conventional taxation systems in Scotland, as all around the world, were developed

and introduced in a pre-democratic age. Modern democratic society has never yet had the opportunity to examine the roots of what it inherited. We hope that that task will now fall to the Local Government Committee of the Scottish Parliament.

Scotland is growing out of the old ways in which things have habitually been done. Scotland now has an opportunity to lead the world to a new enlightenment based on a radical, fair and efficient organisation of our economic affairs. That must start with our system of public finance.

On behalf of the three of us, I now invite questions on our written evidence and on land value taxation.

The Convener: Your paper states that local income tax,

"like national income tax, can only have a negative effect on the enterprise economy."

However, you appear to advocate only the abolition of council tax and the introduction of LVT, not the abolition of income tax. Why is that?

Peter Gibb: That is either an error in our paper or a misreading of it. We advocate the abolition of the UBR and council tax.

Tricia Marwick: In your submission, you say that the UBR is "a tax on *business*" and ask:

"Why would an enterprising society wish to tax enterprise, when there is a more equitable and efficient alternative available?"

Are you suggesting that LVT should replace all taxes on business—the UBR and the corporation tax—or are you suggesting that central Government should retain corporation tax but that LVT should replace the UBR? If so, why would it be acceptable for central Government to tax companies' profits—the results of enterprise—but not to retain the UBR?

Fred Harrison (Land Reform Scotland): In fact, all conventional taxes damage enterprise and people's quality of life. Some taxes are more damaging than others, but we would not defend in principle the retention of any of the conventional taxes, either at local or central level. Our problem, and the problem that Parliaments throughout the world have, is that, although people instinctively feel that taxes somehow have a negative impact, they cannot quite put their finger on why that is. They certainly do not have presented to them by experts the quantification of the damage that is inflicted by a uniform business rate as compared with that inflicted by a local income tax that raises an equivalent sum of money.

That is one of the mysteries. Ever since Adam Smith, the precise process by which damage is inflicted by all taxes other than the one that falls on

the natural tax base of any society—the rent of land or natural resources—has not been quantified, although it can be quantified effectively by economists. The taxable surplus is the rent, no matter how it is disguised by different mechanisms. A committee that is deciding which tax to abolish and which tax to adopt will be able to conclude rationally what are the absolute benefits that would result from its decisions.

Professor Midwinter says that a radical tax is likely to fail and that modest incremental changes are more likely to succeed. The problem with such statements is that modest changes within the existing pool of policies will continue to go nowhere, with the result that we will always be short of resources to pay for people's health. That way we will never have enough money to pay for the teachers or policemen that we want. History tells us that that is so. Because of the constraints on people's earning capacities that are imposed by taxation, we will never get ahead of the game. Since the time of Adam Smith, we have been told that if we restructure the tax system in favour of drawing revenue directly from the rent of land, people will produce all that they need.

To ask whether we should retain the uniform business rate or whether we need an income tax is a false argument. That debate, ultimately, will fail. Our position is that none of the existing taxes is defensible and that there is only one direction in which to go if we want to take control of our destiny.

15:15

Tricia Marwick: You said that interest in the benefits of land value tax seems to be growing fast. You cited the option of the 3G mobile phone radio spectrum as an example of acceptance of that principle, albeit in a flawed form. Has interest in land value taxation waned in recent months, in the light of the financial problems that face some of the firms that made successful bids for 3G wavebands?

Fred Harrison: You are asking whether interest in the tax has waned. Interest in the proposal is minimal, but when it is explained to businesspeople, they realise that they will gain through it. The problem with the 3G option was that British Telecommunications wanted the licences to be sold for a capital sum instead of there being an option of annual payments, or rents. The result is that the big boys have the advantage, because they have the financial clout to accumulate the huge sums and squeeze out the smaller competitors.

There were two sets of losers in that case. The big firms ended up suffering because they over-borrowed to acquire the licences; and the

community lost too, because if the payments had been based on an annual reassessed rental value, the community would have acquired far more income over the 20 years of the licences' duration—and we should bear in mind the fact that enterprise would have been willing to pay that higher income in the form of annual rents—compared with what was raised by the companies buying the licences up-front for a capital sum. That was the flaw.

Iain Smith: I want to ask about the application of land value taxation to agricultural land. In your submission, you suggest:

"The inclusion of property in agricultural use would yield additional revenue and remove distortions in the land market without adding to the cost of farm produce."

My basic economics suggests that increasing the cost—a charge payable by the user of the land—would inevitably result in an increase in the cost of produce. Can you explain where my basic economics is going wrong?

Dr Duncan Pickard (Land Reform Scotland): I can easily clarify that misconception. You may be aware that, until about 1931, agricultural land in this country was rated and that, when rates on agricultural land were abolished, the rental value of the properties increased to compensate. In other words, rent plus rates tend towards equality. If you wanted to impose a land value tax on agricultural land, the rents that are currently paid would fall to compensate. That is why there would be no increase in food prices.

If I were a tenant farmer, I would not be able to go to market with my cattle and charge more for them simply because I pay rent to a landlord. I have to compete with the owner-occupiers, who do not pay rent.

Iain Smith: But the owner-occupiers will be paying land value taxation, which they do not pay currently, so they will be at a disadvantage.

Dr Pickard: I think that is a fair deal.

Iain Smith: Their prices will presumably have to go up.

Dr Pickard: No, they do not have to. The tenant farmers cannot charge more for their produce now, so neither could the owner-occupiers if they had to pay land value tax. It is an impossibility.

Iain Smith: I am not sure that I follow the logic of that argument. If costs go up, I would have thought they would be passed on.

Fred Harrison: I accept that the concept is often a difficult one for people to wrestle with. If you consult any standard economics textbook—and I could lay out a pile of books to support what I am saying—it will tell you that you cannot pass on a land value tax or charge on rental income in the

form of higher prices. If rental charges could be passed on, it seems that all the academic profession—they are unanimous—must have got it wrong. We know from empirical studies that the price structure would not be altered.

The price structure is altered by all other forms of taxes, because they are added to the costs of production. However, as Duncan Pickard said, as a charge on rent is equalised, the higher the charge, the lower the rent that the occupier pays to the private landowner. As a result, the charge is not an additional cost on production, like income tax, capital gains tax or any other form of tax.

Iain Smith: I think that I understand your basic point. You are saying that rent and land charges together would level each other out.

Dr Pickard: Correct.

Iain Smith: I can understand the case for that. However, if a land value tax is levied, someone who is currently not paying that charge will have to do so and will therefore want to recoup that money.

Dr Pickard: He might want to, but he cannot. That was Fred Harrison's point.

Iain Smith: I am not convinced by that argument. As you said, the argument is difficult to explain, even if it could be explained to someone as thick as an MSP. In the current political circumstances and given the state of the farming industry after the foot-and-mouth crisis and because of other problems that farmers always tell us that they have, would you be able to persuade farmers that introducing land value taxation would not be to their disadvantage?

Peter Gibb: Your question betrays a common misapprehension. Land value taxation would fall more heavily on urban areas and less on rural areas. The net effect of introducing land value taxation would be to reduce the tax burden on farming and on other rural activities. As a result, the proposal is farmer-friendly, which is probably why I have a farmer, in the shape of Duncan Pickard, sitting beside me.

Dr Pickard: Although about 95 per cent of land value in Scotland is centred in urban areas, only 5 per cent of the land in Scotland is urban. That means that although 95 per cent of the land is agricultural or rural, its overall value amounts to only 5 per cent of the total. In other words, if the land value tax were levied as a uniform tax, the agricultural sector would pay only 5 per cent. The net effect would be reduction of land prices. Some very good friends of mine are farmers; they would be upset to find that instead of being worth £1 million, their farm might be worth only £100,000 or £200,000 because that would be the residual value of the farm buildings. Land speculation

would disappear.

However, that prospect holds no fears for me. I am not worried about whether my farm is worth £1 million or £100. Instead, I am concerned about its earning capacity. Since we bought our farm in 1992, its cash value has probably doubled; however, its earning capacity is nowhere near that amount. There is a fundamental flaw in the economic system that prevents farmers from earning a reasonable living from their farms and from being independent on subsidised contributions from anyone else.

The Convener: Is farm land in other European states liable to tax?

Fred Harrison: Yes. Denmark was the first to introduce the land value tax, which it did in 1917 at the behest of the farming community; indeed, that tax continues to operate in the urban and rural sectors if committee members want to find out more about it. The farming community saw the wisdom of charging on rent, because that would leave their enterprise tax-free or with only minimal charges to pay on their productive capacities.

Ms White: I note that—apart from Denmark—Australia and some states in the United States of America have a land tax. Furthermore, I have read that Estonia, which is a new and flourishing state, also has a land tax. I have been intrigued by the changeover from locally to nationally gathered land tax. Perhaps I can pursue that matter later.

I have some concerns about your submission. In paragraph 3.9.1, you say:

“The owner of vacant or under-developed land would have an incentive to develop in order to secure the revenue stream with which to pay the tax.”

I am also concerned that you say:

“Fewer appeals would be generated when valuations were revised.”

Assuming that the owner was not able to develop the land, do you envisage that some sort of relief system would underpin LVT or would you expect the owner to meet the liability on their land, irrespective of their ability to generate income? Why do you think that there would be fewer appeals? If we were to move the banding system in the council tax, the number of appeals would surely be equal to those that LVT would generate.

Peter Gibb: On your first point, I will return the question. What sort of constraints might prevent a landowner developing their property within the planning and environmental framework? What sort of socially proper constraints, as opposed to constraints of private gain, would stop a landowner developing their property?

Ms White: I imagine that there would be no social or humanitarian constraints to stop such development, but if a landowner had a piece of

land and the LVT were in force, to make that land more attractive, they would have to upgrade to a higher tax band. As you know, people get grants for that nowadays. Do you envisage that people would have to develop the land at their own expense? Is that what you are saying?

Peter Gibb: No. We are saying simply that any piece of land or any resource has a natural value to the community and that any private individual who withholds full proper and legal use of that resource acts anti-socially.

Ms White: Does the person act anti-socially by not bringing the land up to a certain standard?

Peter Gibb: We must separate the land from the improvements. LVT is not a policy that will force people to keep their windows painted and their gardens clean. It will ensure that a piece of land that is disused or underused—a few of our large cities have quite a lot of such land—is not held out of use or underused by its owners for speculative gain.

Ms White: I understand that. However, there would be no relief system for an elderly person or someone on their own who lived on such a piece of land and did not have the money to upgrade it to suit themselves. Do you envisage any sort of relief system for such people or an incentive to upgrade it? That is just one scenario.

Peter Gibb: It is a fair scenario and it does occur. The easy answer to the problem of the old widower or old widow in a large house that was once occupied by the family is for the collecting authority—the local authority—to defer collection. The uncollected amount would accrue annually to be capitalised and, on the death of the individual, the amount would be collected from their estate.

Ms White: I remember that suggestion from your submission. On my second point, why do you think that LVT would generate fewer appeals?

Fred Harrison: That is because we would end up with a rational system of land use rather than one that is heavily based on arbitrary decision making and ineffective approaches to the allocation of resources, such as the system that we have. In a more dynamic, efficient, democratic and transparent system, people know what is worth what and they are willing to put those resources to the best use. We would reach the point at which the level of efficiency was such that there would be less need for people to argue over use and whether land should be held out of use.

That is the case in Denmark. There, because of the pressure that is applied by the tax on the annual rental income of land—local communities democratically and transparently reassess the market value of their sites for tax purposes—the appeals against valuations are far fewer than

under our system. That is documented—we can supply a study that was published about 10 years ago by the tax authorities in Denmark that shows that the number of appeals there was extraordinarily low. That is an empirical example of the fact that there is less contention in a transparent system. The problem is that our system is not particularly transparent, despite what we say.

The Convener: Would non-profit making organisations such as the Woodland Trust and the National Trust for Scotland still pay?

15:30

Fred Harrison: That would be a democratic decision for society to make. In principle, anyone controlling land has an obligation to the community—land is a social asset and ultimately belongs to us all. If people can account for the way in which they use land in such a way that society deems it necessary to exempt them from LVT, that democratic decision could be made. We would argue that, unless there were ecological reasons why a tract of land should not be used for commercial purposes and was not generating income, there is no reason why the people who choose to monopolise land should not pay the rest of us our share of the value of that land. However, as I said, that would be a democratic decision.

Mr Harding: How does the land value tax sit with other local taxes in Denmark? What percentage of taxation in Denmark is raised through the land value tax?

Fred Harrison: I cannot make a comparison. The proportion of revenue coming from land taxes in Denmark has declined over the course of the 20th century, as it has in New Zealand and Australia. Despite the democratic preference for the land-based form of taxation that was expressed through referenda in communities—particularly in New Zealand and Australia—commercial pressures have been against land value taxation and for our kind of property tax. The balance has shifted away from revenue that is raised from land rents locally.

Mr Harding: Sandra White mentioned that we recently visited Estonia. Councils there are able to raise 10 per cent of local taxation from land value tax; however, no council has ever done so, which is interesting.

One of the problems with the domestic rating system was the lack of rental evidence on which to base domestic rateable values. How would you overcome that problem in relation to LVT? How would you determine the valuation of land?

Fred Harrison: We would do that in the same way as it is done in Denmark, where local communities elect committees that are chaired by

experts. Those committees conduct the reassessments. Every three years, every site's market value is reassessed. There is no difficulty with assessing the annual, imputable rental income of land. It is odd that in this country we expect every person who earns income to assess the value of his income and declare it for taxable purposes, but we make an exception for land that someone owns and we worry about the difficulty of getting evidence. There is no difficulty; it is simply a matter of political will. If we, as income earners, are able to declare our taxable capacity, the owners of land can also declare their taxable capacity. In practice, there is no problem.

Mr Harding: So there would not be a national rental value; the value would vary from area to area.

Fred Harrison: Yes. The market rents would be determined locally and ought to be efficiently collected. It is fair to say that the data in this country—indeed, in most countries—are at present poor, but that is for historical and political reasons. Land tax is a conservative and traditional source of revenue—in many ways, it is the natural and ancient source—and the logic behind the shift away from land tax towards revolutionary forms of taxation that are not driven by the desire to be more efficient or fair must be sought in the past. However, as part of that process of transformation, the data that ought to be available in order to have a transparent public revenue system have been diminished and our system has become progressively less transparent, in particular in relation to the land market. However, that could be remedied by an act of Parliament, if Parliament had the will.

Mr Harding: In paragraph 3.11.1 of your evidence, you say:

“There is no possibility for avoidance or evasion, as land cannot be hidden, moved about or relocated to a tax haven.”

Surely that is a feature of any property tax and not just of land value tax.

Fred Harrison: Yes. However, although you cannot conceal a building, you can manipulate the way in which land and buildings, when valued together, are assessed for tax purposes. For example, in the United States, the central data-gathering authority in Washington stopped publishing its information on land values in the early 1990s because the data ended up showing a negative value for all the land in America. The statisticians realised that that was absurd. However, that situation arose because the privileges that go with certain forms of taxation were such that the way in which land and buildings were valued together made it look as though the land was worthless—in fact had a negative value—and that all the value was in the buildings.

That was driven by lobbyists, who derived a benefit from obscuring the real value of the land.

Mr McMahon: You argue that rental values are relatively stable, unlike capital values, which are volatile. Can you give us any evidence of that and comment on accusations that rental values reflect property prices?

Peter Gibb: We argue, contrary to what you said, that capital values are relatively stable. Unless there is a great increase in the cost of wage labour or a sudden surge in the market for bricks, which drives up the price, the capital costs of construction of projects do not vary hugely. Consider the wild variation in house prices. In Edinburgh, for instance, the greatly increasing cost of housing over the past couple of years has been driven by land value increases.

Mr McMahon: To follow on from that, you say in paragraph 3.10.1 that LVT would be less regressive than the council tax. Can you provide evidence to support that?

Fred Harrison: The land tax is a progressive income tax. It is progressive in the sense that people declare their capacity to pay by the quality of the land that they choose to occupy. A millionaire does not live in a slum; poor people do not live on Millionaire's Row. Land tax is a public declaration of the capacity to pay. If we compare that with the capacity of millionaires to conceal much of their income through tax accountants and so on, it is clear that the tax on land values is progressive and transparent. The individual declares, by the land he chooses to occupy, how much he is willing to pay. Although other forms of tax, such as income tax, are progressive, the amount that you pay depends on the skill of your professional advisers.

Mr McMahon: Are you arguing that the difference in the land value of a house that is worth £30,000 and that of a house that is worth £300,000 would be greater than the difference between the values of the properties themselves?

Fred Harrison: The land value of the £300,000 house is far higher than that of the £30,000 house. The person in the £300,000 house would pay more—based on the value of the land he occupied—than the person who lives in the £30,000 house.

Mr McMahon: That does not take into account the size of the house; it takes into account only the value of the property.

Fred Harrison: That is correct. You are excluding somebody from the plot, not from the quality of the house that he chooses to build, with the labour that he chooses to devote to the building that he happens to want to live in.

Mr McMahon: Is not that affected by the value

of the council tax band of the house? How do you assess LVT in relation to that?

Fred Harrison: The land tax would be a uniform rate. If it were set at 10 per cent of the market value of land, that would mean 10 per cent of the value of properties under £30,000 and 10 per cent of the value of properties under £300,000. The tax has a progressive quality. Owners of higher value land would pay more than owners of lower value land. I recall writing a story about 15 years ago, which described how the Queen had to pay less than a local postman in Scotland because of the way that values were judged. The present system is arbitrary, regressive and incoherent compared with the model that we propose should be adopted.

Mr McMahon: Would not it be easier to change the number of council tax bands and the values within each band? Would not that address that type of anomaly?

Fred Harrison: No. The present system penalises people's capacity to earn income by charging them for the value of the building that they occupy. That has a regressive and damaging impact on communities and on society in general. That negative impact would not exist if the charge were based exclusively on the rental value of the land that is occupied. The point goes back to classic liberal slogans. A person who chooses to improve their house by adding a garage should not be penalised. People who added central heating to their homes used to be penalised until that practice was removed from the old rating system. The system penalises people for the value of their houses, which imposes penalties on their capacity to earn and on their quality of life. That does not apply when land is used as the tax base.

Mr McMahon: I do not follow that. Does that mean that the Queen's ability to earn money is reduced if she wants to add accommodation to Balmoral or Buckingham Palace? How does the present system prevent her from earning the levels of money that she earns?

Fred Harrison: The Queen is an exceptional case. I will illustrate the point with a contemporary issue. The Chancellor of the Exchequer wants us to consider paying more taxes to improve the health service. That might seem a little removed from local government finance, but it shows that decisions ought to be informed by the fullest information possible before they are made. We spend £45 billion or £50 billion on the health service. The Government proposes that we should consider adding 1p to income tax to raise additional revenue to improve the quality of our health service. We calculate that the loss to an average family of four people from an extra penny on income tax is £640. That is what the average family will lose in terms of incentives to generate

additional revenue.

If spending was increased to European levels—for example, if 5p more was put on income tax to provide the quality of health service that, apparently, the people want—the loss to our nation would be about £15 billion. That is not the tax take, but the consequences of the tax take. We could generate an additional £15 billion to spend on the health service, community services and private needs if we did not put an extra 5p on income tax. That is called the excess burden or dead-weight loss. Economists use either phrase to describe the measurable negative impact of raising revenue by means that are not connected to the value of land.

In other words, the difficulty for democratically elected politicians who claim that they cannot afford to pay doctors, nurses and teachers what they want is that that is simply not true. They could afford to do so if they raised public revenue through the natural tax base—the rent of the nation's land and natural resources. Because we choose not to raise revenue by that means, our overall productive capacity is less than it would otherwise be. Therefore, we cannot afford to provide all the services that we want to provide.

15:45

Mr McMahon: I suppose that you would be able to produce masses of books—as you said you would—that argue against Iain Smith's point of view. Surely if the Government decides to raise £15 billion, it will raise that money directly, indirectly or by whatever means. It will find a mechanism for raising that £15 billion. Wherever one takes the money from, it is still £15 billion.

Fred Harrison: My point is that, as a result of raising £15 billion from a stealth tax—or any other form of tax—we add disincentives to the system. Those disincentives result in less output in the economy than would otherwise be the case.

Mr McMahon: Does not that support the argument for taxing fuel? Sometimes one levies such taxes in order to make that direct impact.

Fred Harrison: If reasons such as environment or resource conservation exist for putting a brake on people's activities, then such taxes work effectively. We apply that principle when we think of ecology, but for some reason we do not say, "You go to work. You ought to earn enough to pay for your own medical and educational needs. However, we are going to prevent you from being able to do so by taxing your wages with an income tax." We do not say that, although we should, because we could quantify the losses that people suffer as a result of the tax instruments that we use.

Mr McMahon: I am not convinced, but thank you for your answers.

Dr Jackson: Before I ask my question, I seek your help in helping me to ensure that I have understood your point. You used the example of a £300,000 house, a £30,000 house and a £3,000 shack for which the same land tax is required. Let us say that the three plots of land are side by side and that all are the same size.

Fred Harrison: You would need to tell me what a developer would be willing to pay for each of those sites, because that is the base on which the tax would be levied. I would not determine what a developer would be willing to pay and nor would you; however, the market would. If those three sites were of equal value, despite one's having a shack on it and a mansion being on another, the charge would be the same for each.

Dr Jackson: I will follow up that point. You talk about the potential for developers, but the plot that has a shack on it might be worth more to a developer, because it might be advantageous not to have to get rid of a house in order to build something else. The way in which the level of tax would be determined sounds very arbitrary.

Fred Harrison: It is not. The market determines the land value—that is not arbitrary. Arbitrariness exists in the present system, in which we decide to increase or decrease a tax rate or to give certain subsidies or allowances—that is arbitrary. In the system that we propose, people would determine the value of the land; that would be the tax base. If the Government said that there ought to be a charge of 10 per cent, 50 per cent or 100 per cent, that would be a democratic decision. However, it is not for us to determine individually whether someone ought to pay more tax on one site than would be paid on another site for reasons that, privately, we might think are right or wrong. The capacity to pay would be based on the actual market value of the land at a given time.

Dr Jackson: I think that you said that groups of people in Denmark make those decisions locally.

Fred Harrison: That is correct, but they base the decisions on the market. The lower assessments are on one street, the higher the assessments will be on another street. Therefore, assessments end up having to be fair so that people are being fair to themselves, to their neighbours and to the rest of the community. Those values are published in the yellow book, which gives for each area in Denmark the property value, which is a global sum, and the land value—the second figure—which is usually a lesser sum. That information exists for all to see. If one street has an unrealistic value, the neighbours will appeal and adjustments will be made.

Dr Jackson: You said that, under your

proposals, local authorities would have a greater incentive to promote improvements. I take it that you meant that therefore local authorities could set higher taxes. Is that correct?

Fred Harrison: There is a dynamic at work here. There is no private obstacle to the renewal of the local community. Philadelphia is a live example of that. We have submitted evidence from the Philadelphia city controller and will leave his full report with the committee. The controller says that large swathes of Philadelphia are blighted by the flight of population. People sit on properties in those areas because they have no incentive to do anything with them or to renew the use of the buildings. They would rather keep properties vacant than put them to low-grade use, because ultimately the capital gains of the first option are higher. A tax on that land would provide owners with an incentive to bring properties back into use. That is grass-roots, bottom-up pressure for renewal in the community; it is not the result of a grand scheme or a plan.

Dr Jackson: I was asking you about local authorities, rather than about owners.

Fred Harrison: We have a democratic system. If the local community generates only 20 per cent of its total revenue, most people will feel that their allegiance is to central Government. If the proportions were reversed, people would want to be involved in their community because their money was being raised and spent locally. They would want to ensure that they were getting value for money. Community consciousness would be transformed as a consequence.

Dr Jackson: You say that LVT

"would tend to stabilise all property prices".

Can you explain that statement?

Fred Harrison: Yes; I regard myself as something of an authority on that issue. This comes back to the issue of capital versus rent level stability. For 200 years in this country, we have had property cycles—booms and busts. The last major bust was in 1992; the next big one will be at the end of this decade. Property cycles are driven by land speculation, rather than by property or house speculation. The prospect of making huge capital gains periodically drives prices to astronomical levels, after which they collapse. If the incentive to pursue unearned capital gains were removed because much of that revenue was being taxed to pay for the local services that give the land the value in the first place, the swings in property prices would be moderated severely or eliminated altogether, depending on the tax rate.

Dr Jackson: Do you not think that land value could be increased if a large company came into an area? Could that not lead to speculation?

Fred Harrison: Certainly. We studied the impact of the extension of the Jubilee line in London. As a result of public investment in the extension of the underground, property prices around the five new stations east of Waterloo rose by approximately £10 billion. Had a modest charge been placed on the increase in property values that was caused by that investment, we could have paid for the Jubilee line extension without requiring money from the taxpayer. The cost of the extension was £3.5 billion and property prices increased by £10 billion. If Marks and Spencer locates in a small town, that makes the community more desirable and prices in the locality increase as a consequence.

Dr Pickard: The same would happen if an area had a very good school; people will move to such an area for that reason. If a local authority is spending money to provide a very good school and that attracts more people into the area and increases property prices, there is no reason why extra tax revenues should not be raised on that increase.

Dr Jackson: You are saying that with LVT property prices would not zoom up and down to the same extent.

Dr Pickard: Yes.

Fred Harrison: There would be growth based on the capacity of the economy to pay increased rental charges. Growth is different from speculative booms and busts, which drive our property market.

Ms White: I have two questions about land taxes. It is envisaged that there would be a land tax for both local government and national Government. Is it your idea that, instead of people making profits because a business has moved into an area or because an area has a good school, the local council would set the level of land taxes? Also, would the community benefit from those taxes?

Peter Gibb: If we step back from our local situation and see how we as human beings live in the world, it is clear that different natural resources are available at different levels of existence. That returns us to subsidiarity concerns. If we consider the natural resource that is a satellite parking station—

Ms White: I just want to know whether you expect local councils to raise the land tax and benefit from its value. Can local councils vary a land tax if an area has a satellite dish or a school? Would the community in that area benefit, rather than a person who bought a house in that area? I thought that my questions were quite straightforward to answer.

Fred Harrison: In Russia, for instance, the Parliament sets the tax rate. The land tax is

national, but all the revenue returns to the communities. Different levels of government should not set different rates of land tax. It ought to relate to one community and be based on one natural resource, with one tax rate in which we all share appropriately.

The Convener: We had an interesting presentation from Professor Midwinter, to which I know that the witnesses from Land Reform Scotland listened. We have had a very interesting presentation from you. The Scottish Socialist Party has proposed a Scottish service tax, but it has not spoken about the land tax that you propose, in which you say that that party and Robin Harper are interested. We will write a report on local government finance, to which Land Reform Scotland's evidence will certainly contribute. We will ask questions to clarify matters before we produce our report.

I thank you for coming. Your evidence was interesting and opened up some interesting ideas that we had not heard before. As I say to others, if we need to get in touch with you, we will do that. I apologise for keeping you late. The committee will probably be here until 6 o'clock, because we have much work to do. Thank you for your time and your presentation, which was useful.

I welcome Professor Peter Brown, who is the professor of property taxation at Liverpool John Moores University. He will speak to the Institute of Revenues, Rating and Valuation's report. First, he will give a presentation and then we will ask questions.

Professor Peter K Brown (Liverpool John Moores University): By profession, I am a chartered surveyor. I have been involved in local property taxation since I joined the Valuation Office in 1973. I left that office in 1985 to join what is now Liverpool John Moores University. Since then, I have been involved in a wide range of consultancy work for private clients and professional firms. In 1996, the then Secretary of State for the Environment appointed me to the Wood committee, which investigated the rating of plant and machinery. I assist the continuing review of the rating system in Northern Ireland by supplying a range of research material.

In 1999, the Lincoln Institute of Land Policy in America awarded Moira Hepworth and me a three-year research fellowship to study the different forms of property taxation in Europe. Following the presentation of our first year's work, the board of trustees agreed that we should extend our work to give an overview of local government finance so that we can attempt to put the main taxes into a more appropriate context. We are working on that aspect of the research and have one more year to go.

Before I give the committee an overview of our findings, I inform members that I come to this research as a valuer. I am not an expert in local government finance but a chartered surveyor. My colleague, who is more involved in the finance side, cannot—unfortunately—be here today.

16:00

I will quickly summarise the research before members ask questions. We studied about 44 countries in Europe—even defining Europe was a problem. We identified about 187 different forms of property taxes, duties or levies. Annual property taxes account for about 32 per cent of those; some 40 per cent are non-annual, state property taxes; and about 28 per cent are other non-annual forms of local property taxation. The revenues of at least eight different taxes are shared between state and local governments.

As far as we know, all countries other than Norway and Malta have a form of local property taxation, which is generally done on annual value with either a capital or a rental assessment.

The great move throughout Europe over the past few years for tax harmonisation has been significant, as has the introduction of the single European market and the euro, which will have a big impact when it comes in on 1 January next year. Doing business in Europe has become far more transparent. The impact of tax on business has become far more visible. Governments can no longer hide behind duties and other factors, such as currency fluctuations. Many Governments, such as those in Germany and the Netherlands, have recently overhauled their tax systems. In many other countries there has been a tendency for tax rates to converge. That trend will continue in the future.

Associated with those reviews of tax systems has been a series of reviews of local government finance. I particularly note the one that has just been completed in the Republic of Ireland. Northern Ireland is also undergoing a review.

The committee should be aware of the difficulty with definitions. What is a property tax in one country might be a land tax in another—and vice versa. It is difficult to get to the bottom and come up with Europe-wide definitions. Our other finding was that property can be not only property as we understand it in the UK, but personal property.

There is also the question of taxpayers. We studied 60 taxes, 32 of which identified the property owner as the taxpayer, but 26 were paid by the occupier. It is curious that in the Netherlands the tax could be paid by both of those parties, if a person is an owner-occupier. The person would pay one rate as the owner and a different rate as the occupier.

The two main approaches to valuation—which, as someone who does valuations, I feel strongly about—are capital value or rental value. There is a predominance of 30 capital value taxes, which seem to be the most popular. I do not think that either value approach has an advantage over the other; it is a case simply of what the local property market is and whether there is lots of evidence.

There are also 14 taxes that are based purely on an area approach, which refers to the size of the property, not the value. The countries that have that form of tax are generally in the less-developed part of Europe. They are probably former communist countries whose tax system is not well developed and who are getting to grips with the new, property system.

The other significant finding was that many countries have not had regular revaluations of their tax base. That is especially significant. Scotland, England and Wales have got this right. We now have regular revaluations for UBR and potentially for council tax.

The last revaluation in Cyprus was in 1909. I am not sure how there can be a current, up-to-date tax there if it is based on 1909 rental values. Many countries have provision in the legislation for regular revaluations—every four to six years is not untypical—but few of them adopt it. They tinker with the systems and create tremendous problems for themselves by not having regular revaluations. They introduce indexation, which by definition causes problems.

The UK is quite unusual in what we tax compared with what countries on the continent tax. Two general categories of relief are reliefs and exemptions that are due to the nature of the taxpayer and those that are due to the nature of the property. We heard today about agricultural tax. Many countries tax agricultural land as part of their normal taxation system.

Generally, the UK does not have the simplest form of calculating the tax. It is not easy in the UK to find out how much we have to pay. The Scottish system is a lot simpler than the English one—I commend you for it. Taxpayers should be able to calculate easily how much they have to pay.

Appeal systems vary considerably in Europe. I would not say that there are a great number of appeals. The reason for that is that the amount of tax that those taxes raise as a proportion of the general tax burden is far lower than it is in the United Kingdom. The one country that stuck out when we considered appeals was the Republic of Ireland, which is the only country that charges for the whole appeal process. In every other country it is free to start with and whether one pays charges depends on whether one gets to the higher courts.

That summarises some of the findings of the

research. I will be delighted to answer the committee's questions. Members should have a copy of the first research submission and the rather heavier submission from the second year's work.

The Convener: Based on the research that you have done so far—and I appreciate that it is not complete—could you advise the committee on the most appropriate form of local taxation for Scotland?

Professor Brown: You have asked the difficult question first. After examining the tax systems in Europe, I would say that there is no single tax that you must consider very seriously. I was pleasantly surprised by how robust the current system is in the UK, with council tax and the UBR. We must be certain that there is a better option before we get rid of a system that has worked reasonably well. It is not without faults, but it has worked reasonably well. We should avoid some taxes like the plague. The French system is especially complicated.

One system that is quite different is the Belgian system. Strictly speaking, the Belgians do not tax property, but the deemed income from property, equivalent to its rental value, is added to a person's income tax. The whole system is handled through the income tax regime so that any reliefs, exemptions and social benefits can be handled through one system. That is an interesting way of doing things. It is certainly not the norm.

Many countries have residential property taxation, but no country in Europe has a banded system, such as the one that we have in the UK. The rest of Europe has a value system, based on specific value. Such a system is more expensive and more time consuming than the banding system.

Mr McMahon: Notwithstanding your comments about the difficulty of defining a property tax in each country, and using only each country's definition of that tax, in countries in which property tax is the main source of local government revenue, is there interference from the centre or are local authorities able to determine those tax rates?

Professor Brown: In a number of countries a maximum can be put on what each local authority can charge. The authority can go up to a predetermined figure. In other countries, determining tax rates is totally within the realm of the local authority.

It is worth knowing that some countries have a tiered rate of tax, depending on the size of the municipality in which the property is located. A large municipality can charge X percentage, but a small municipality can charge only a smaller percentage.

Mr McMahon: Where there was capping—for want of a better word—was that done on a standing basis, or was it based on year-on-year adjustment of the tax variable?

Professor Brown: I study so many taxes. The ones that I remember had the cap prescribed by law and local authorities could charge anything up to that cap. The tax rate was not reviewed every year.

Iain Smith: As you say, you have studied a large number of taxes—about 190—in your full report, which none of us would claim to have read fully in the time that has been available. Have you drawn any conclusions on the different types of property taxes that are levied in European countries? I appreciate the fact that there is still a year of the project to run. Have any patterns emerged in the emerging democracies and in the more long-standing democracies? What proportion of the income of local councils is raised through land or property taxes?

Professor Brown: I will start with the percentage of revenue that is raised through land or property taxes. We have not finished the research into that area, which will take another year. I have a gut feeling that the significance of property tax is a lot lower in Europe than it is in the United Kingdom. I cannot put my hand on my heart and give a percentage for the proportion of income that is raised in that way. Property tax in the UK is far more significant as a business expense.

Many of the emerging democracies, which have not had established property markets, have moved to having property taxes that are based on area. The reason for that is twofold. First, the market is not sufficiently developed to have a sufficient body of evidence on which to base valuations. Secondly, there are probably not enough valuers in the country with the expertise to undertake valuations. A number of the emerging democracies have said that, given the opportunity, they hope to move to a value-based tax rather than an area-based tax in the next two or three years.

The remainder of annual taxes throughout Europe seem to be based more on capital value than on rental value. That is largely because in many of those countries owner-occupation is more common than renting properties, so there is more evidence. Whatever sort of tax is chosen, it must be one for which evidence is available—otherwise the taxpayers will not be able to associate with the base that is being used. I am not sure whether that answers all your questions.

Iain Smith: That is very helpful. If the proportion of tax raised through land taxes is generally lower, have you done any work to indicate what makes

up the difference—for example, central Government grants or other sorts of taxation?

16:15

Professor Brown: The amount of Government grant seems to be higher in Europe than it is in the United Kingdom. However, many other countries have the power to make other charges. UBR and council tax are encompassing taxes—everything is provided and they are charged on all property. In other countries, local authorities have the power to charge for refuse collection, for example—they make an additional charge for many of the services that they provide. Until one adds in all that, it is difficult to compare one tax with another.

Mr Harding: I was interested in your Belgian suggestion—I believe you said that rent values add to local authorities' income through income tax. Is that collected centrally?

Professor Brown: It is collected as part of income tax through the normal income tax procedure, but it is acknowledged that the income is part of local government revenue. I am not sure of the mechanism, but the revenue is fed back to the municipality.

Mr Harding: So it is distributed very much in the way that we do here.

Professor Brown: Yes. It is quite common in Europe for the taxes to be collected by the central tax authority and remitted back to the municipality.

Mr Harding: Presumably, criteria similar to those that we use are employed—need, population and so on. I was disappointed to hear about the revaluation situation throughout the rest of Europe. Did you identify any countries that carry out a regular revaluation?

Professor Brown: Denmark has changed its taxation system. There are annual revaluations only of commercial property, because of preparations for computerisation. There was a change in the law in 1998, which was implemented in 1999. Sweden also has more regular revaluations. The system there is similar to that in the UK, although it is based on capital value and there is a two-year antecedent valuation date. There is a lot of sense in that approach.

It is tragic, to some extent, that although many countries are able to carry out revaluations, few of them do it. For example, France came up with a completely new system of revaluations involving committees and so on, but never implemented it—the system is being changed yet again.

Mr Harding: You said that in some cases it is difficult to determine exactly what type of tax a particular tax is. Did you identify any country in Europe where a land value tax was the main

source of local government revenue?

Professor Brown: No. To my knowledge, there is no such country.

Ms White: Thank you very much for your substantive submission. As Iain Smith said, it was good weekend reading. Keith Harding mentioned land value taxation. During your survey, did you find any countries the size of Scotland and with similar local government responsibilities—for health, fire and so on—where a local property tax was the main source of local government revenue? We should be aware of the problem of the definition of property tax, which you mentioned at the beginning. I do not know whether that will come into your answer.

Professor Brown: There are a few countries where all local government finance must come from property taxes and other local authority charges—in other words, local authorities can levy fees and charges for services in addition to the property tax. That was in the emerging democracies, where self-sufficiency was necessary. Generally, the revenue is made up from central Government.

Ms White: So it does not come specifically from property tax.

Professor Brown: That is correct. Another unusual feature occurs in Spain and Italy, for example, where capital gains tax and inheritance tax, which to us are national taxes, are local taxes. I cannot give any definitive figures at this stage—I can give only a feeling.

The Convener: I do not think that there are any more questions. I thank you for your evidence. Like Keith Harding, I was interested in your comments about the Belgian system and that you started off by saying that the system in the UK was robust and that no other European countries had banding. The committee will examine council tax banding later this afternoon. It has been interesting to hear how other countries collect their tax. Iain Smith said that your submission made interesting reading—indeed it did.

Thank you for coming along. We will contact you, if we need to. I apologise that you had to wait so long. It has just been one of those afternoons.

16:21

Meeting adjourned.

16:27

On resuming—

Subordinate Legislation

Standards in Public Life Code of Conduct: Councillors' Code (SE/2001/50)

Standards in Public Life Code of Conduct: Members' Model Code (SE/2001/51)

The Convener: Okay comrades, now that we have had a break we will continue our long meeting.

Before I introduce the Deputy Minister for Finance and Public Services and civil servants, I will go over the affirmative procedure with committee members, because it is some time since we have had to deal with subordinate legislation that is subject to it, as the Standards in Public Life Code of Conduct: Councillors' Code and Standards in Public Life Code of Conduct: Members' Model Code are.

The report of the Subordinate Legislation Committee has been included in the papers for today's meeting. The committee did not consider that Parliament's attention needed to be drawn to the councillors' code, but it sought clarification from the Executive on the members' model code. The Executive's response to the Subordinate Legislation Committee is included in the report.

The procedure will be as follows. I will allow time for the Deputy Minister for Finance and Public Services to give evidence to the committee on both codes of conduct. Members can ask questions only for clarification or explanation during that time. The minister can decide whether to answer them himself or to call on his officials to answer.

At the end of that time, I will announce that the time for questions is over and we will start the debate. The committee will debate the two motions separately. I will call the minister to open the debate and move the first motion, which is on the councillors' code, before I ask whether any committee members want to speak in favour of or against the motion. When everyone who wants to speak has done so, I will give the minister the opportunity to sum up and will then put the question on the motion. The same procedure will apply for the second motion. The process is much the same as that for stage 2 of a bill. Is everyone clear? Keith, are you clear? You are looking at me as if you might not be.

Mr Harding: Just stop me if I go wrong.

The Convener: I will.

We have with us today Peter Peacock, the Deputy Minister for Finance and Public Services, Gordon McNicoll, who is head of the solicitors division A1 in the Scottish Executive finance and central services department, and David Spence, who is head of the public bodies and executive agencies division in the Scottish Executive corporate services department. Gentlemen, I apologise for keeping you waiting—we are having a marathon meeting today, as we are coming up to Christmas.

16:30

The Deputy Minister for Finance and Public Services (Peter Peacock): I have a few opening remarks to make and then I will be happy to answer any questions that members may have.

It is good to be with the committee this afternoon to talk about the refined and developed councillors' code and the members' model code. The codes arise from the Ethical Standards in Public Life etc (Scotland) Act 2000, which establishes a new ethical framework to reinforce public confidence in all who serve on councils and public bodies. The codes are a key part of the new ethical framework and set out the standards that the public can expect from those who serve them.

I last met the committee during the consultation on the draft codes. The draft codes generated a lot of interest and I thank people for taking the time to respond. The consultation confirmed both the strong support for the concept of codes of conduct and the existence of a consensus on the key aspects of the codes. There is a desire for close parity between the two codes and I am confident that the councillors' code and the members' code, in their final form, will be highly consistent with each other. The codes are specific to councillors and to members of public bodies and reflect the differences between the types of public service that both are engaged in. Neither one is more onerous than the other.

I know that the committee has received correspondence from the Convention of Scottish Local Authorities, with which we have worked closely during the development of the codes. COSLA believes that, although it is desirable that the two codes be similar, the particular circumstances of local government justify some variances between them. There is a high degree of parity between the two codes, as both are based on the MSPs' code of conduct and share the same explicit principles. However, there are some obvious differences. For example, the section on election expenses is clearly relevant only to the councillors' code. Other differences are also justifiable on the ground that they are tailored to meet the needs of different types of bodies that make decisions in different ways and contexts.

The manner in which the registration and declaration of interests is handled reflects those differences.

Other parts of the ethical framework, notably the standards commission and the chief investigating officer, will be able to work effectively with those codes; the codes are the foundation on which the commission will be able to work with Scotland's councils and with public bodies to advance the business of improving and delivering on the Ethical Standards in Public Life etc (Scotland) Act 2000. We envisage that the codes will come into effect in the summer of 2002.

No one should underestimate the seriousness of allegations of a breach of the codes triggering an investigation or a hearing. The codes serve as an important part of the ethical framework that has been put in place. In short, the codes and the framework will ensure that we have in place a system of accountability that not only reflects and supports the needs of all those involved in public life but commands the respect of the public.

Mr Harding: When we discussed the codes earlier in the year, the question of an appeals procedure was raised. What is the current situation?

Peter Peacock: I understand that, although the appeals procedures are not mentioned in the codes, they are covered in the Ethical Standards in Public Life etc (Scotland) Act 2000. If the standards commission found someone to be in breach of the codes and if that person wished to appeal, they could do so through the sheriff courts.

Mr Harding: Would it not have been better to include information on the appeals procedure in annexe A of the code, with the information on penalties?

Peter Peacock: I will be happy to consider ways of ensuring that the people who are subject to the codes are aware that an appeals procedure is available to them. Perhaps an accompanying letter, or something of that sort, is required.

Mr Harding: The code will show the penalties but people may not be aware of what is in the act. I do not think that every councillor or every member of a public body will have a copy of the act.

Peter Peacock: I am advised by my officials that, because the appeals process is set out in the act, it was felt that it was not necessarily appropriate to set it out in the codes. However, I will consider the ways in which we can communicate with people to ensure that they clearly understand the appeals process.

Dr Jackson: I want to ask about the Subordinate Legislation Committee report and the members' model code. A question was raised over

which parts of the code were mandatory. Is some of it mandatory or is it all discretionary?

Peter Peacock: It is not all discretionary. The model code will go out to individual bodies so that its terms can be adjusted to suit the individual circumstances of those bodies. When the minister approves the final version of the members' code, they will be under a duty to have regard to the model code, as the act says:

"Ministers shall, when approving, substituting or devising a code ... have regard to the members' model code."

The minister will not be able to disregard the terms of that code.

I am grateful to Dr Jackson for raising the issue. I have noted the concerns that the Subordinate Legislation Committee raised and I want to make our position clear—I want firm statements to be on the record. I assure the committee that my clear expectation is that the overwhelming majority of provisions in the model code will be adopted by all public bodies. I would consider carefully any suggested variation and would not be prepared to approve anything that lessened the burden of openness that the model code establishes. Although individual bodies must have the freedom to ensure that the code operates effectively in their particular context, they cannot interpret that flexibility as affording any opportunity whatever to lessen the burdens of openness required by the model code. I hope that that makes my position clear.

Iain Smith: I am sorry to have to return to an issue that I have raised before. I remain concerned about the section in the councillors' code on planning applications. If anything, the current version suggests that the situation is worse rather than better. I find it strange that a code of conduct would say to local councillors, as section 7.2.7 does:

"You should not organise support or opposition, lobby other councillors or act as an advocate to promote a particular recommendation on a planning application, on a planning agreement or on taking enforcement action."

I would have thought that that was one of the more fundamental roles of a councillor if he or she receives representations from local people on what may be major planning, road safety or environmental issues that affect the entire area. Section 7.2.7, if taken literally, is extreme and ties councillors' hands, making it difficult for them to represent their area.

Section 7.2.8 says to councillors:

"you must declare an interest and not take part in any consideration of the application in question and you must leave the meeting room until consideration of the matter is concluded."

That suggests that councillors have less right to attend a meeting than an ordinary member of the

public. I find it strange that such draconian measures have been taken in what I know perfectly well is not an entirely democratic system but in what is understood by the public to be part of a democratic system.

Peter Peacock: I am straying into slightly difficult territory here. Planning is not part of my brief, but the councillors' code clearly is and I am trying to drag to the front of my mind the substance of the correspondence that we had with Iain Smith when he raised the issue a few months ago.

It is not fair to say that a councillor is debarred from making representations through their usual channels. For example, if there are local concerns about a planning application that involves access or a road junction, for example, it would be perfectly in order for the councillor to raise those concerns with the planning officer and to ask them to take those representations into account when they made their recommendations to the planning committee.

The onus on members in the code relates to organising support or opposition, lobbying other councillors or acting as an advocate to promote a particular recommendation or planning application. That is somewhat different from my point about drawing concerns to the planning officer's attention.

If a councillor chose—for legitimate and local reasons—to take a stance on a planning application in advance of and therefore without the benefit of the planning officer's recommendations and the planning committee's decisions and undertook any of the activities suggested in the code, they would do so as if they were a member of the public instead of a councillor making a judgment on a procedure within the planning framework. Within that framework, they are legally obliged to have regard to the planning officer's advice or recommendations. A councillor must make that distinction. Although it is perfectly legitimate for a politician to start a campaign, when councillors adopt such a position they would be required to step outwith the usual bounds of the planning procedure—so giving up their normal rights as a councillor—as they would not have had the benefit of the planning officer's advice. I am sure that the amount of case law and the number of planning appeals on those matters will condition any consideration of the issue.

Iain Smith: I understand that point, which is largely covered by section 7.2.9 of the councillors' code. However, section 7.2.7 seems to suggest that a councillor cannot do what you are saying. The point is not that a councillor can decide to undertake certain activities in respect of a particular case—although, if they do, they will not be able to vote on the planning committee or in a

council meeting when the matter comes up—but that, under the code, a councillor should not undertake those activities. A local member who decides that an issue is so important to the community that, for example, they must organise a petition about it is debarred from doing so by section 7.2.7. However, I fully agree with your point that that is an unfortunate consequence of the current situation with planning law and is covered by section 7.2.9. It just seems that section 7.2.7 and the latter part of section 7.2.8 take the matter slightly too far.

Peter Peacock: The purpose is to set out the distinctions that a councillor has to draw concerning the actions that they can take as a citizen and as a councillor, given their specific role in judging planning applications and the legal duties and requirements that are attached to that role.

As I said in my opening statement, we have to develop the relationship with the standards commissioner and the chief investigating officer, who will have a role in helping to interpret matters and in giving advice about changes that might be required. In the light of Iain Smith's points, it might be wise to inform the commissioner, when they are appointed, of precedents in planning law or case law to ensure that proper advice can be given to councillors when they ask the commissioner what stance they can take on a particular case. I am more than happy to raise Iain Smith's question with the standards commissioner once they are appointed.

Mr Harding: I should declare an interest, as I am still a councillor and have recently been involved in a controversial planning application in my ward. Indeed, I have spoken against the application at a public meeting. Would sections 7.2.7 and 7.2.9 of the councillors' code preclude a councillor from taking such action in future?

Peter Peacock: As I said, I am in difficult territory. Because I do not hold the direct planning brief, I am not fully conversant with the recent case evidence or the recent planning guidance that has been issued to councils.

In the circumstances that you describe, councillors may have to make a choice about whether, before coming to a decision, they should wait until the end of the planning process, at which point they can see the considered advice of planning officials, or whether, deciding that they need to make a judgment in advance of that, they should campaign and make it clear that they will oppose the application. If councillors choose the latter course, it seems that they would need to say at the planning meeting that they had made their judgment before seeing the planning advice. That would probably mean that they should not take part in the planning meeting. However, I would like

to take further advice before confirming that that is the position.

16:45

Mr Harding: The proposal that I referred to is the planning department's recommendation and will remove the last piece of green space from my ward—

The Convener: Keith—

Mr Harding: I am trying to clarify my point. Councillors have no choice but to get drawn into such issues if a large part of the electorate are against something. That is the point that Iain Smith is trying to get over.

The Convener: I know that you are trying to clarify the matter, but there is little point in giving us examples. I think that the minister appreciates the point.

Peter Peacock: Keith Harding is referring to a zoning of land, not a planning application.

Mr Harding: It is an application for a housing development.

Ms White: Picking up on that point, I point out the anomalies between the situation for MSPs and that for councillors. Sections 7.2.8 and 7.2.9 are dangerous for local councillors. MSPs can make written objections—

The Convener: Sandra, can we have a question?

Ms White: I want clarification from the minister. MSPs can make objections to planning applications and can go to the council to speak against the application. However, local councillors will not be able to take part in the planning application. Iain Smith has raised a serious point about such anomalies.

Peter Peacock: I understand your point, but the distinction between the MSP and the councillor is that the councillor has the responsibility for the planning decision in law, whereas an MSP does not. The MSP is free to decide to campaign or to represent objections to the application because the MSP does not have to make the final decision, which will be based on the planning officer's professional advice.

Ms White: I understand that, but for local councillors those are important points, which the minister should—as he said—ask the commissioner to consider.

Peter Peacock: I am more than happy to ask the commissioner to examine some of those matters. I shall refer this discussion to them. Clearly, that part of the code is of concern to members. However, the code engages with current law, precedent and our planning

colleagues' guidance.

The Convener: I want to change the subject completely. Section 4.9 of the members' model code states:

"Where you undertake a trade, profession or vocation, or any other work, the detail to be given is the nature of the work and its regularity."

Does "profession" include consultancy?

Peter Peacock: I suppose that depends on whether one regards consultancy as a profession. Having been a consultant at one time, I regard consultancy as a profession. I think that "profession" includes consultancy, but that may also depend on the status of the individual. As you know, some consultants are self-employed, so they would be picked up under section 4.8. Notwithstanding that, I think that section 4.9 applies to anyone who is undertaking a professional task.

The Convener: As there are no other questions for the minister, I now close the period for questions and start the formal debate on the councillors' code. I ask the minister to open the debate by moving the motion on the councillors' code.

Motion moved,

That the Local Government Committee, in consideration of Standards in Public Life Code of Conduct: Councillors' Code (SE/2001/50), recommends that the Code be approved.—[*Peter Peacock.*]

Iain Smith: By and large, the proposed councillors' code is to be welcomed. The changes that have been made to clarify and tighten up the code are improvements.

I want to put on record my continuing concern about section 7. I am glad that the minister has given assurances that that will be addressed once the standards commissioner is appointed. I feel strongly for councillors, who will find themselves in an almost impossible position. If an election is coming up and there is a major controversial planning application in their ward about which they can say nothing, opposition candidates will say that the councillor has been silent. The public do not understand the distinction in law. They expect their councillor to speak for them, irrespective of that distinction.

The issue is a major problem and will cause difficulties for all parties. However, it is not party political—it will affect the rights of councillors. A more selfish point is that it will mean that more people will be forced to go to their MSPs on planning issues, because they will feel that councillors cannot take up those issues on their behalf. MSPs will end up bearing the brunt of the planning system.

The Convener: If there are no more comments,

I ask the minister to respond to Iain Smith's points.

Peter Peacock: I repeat my undertaking to refer the question to the standards commissioner, who will have the power to issue guidance. That might be one of the issues on which he chooses to do so. As I should have said earlier, the code was drafted by COSLA and reflects local authorities' views. I am happy to reassure the committee that I will refer Iain Smith's question to the standards commissioner.

The Convener: The question is, that motion S1M-2479 be agreed to.

Motion agreed to.

That the Local Government Committee in consideration of Standards in Public Life Code of Conduct: Councillors' Code (SE/2001/50), recommends that the Code be approved.

Motion moved,

That the Local Government Committee in consideration of Standards in Public Life Code of Conduct: Members' Model Code (SE/2001/51), recommends that the Code be approved.—[*Peter Peacock.*]

Motion agreed to.

The Convener: I thank the minister and his officials and I apologise for keeping them so late.

Peter Peacock: We will try to put fewer brackets in the next statutory instrument.

16:52

Meeting continued in private until 18:25.

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