

MEETING OF THE PARLIAMENT

Wednesday 15 December 1999

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Scottish Parliament

Wednesday 15 December 1999

[The PRESIDING OFFICER *opened the meeting at 09:30*]

Cross-party Groups

The Presiding Officer (Sir David Steel): Good morning. I realise that there are major traffic and weather problems this morning, so we are thin on the ground, but we will proceed with the first item of business, which is the motion from the Standards Committee, S1M-338, in the name of Mr Mike Rumbles.

09:30

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I am pleased to have the opportunity, on behalf of the Standards Committee, to present this report on the "Regulation of Cross-Party Groups".

Cross-party groups contain members from across the parties who share an interest in a particular subject or cause. Members representing different political views have made clear, in a number of policy areas, that they wish to come together to discuss and promote matters of mutual interest and concern.

It is right that the Parliament should support this development by providing facilities and recognition to properly constituted groups. The report addresses the need to put in place a framework to allow such groups to develop within this Parliament. The principles that were central to the thinking of the Standards Committee in devising a possible framework were inclusiveness, openness and transparency.

The development of cross-party groups will provide a real opportunity for including people from a cross-section of society in Scotland in the work of the Parliament. This is an inclusive Parliament. It is the expectation that cross-party groups will contain not just MSPs but those with specialist knowledge or direct experience of the relevant policy areas, whether they be interested members of the public or from voluntary organisations, local authorities, universities or the private sector. MSPs need to hear from those, for example, with experience of how policies operate in practice and those with experience in other social settings if we are to produce the legislation that Scotland needs to meet the challenges of the future.

Cross-party groups can be expected to develop

and influence the work of our Parliament. It is hoped that they will contribute significantly to policy thinking to assist members in their tasks of understanding and investigating issues of importance to the people of Scotland and to assist them in their scrutiny and development of legislation. Because those groups will have influence it is important that they operate in accordance with good practice, that their activities are in the public interest and that they are open and transparent. That is why an effective system of regulation is essential.

Public confidence in the Parliament demands that those groups are not used as a vehicle for promoting vested interests. Groups that wish to be recognised by the Parliament must submit their application to the Standards Committee for approval and must demonstrate to the committee that their purpose is of genuine public interest. If the committee doubts this and thinks that a group is designed, for example, to further particular commercial interests, it will not be approved.

Groups must be genuinely cross-party. They should not be used to promote the policies of one section of the Parliament or its supporters in the wider community. Before any group is approved it will need to undertake to comply with the rules set out in the committee report. The rules that the Standards Committee is recommending are designed to ensure openness through public advertising on the Parliament's website and the requirement that all meetings take place in public. The wider public need to be fully aware of their activities.

These procedures also require full transparency about a group's membership, including both MSPs and non-MSPs, its purpose, identification of its officers and funding or staff assistance that it receives. All those matters must be registered by groups before approval and new or changed details must be entered in the register as they occur. This information will be publicly available in the office of the Standards Committee clerk and on the Parliament's website. Any member wishing to set up a cross-party group needs, therefore, to speak to the clerk of the Standards Committee in the first instance. The committee will ensure that registered cross-party groups meet the requirements of the scheme.

I am confident that a properly regulated system of cross-party groups will be of benefit to all those connected to the Parliament and all those who want to engage with its work. For groups and individuals in Scottish society, cross-party groups will be another significant means by which they can make their views known to MSPs and will promote the essential interaction that is needed between the Parliament and civic Scotland.

I move,

That the Parliament agrees the arrangements for the regulation of Cross-Party Groups in the Scottish Parliament set out in the annex to the Second Report of the Standards Committee and that these should apply with immediate effect.

09:35

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

Cross-party groups provide a framework that allows the participation of civic Scotland in parliamentary matters. They are headed by MSPs and help us to be better informed about the issues that are important to the people of Scotland. It is fair to say that organisations outside the chamber are anticipating this document more eagerly than some of our colleagues. For civic Scotland, cross-party groups represent one of the routes by which access to Parliament can be gained.

Many of those groups have emerged and represent issues as diverse as oil and gas and the elderly. Such groups are important to the ethos of the Parliament. In order for them to remain valuable, they must be regulated. Cross-party groups are important to the transparent, open and accessible culture that needs to be fostered in the Parliament. I think it has to do with putting one's money where one's mouth is.

The recommendations of the consultative steering group set out that the Parliament should be open, participative and democratic. The group paid particular attention to the role of civic Scotland in terms of the sharing of power. Paragraph 17 of the group's report states:

"Power-sharing is not only about the balance of power between the Scottish Executive and the Scottish Parliament, but also about the empowerment of external groups and individuals in all sectors of Scottish society."

Cross-party groups as well as committees contribute to the ethos of our Parliament and provide a channel for information, criticism and advice. More important, the groups allow MSPs to explore longer-term policy direction on a cross-party basis and to use the expertise that members of the group can bring.

Cross-party groups are also useful in areas where the Scottish Parliament does not, as yet, have legislative competence. That means that there can be debates on issues that are outside the parliamentary remit. That feature of cross-party groups is particularly welcomed by those organisations in civic Scotland whose interests are not devolved matters.

In order to remain valuable, however, cross-party groups must be regulated. Mike Rumbles has already outlined the features of such regulation. Everyone must be clear about the purpose of the groups and who is responsible for

them. The groups must remain essentially parliamentary in nature. That is why the Standards Committee has insisted that MSPs should take up the senior positions in the groups.

The groups have been the subject of much debate in the Standards Committee, and I am pleased that members of the committee from all parties have unanimously agreed the report. The subject of this debate is important, as the Parliament was set up to be inclusive. Cross-party groups are a method of ensuring that the Parliament is so, but they will work only if they are properly administered.

Cross-party groups are a framework to encourage participation in Parliament, but they are not the sole method of influencing the Parliament. There is a danger that the existence of the cross-party groups could be used as an excuse to ignore the rest of civic Scotland and the other groups that are involved. Parliament could consult the cross-party group on the elderly and claim that it has consulted widely, as that group could be seen to be representative of all the elderly groups. That cannot be allowed to happen. The cross-party groups should not become exclusive. The Parliament's members should be open to all views, regardless of where they come from.

In short, while I appreciate that cross-party groups are an important mechanism of participation, they are only one of many. In order that we get the best out of the cross-party groups, it is important that we have a framework of regulation. The Standards Committee has achieved the right balance in the document. I ask members to give it their support.

09:40

Lord James Douglas-Hamilton (Lothians) (Con): I rise to support Mr Mike Rumbles's motion. As convener of the Standards Committee, he has conducted our proceedings with good will and humour. It has been a pleasure to work with him.

Mr Rumbles is right to stress the need for inclusiveness, openness and transparency. Cross-party groups can be of enormous benefit to a great many. Tricia Marwick is right to say that they are vitally important for the ethos of the Parliament. They are a valuable way of examining issues that are not necessarily politically controversial, and of encouraging rational discussion of problems. That can provide a pleasant contrast to the political cut and thrust that we more usually see. Although entertaining, and based on the expression of deeply held convictions, the latter debates can generate more heat than light and can merely reinforce existing convictions.

In a cross-party group, it is possible to debate matters at greater length, without people taking up

deeply entrenched positions. Such groups provide a greater opportunity to persuade others of a certain point of view. If we, as MSPs, are to properly scrutinise and develop legislation to match Scotland's needs, it will be useful to hear from those in the public, private and voluntary sectors, and from academia and members of the public with specialised policy knowledge and experience. The Standards Committee's proposals for cross-party groups should put in place a properly regulated system, which will make possible regular contact between MSPs and those concerned groups.

The committee believes strongly that, once that system is in place, it will not be long before there are cross-party groups on a wide variety of issues as diverse as the needs of the disabled, the elderly, children's rights, Scottish sport, voluntary organisations, the arts and health. The groups will always have an important role to play in any Parliament. Where fundamental principles conflict, they will never replace debate, but where there is a basis of consensus, they will provide a forum to discuss ideas, with a view to taking matters forward and possibly turning ideas into legislation.

That is an effective parliamentary framework, ensuring inclusiveness, openness and transparency. It will provide the framework to enable the groups concerned to have a constructive influence in future.

I support the motion.

09:43

Donald Gorrie (Central Scotland) (LD): Like the other speakers, I welcome the proposal on cross-party groups. We have been waiting for the proposal so that the groups can set themselves up formally; hitherto, they have been shadow groups, or whatever the expression is. The groups are particularly important because the official committees, if I may call them that, in this Parliament are very important. Each covers a wide range and is unlikely to give enough attention to the subjects that are meant to be covered. Cross-party groups, therefore, have an important role to play.

I raise two points. First, because of the shortness of our residential parliamentary week—or however it would be described—there are few windows of opportunity for groups to meet. One of the problems is that the different political groups meet at different times. It may be beyond the bounds of possibility—I am a naive and hopeful person—but if the parliamentary groups met at the same time, it would free up more time for cross-party groups. That is at least worth considering.

Secondly, although I am not suggesting an amendment to these excellent regulations, Mike

Rumbles and his colleagues might, in future, consider whether there could be special rules to facilitate and encourage groups that include our Westminster colleagues, and even, in this new dispensation, our Welsh and Irish colleagues, to consider issues of common concern. There are issues, such as helping the elderly, which are of mutual interest, and on which we could collaborate. There may be matters that our members with an interest in rural affairs could discuss with Assembly members from Northern Ireland and Wales. I suggest that we have special rules to encourage joint all-party groups.

I am happy to support the motion.

09:45

Robin Harper (Lothians) (Green): I am very happy to support the motion, although one problem has occurred to me over the past few days. The wave power commission, which was set up a few months ago with all-party support, has already elected a chair and a secretary from outside the Parliament. The new regulations put us in a slightly invidious position. In one sense, there is a clear commercial aim behind the commission because we wish to promote wind and wave power developments in Scotland. I would welcome some clarification of the definition of commercial promotion, particularly if, as we hope, we set up a renewables group.

I alert Mike Rumbles to the fact that we might have to ask the Standards Committee to reconsider what commercial interest might mean for some cross-party groups, particularly those supporting renewable energy.

09:46

Patricia Ferguson (Glasgow Maryhill) (Lab): As someone who, for much of the Standards Committee's discussion on this subject, was on a sabbatical, I had not planned to speak this morning. However, there are two points that I would like to make.

First, I congratulate my colleagues on the Standards Committee and the committee clerks, who have put in a great deal of work, on producing an excellent set of proposals. Secondly, I would like to highlight the fact that the Scottish Parliament is leading the way in this area. Such regulation is not to be found elsewhere in Britain. It is good that Scotland is seen to be regulating cross-party groups to allow the general public, civic Scotland, as Tricia Marwick mentioned, and our parliamentarians to understand what is expected of cross-party groups. The framework is straightforward, but will cover future eventualities.

Lord James Douglas-Hamilton outlined several groups that have already been established. I

expect that Des McNulty will answer Robin Harper's specific question about those groups that have already been established. The regulations go some way towards being flexible for such groups.

The layout of the regulations allows civic Scotland—those people who want to work with the Parliament—to understand what we mean and what we are doing. It is not a set of rules for the sake of a set of rules, but one that will support the work of the cross-party groups.

I recommend the regulations to the chamber.

09:49

The Deputy Minister for Parliament (Iain Smith): On behalf of the Executive, I thank Mike Rumbles and the members and staff of the Standards Committee for the work that they have put into preparing the report on the regulation of cross-party groups. At a time when the committee has had other important matters to deal with, including the preparation of a code of conduct, it is good that it has still found time to examine the question of cross-party groups. I am pleased that the Parliament has this opportunity to consider the committee's proposals.

The Standards Committee noted that several approaches have already been made, seeking the establishment of cross-party groups. It is important that those groups operate in a transparent manner. It will benefit the Parliament, cross-party groups and the public to have a clear set of rules within which to work.

One of the key principles set out by consultative steering group was that

"the Scottish Parliament should be accessible, open, responsive, and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation."

The CSG wanted to ensure a meaningful dialogue between the Parliament and civic society. The establishment of the Scottish civic forum will play an important part in stimulating dialogue between the Parliament, the Executive and civic society, and the Executive has been pleased to offer £300,000 over this year and the next two years to assist it in its work.

The Executive is also looking to be more proactive in its approach to consultation on its policies and proposals for legislation. As Tricia Marwick has already said, the framework for the establishment of cross-party groups offers another channel for communication between the Parliament and civic society that can complement the work of the Scottish civic forum and the Executive.

In their responses to the CSG's consultation, voluntary organisations and interest groups were

keen that they should be able to develop ideas via recognised parliamentary forums. Cross-party groups are one way in which voluntary organisations and minority groups, among others, will be able to consider and debate issues of interest and to develop ideas.

It is important to recognise, and I believe that the committee has done so, that groups other than cross-party groups may seek to have significant interaction with the Parliament. We should certainly not be creating mechanisms that hinder individuals or interest groups from interacting with the Parliament. We should also recognise that cross-party groups are different beasts from committees of the Parliament, and we need to ensure that there is no confusion between the two.

The Standards Committee's report makes it clear that groups must be "Parliamentary in character" and that their purposes must be "of genuine public interest". I know that the committee put a lot of thought into determining how to ensure that groups would be parliamentary in character.

Association with, and recognition by, the Parliament as a cross-party group is likely to be of considerable value. The views of a cross-party group of the Scottish Parliament are likely to receive more attention than the views of the individual members of that group. As such, the Parliament needs to ensure that it lends its name with care. The committee has not attempted to define clearly what "Parliamentary in character" means, and prefers to leave that to develop in practice. I therefore urge the committee to keep a close eye on what is happening so that we avoid any possibility of groups losing their parliamentary character.

Rule 2 in the report requires that a group must include at least one member from each of the major parties, but provides for this requirement to be waived by the Standards Committee in particular cases. I understand why the committee wishes to have that flexibility, but hope that every effort will be made by those wishing to establish groups to find willing members in every party.

The Standards Committee noted that it may wish to recommend amendments to the procedures set out in its report in the light of experience of the operation of cross-party groups. That is perfectly appropriate. We are still in the early days, and the committee has had to develop procedures without the benefit of any real experience of cross-party groups in the Scottish Parliament. I hope that the committee will keep a close eye on the operation of the system so that cross-party groups enhance the work of the Parliament.

I am pleased to support the recommendations of the Standards Committee.

The Presiding Officer: I call Des McNulty to wind up on behalf of the Standards Committee. You have until 10 o'clock.

09:53

Des McNulty (Clydebank and Milngavie) (Lab): The Standards Committee, a bit like the Procedures Committee, is a committee that works in the undergrowth, or behind the scenes. Only occasionally are its issues debated in the chamber. I am therefore pleased that a Standards Committee issue, which relates to the way in which our democracy works, is being debated today.

Lots of people who were involved in the promotion of the Scottish Parliament were especially interested in two things. The first was the expansion of democracy, the way in which we can increase democracy in both breadth and depth to make it more accessible to people. The second was to increase transparency, both in the content of decisions and in the way in which they are made. Those underlying wishes have informed a lot of the Standards Committee's discussions of how to create a regulatory framework for cross-party groups.

The point that Patricia Ferguson made is worth bearing in mind. We are doing something quite differently from the way in which it is done elsewhere. The framework here is designed not to put cross-party groups at a distance from the Parliament—as happens, to some extent, south of the border—but to bind them into Parliament, so that the people who get involved in cross-party group activity can feel a definite link between what they do in the cross-party groups and the way in which the Parliament works.

In fact, it could be argued that cross-party groups create a third dimension of activity in the Parliament after the work that goes on in the chamber and in committees. Cross-party groups will allow people to contribute their own specialist expertise and knowledge in areas where they are interested enough to participate in the Parliament's work. The groups will be able to promote both specialist involvement in debate and the knowledge of MSPs so that we are better informed when discussing particular issues in the chamber or in committee. That would be a valuable way of binding people into the new democracy in Scotland and of improving the content of the democratic process.

In developing arguments for the regulation of cross-party groups, we wanted to ensure that appropriate safeguards were in place so that the groups were properly constituted when they were formed and were not the prey of specific interest groups acting inappropriately. Furthermore,

groups needed to be subject to democratic procedures and defined in terms of a parliamentary purpose linked to the public interest. The regulations encapsulate all those principles and I am grateful that there is broad cross-party support for how we have achieved that.

Donald Gorrie's point about the time available for cross-party activity raises an issue for the Parliament. There is a narrowing of opportunity for MSPs to participate in such activity because so many of them commute to the Parliament and because such a range of possible activities is available only in the middle and at the end of days when Parliament is meeting. That is an issue that the Parliament, perhaps through the Procedures Committee, needs to consider.

We cannot confine the Parliament's work to official parliamentary sittings. There must be a mechanism that allows us to have a dialogue with people outside these formal settings who can contribute to our discussions. Cross-party groups can permit informal contact between parliamentarians and interest groups and people with interests in particular issues. By giving those groups a degree of legitimacy and access to the Parliament, we hope that they can be given time and the opportunity to involve parliamentarians effectively.

The range of cross-party groups will evolve. In time, new groups will be created and perhaps old groups formed around old issues will fall by the wayside. A very encouraging range of people want to become involved in this way in the working of the Parliament. By establishing a framework for cross-party groups early in the Parliament, we are encouraging and promoting such activity and participation, which can only be good for the Parliament.

The Standards Committee has done a good job in establishing this set of frameworks. However, as Iain Smith pointed out, we need to ensure that those frameworks are continually monitored and developed. The whole Parliament has a responsibility to take the opportunity presented by this set of regulations to be welcoming, encouraging and accessible and to ensure that this new form of participation in our democracy develops and flourishes.

The Presiding Officer: The decision on this motion will come at 5 o'clock.

Draft Budget (2000-01)

The Presiding Officer (Sir David Steel): The next item of business is motion S1M-378, in the name of Mr Jack McConnell, on the draft 2000-01 budget level 2 figures and an amendment lodged by Mr Andrew Wilson. The motion is:

That the Parliament commends the Executive's expenditure plans published in the consultation paper Spending Plans for Scotland on 17 November 1999 and endorses the spending priorities set out in the paper in line with the commitments of the Partnership Agreement and the Programme for Government.

I have selected Mr Wilson's amendment, which is printed on page 2 of the business bulletin. I am very happy to call timeously on Mr McConnell to open the debate and to move the motion standing in his name.

10:00

The Minister for Finance (Mr Jack McConnell): Thank you, Presiding Officer. This time you did not need an intervention from Ms MacDonald.

I am happy to move the motion and to oppose the amendment. This is an important debate and I am grateful that the Parliamentary Bureau was willing to arrange this special meeting to ensure that it took place.

Today's debate is very much about the future—the spending plans for 2000-01, details of which are set out in what has become known as the level 2 figures. The published figures extend to 2001-02, setting out our preliminary plans for that year. There will be a full budgetary cycle in which to discuss the 2001-02 figures—which at this stage have the status only of initial planning assumptions—starting next March. However, the debate today is on the plans for 2000-01.

New processes and principles underlie the budgetary process that we are in. Those new processes and principles will drive a different type of budgeting, in which everyone will have an opportunity to have their say. This is a transitional year, in which we are moving from the old ways of working towards the new approach that we believe is required for the new, more democratic Scotland.

In just six months, we have changed the budgetary process to enhance scrutiny and to involve Parliament and the wider public in consideration of the financial plans. On 9 November, I sent the level 2 figures that we are debating today to the Finance Committee. The numbers were then published in the finance consultation paper on 17 November.

This is the first time that the people of Scotland

have been consulted about the Government's future expenditure plans. We will—in the light of my discussions yesterday with the Finance Committee, any points that are made today and the responses to our public consultation—publish final expenditure plans in a budget bill, which I will lay before the Parliament in January 2000.

The consultation process ends today. I am disappointed but not entirely surprised at the fact that the response was low. The transitional nature of this year, the resultant short time scale and the general unfamiliarity with the concept of an inclusive budgeting process have all contributed.

Andrew Wilson (Central Scotland) (SNP): Will the Minister for Finance comment on the document published this morning by the Finance Committee, which says of the report to which he refers that it

“could be thought by some to be misleading”?

Does the minister believe that the consultation document could be thought by some to be misleading?

Mr McConnell: The member clearly thought that it was misleading, partly because he found it difficult to understand. As I said at yesterday's meeting of the Finance Committee, there are two important points about the consultation. First, next year we will need to provide more explanation of individual figures and the responsibilities and targets that each budget heading covers, not only in the consultation, but in the figures that are presented to Parliament.

Brian Adam (North-East Scotland) (SNP): Will the minister give way?

Mr McConnell: I was asked a question, which I would like to answer.

Secondly, as I told the Finance Committee yesterday, in future years we will extend the provision of real-terms figures from level 1 to level 2 to ensure that people can make proper comparisons year on year.

We are in a transitional year, but I am encouraged that there have been clear indications of interest in the consultation paper. If people are taking an interest this year, I have high hopes for much greater engagement in the issues when we start a full financial cycle.

I undertook yesterday to work with the Finance Committee to develop ways of encouraging greater public participation next year. In particular, the figures next year will, as I said, be described in real terms. Moreover, we will provide information for specific committee scrutiny of spending issues and we will supply explanations alongside numbers to ensure that everyone understands where the money goes.

Mr John Swinney (North Tayside) (SNP): Will the minister give way?

Mr McConnell: I will finish this next part first.

From next year, the Executive will adopt a new three-stage budgeting cycle. Stage 1 will include the publication of an Executive report, which sets out our strategic approach to future spending and detailed consideration by the Parliament's various subject committees of the strategies and priorities adopted by the Executive for forward years. At stage 2, the Parliament—specifically the Finance Committee—will comment on specific spending plans for the next financial year. Today's debate marks the end of stage 2 for this year. At stage 3, Parliament will consider and approve the Executive's formal budget bill.

The system is based on openness, accountability and probity. Those three criteria form the essential principles of the operation of any sound system of public finance. For many years, those principles have applied at the end of the financial process—financial reporting—but we are now bringing them into the planning stage. They are fundamental to proper parliamentary scrutiny and involvement by the wider community.

Mr Swinney: I wish to take the minister back to his point about stage 1 and the information to be made available to subject committees. I welcome the language that he is using, but will he be in a position to offer subject committees much more detailed information—in terms of numbers and the subject areas and programme heads covered by them—than for the level 2 figures? For example, would he be prepared to provide a couple more levels of detail to give subject committees a better feel for what lies within the substantial numbers contained in his consultation document?

Mr McConnell: It is important to clarify that there are two different stages to the process. We are at a stage—partly because of the compressed time scale for this year and partly because we are improving an old system and moving towards a new one—of establishing the control totals, or authoritative spend, for next year. The level of the figures that we are debating—the level that is published—is the right one. There could be some adjustment to the figures—I am sure that there will be over time—but it is important to retain flexibility for managers and ministers within the overall totals.

At the earlier stage of consideration, stage 1, when committees are subjecting long-term strategies and proposed budgets to more scrutiny, I think that more detailed information has to be available. Rather than having an overall pattern, it would be right and proper, as I explained at the Finance Committee meeting yesterday, for individual committees and ministers to resolve the

best information for each year to help the committees to conduct their scrutiny. I hope that that process can be conducted constructively on all sides.

We need to continue our work on the system of public finance and be proactive in developing new ways of working that make concepts understandable and that illuminate the entire process. Nevertheless, I want to avoid paralysis by analysis—swamping the process in meaningless detail—which would obscure rather than illuminate the bigger picture. I do not underestimate the challenge of delivering inclusiveness, wider consultation and greater accountability; however, we will meet that challenge.

Phil Gallie (South of Scotland) (Con): I recognise that the minister has some reservations about detail but, as someone who takes a great interest in home affairs, can he explain the significant reductions in the justice expenditure levels?

Mr McConnell: The changes to different levels are explained by several factors. In recent weeks, Mr Gallie has had a particular interest in the changes to the Prison Service balances in the past few years. As Mr Jim Wallace has said repeatedly, the prisons baseline for this year remains the same. The end-year flexibility for prisons, from money available from the end of last year, has been carried forward into this year and is available to the prisons budget. The money that has been reorganised in the justice budget is going towards, among other things, the £2 million announced yesterday for victim support services. I have heard Mr Gallie discussing victim support over many years and I hope that he will support that reprioritisation.

Ultimately, budgeting is about spending priorities. Our main challenge is to create the type of society that we all want for the citizens of the new Scotland. Social justice underpins the budget for 2000-01. That budget will help to deliver the kind of country that we want—a country where everyone can feel safe, where our children can achieve their full potential through a world-class education system, where creativity is not stifled and enterprise is encouraged, and where people grow older in comfort and in good health.

The figures that we are discussing today progress us along that road. The plans provide the resources to tackle the serious issues facing Scotland: ill health, drugs, jobs and education standards.

We have set out our specific priorities, first in our coalition partnership agreement, and, building on that, in our detailed work plan—the programme for government, which was published in September. Those priorities range across all areas of Scottish

life and reflect our determination to secure a better life for all. Top among them are modernising Scottish schools, raising standards and achievement, improving the health of the Scottish people and providing a modern, high-quality and responsive national health service in Scotland. Over three years, £1.8 billion more will be available for health and there will be an additional £1.3 billion for education, delivered through the comprehensive spending review. Our plans set out significant increases in key areas.

The total budget for 2000-01 is £16.7 billion, an increase from this year of £500 million. Of that total, we will allocate just over £6 billion to local authorities, an increase greater than inflation. The health service will be allocated £5.2 billion, an increase in funding of more than £170 million. Nearly £2 billion will go to education and enterprise and around £500 million each will go to communities, rural affairs, justice and transport and the environment.

Within local authority expenditure, the grant-aided expenditure for 2000-01, which gives a guideline for what local authorities might spend, indicates spending of £2.7 billion on education, £1.1 billion on social work, £700 million on police and £200 million on the fire service. Again, the plans reflect the importance that we attach to the health of the nation and to future national success through world-class education.

Mr David Davidson (North-East Scotland) (Con): The Minister for Finance has given us the figures in cash terms, but will he give us them in real terms?

Mr McConnell: Mr Davidson is a member of the Finance Committee and had the figures in real terms in front of him yesterday; I hope that he has retained them today.

In our programme for government, we will provide eight major, new, modern hospital developments by 2003. That is the biggest ever hospital building programme in Scotland. We are setting targets to speed treatment and shorten waiting times.

We are committed to ensuring that there are at least four modern computers for each class by 2003 and we are committed to recruiting 1,000 additional teachers and 5,000 classroom assistants by 2002.

Our spending priorities for 2000-01 demonstrate wider commitments to tackle the serious problems in housing deprivation across Scotland and the decay in Scottish transport systems. We are also committed to sustaining our environment. The partnership has delivered new money for roads, for health, for the Food Standards Agency, for action on drugs—

Mr Kenny MacAskill (Lothians) (SNP): I noted in yesterday's *The Scotsman* that Mr Prescott, the Secretary of State for the Environment, Transport and the Regions, announced £750 million for councils in England for bus priority and integrated transport schemes and that more details would be announced in the House of Commons today. How much are we getting?

Mr McConnell: On top of the huge increases already in the budget for this year, we allocated an additional £35 million in the spending review that was announced on 6 October. That is new money, from a budget that was drastically cut by the Conservatives over many years—

Mr Swinney: What about the past two years?

Mr McConnell: New money that did not appear—

Mr Swinney: The past two years?

The Presiding Officer: Order.

Mr McConnell: It is new money that did not appear in the budget that the SNP produced for the election in May. If the SNP wants to talk about spending totals, I will be delighted to do so in a minute.

Typically, the Opposition parties have attempted to belittle our achievements. Both have criticised the partnership, saying that we are spending too little on Scotland's public services. That is their right, but let us consider the position if either of them had been in power. We can do that, as the Tories left us spending plans when they left office and, in the 1997 election, the SNP published its plans for spending. Unfortunately, the SNP could not find the time to present us with spending plans for independence in 1999, even though it promised to.

Phil Gallie rose—

Mr McConnell: Let me just enjoy this first, and then we will see what Mr Gallie's response is. Under the Tories, spending by this Parliament would have been more than £1 billion lower this year than it is now. Next year, it would have been lower by almost £2 billion and the next year by almost £2.5 billion. That is almost £5.5 billion less spending in Scotland if the Tories had been in power. Following the changes since 1997 at Westminster and here, more than £1.5 billion more has been spent on the national health service. More than £1 billion more has been allocated to local government. Tory claims of underspending in the public sector always rang hollow—these figures show just how hollow they are.

Tommy Sheridan (Glasgow) (SSP): Would the Minister for Finance agree that the problem with the figures that he presents is shown in the recent Trades Union Congress report on public

expenditure in Britain, which states that we have a Government not for three years, but for five years? Although he is correct to say that the comprehensive spending review indicates an increase in spending on public services, spending over a five-year period will be even less than it was under the previous Tory Government.

Mr McConnell: I am glad that Mr Sheridan is coming round to our way of thinking. This is a five-year Government, and the two years of management of public finances that have already taken place have provided the sound basis that gives us the lowest inflation, the lowest unemployment and the lowest interest rates for a generation. That allows the significant increases that are now taking place to be sustainable—not just for the remainder of the five years of this Government, but for this Parliament to plan stability in our finances for the future. I welcome that long-term perspective, which is a good thing for the country. It is much more interesting to ask, “What about the SNP?”

Phil Gallie: Will the minister give way?

Mr McConnell: No.

Phil Gallie: He said before that he would give way.

The Presiding Officer: Order. Please—no more interventions. The minister has been generous in giving way and he is running over time already,

Mr Swinney: He should sit down then.

Mr McConnell: Mr Swinney does not want me to make these points, but I will make them. If the nationalists had won the 1997 election in Scotland, at least £400 million less would have been spent in Scotland this year. Those figures are taken directly from the SNP's 1997 manifesto. Next year, spending would have been £1 billion lower and, the year after that, it would have been almost £1.25 billion lower—a total of some £2.5 billion less for Scotland's services.

Andrew Wilson: Not true.

Mr McConnell: Mr Wilson says that that is not true, so I will quote what he said in this morning's newspaper. He said that there was a tiny 0.5 per cent real-terms increase in the health budget for next year.

Andrew Wilson: Will the minister give way?

Mr McConnell: No—I want to remind Mr Wilson of what he said when he was an SNP researcher back in 1997. The figures that Mr Wilson referred to yesterday during the Finance Committee meeting and that he called tiny reflect a £40 million actual, real-terms increase in the health budget for next year.

Last night, I thought that it would be interesting

to look back to see what the additional health spending line amounted to in the SNP's budget proposals in the 1997 election campaign. For 2000-01, the figure was £35 million—not to mention the smaller budget for this year. Andrew Wilson refers to a tiny percentage, but the SNP's proposals are piddling in comparison. We have added more than £500 million to health service expenditure—more than 10 times the amount that the SNP proposed. Over the three years of the comprehensive spending review, spending on health by this Executive will be more than £1.25 billion higher than it would have been under the SNP's plans.

The Presiding Officer: Please wind up now, minister.

Mr McConnell: I am just doing so, Presiding Officer.

The figures published in October and the further details laid out in November represent our commitment to the future and our desire to make the lives of ordinary Scots better. They demonstrate clearly the broad canvas on which the Executive operates, with the real priorities identified and addressed. If government is about choices, that is particularly true of budgeting. In a world of unlimited resources, we could do more and do it more quickly, but in this world—our world—the task is to set priorities, plan spending and work out how to deliver maximum benefit across Scottish society and business with the resources that we have to hand—to set targets, meet them and rebuild public confidence in politics. These plans are a reasonable, prudent and pragmatic attempt to change for the better the lives of the people of Scotland and I commend them to the Parliament.

I move,

That the Parliament commends the Executive's expenditure plans published in the consultation paper *Spending Plans for Scotland* on 17 November 1999 and endorses the spending priorities set out in the paper in line with the commitments of the Partnership Agreement and the Programme for Government.

10:18

Andrew Wilson (Central Scotland) (SNP): I thank the Minister for Finance for his visionary and statesmanlike performance. I welcome the opportunity to engage in this debate and to move the SNP's amendment to the Lib-Lab motion, which asks the Parliament to thank the Executive for spending less than the Conservatives spent.

In passing, I will answer the Minister for Finance's point. The SNP spending plans to which he referred were for extra spending over and above what the Westminster Government delivers—they were for new spending from extra

revenues raised. That was a mis-spin from the minister's slippery performance. I ask him to reflect on Mr Davidson's question. The minister said at the beginning of his speech that next year's budget would be £16.7 billion; in real terms, however, the budget is £15.9 billion—£800 million less. The minister may wish to reflect on that unnecessary detail.

My colleagues and I want to introduce into the debate some facts about public spending. Most people in Scotland do not expect to hear facts from the mouths of Labour spokespeople these days. However, it is refreshing that we can introduce some truths—I hope that that word is not too foreign—into the debate.

For example, in its first three years in government, Labour spent £1,100 million less than was spent during the final three years of the Conservative Government. I do not remember regarding the Conservatives as particularly generous in their Scottish budgets. Indeed, I remember the Labour party and the Lib Dems—when they existed—complaining about the decline of Scottish public services. Those sitting on the Labour benches cannot deny that. There was only one year for which I can find records in which any post-war Government cut health spending—only one year has not been a record year for health spending. Nye Bevan would be proud—this Labour Government made history in its first year by cutting health spending for the first time ever. This year, of course, the Labour Government is making up for that, with a massive 0.5 per cent increase in health spending. Our nurses and doctors are not safe in Labour's hands.

Labour is committing less of the nation's wealth to public services than has been spent at any point for which I can find records. Under Ian Lang, the commitment was 24 per cent of Scotland's public wealth. A written answer from the Minister for Finance on 3 December shows that next year the figure will be 21 per cent. That may seem big, but it represents in effect a cut in investment in Scottish public services of £4.5 billion, or £900 for every man, woman and child in Scotland. If we had allowed the state of public services to keep pace with growth in the economy and not let them lag, that would have made a difference to our schools, hospitals, transport infrastructure and, most important, our local democracy. If any of those facts are wrong, I urge members from the Liberal Democrats or the Labour party to stand up and contradict them directly, rather than skirt around them in a slippery fashion.

The facts for local government are even starker. Today, as councils throughout Scotland announce cuts, we should reflect on the fact that the Labour-dominated Convention of Scottish Local Authorities has unanimously condemned the

settlement for budgets for council services—my colleague Kenny Gibson will address that issue—as councils throughout Scotland have been hammered by the Lib-Lab pact. Labour has given £2.4 billion less to council services in the first three years of its period in office than was given under the last three years of the Tory Government, and we did not regard the Tories as particularly generous to local councils. As a result, council tax payments are up by £0.25 billion and, as we heard last week, are set to spiral. On top of that, business rates are set to soar. It is a dire situation for Scottish local government and a desperate one for this Parliament to consider.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): In his statement last week, the Minister for Finance mentioned that the provisional business rate in Scotland would be 45.8p. However, for some reason—perhaps natural coyness—he did not mention that the provisional rate for England and Wales would be 41.6p. If my arithmetic is correct, that means that, for most businesses in Scotland, business rates will be 10.1 per cent higher than those south of the border. For small businesses, the figure will be around 8p higher than it is south of the border. Labour is now copying a Tory policy of imposing higher business rates in Scotland than in England. Does Andrew Wilson believe that Mr McConnell should get the credit for this new tax on Scotland's businesses and that it should be called Jack's tax? It is Jack's tax on business, which will cost Scotland many jobs.

Andrew Wilson: I thank Fergus Ewing for hitting the nail on the head. Council taxes are soaring and businesses are being hammered by Labour. That may become Jack's legacy. At the risk of immortalising him in a phrase, I suppose that we can call it Jack's tax. Will the minister explain to the waiting Scottish public why he has introduced this tax—Jack's tax, as Fergus calls it?

Mr McConnell: All members of the Local Government Committee—those who stay for whole meetings, rather than Fergus Ewing, who dips in and out—will have heard that the revaluation is taking place this year. It is rubbish to suggest that any Scottish business will pay more than any equivalent business south of the border, as Fergus Ewing well knows. If Fergus Ewing listens to business organisations that are explaining that to members at the moment, he will hear that point of view.

Does Andrew Wilson have in his budget for this year—which, I note, the amendment does not mention at all—the £74 million extra that in a press release of 28 November Fergus Ewing, as the SNP small business spokesman, called on the Executive to put into the Highlands and Islands economy next year? Is that money in Andrew

Wilson's budget, and will he explain from which area it would come?

Andrew Wilson: I point out to the Minister for Finance that Fergus Ewing was reflecting the desires of Highlands and Islands Enterprise—one of the Government's own agencies—in calling for that money.

The role of any party in this Parliament is to bring to the chamber the desires of public services throughout Scotland. Mr McConnell must answer for the fact that Jack's tax means that Scottish business is suffering, as business organisations throughout Scotland would agree. Jack's tax—as we are calling it—means that the residents of Dundee and Glasgow will pay twice as much in council tax as residents of London will. The increases in council taxation, as a result of Jack's tax, will mean that the average Scot will pay 7.5 per cent more in council tax, at band D, than the UK average. Labour is fiddling the figures while Scottish local government burns. Do not just trust me—listen to what the councils have to say and listen to Labour-dominated COSLA when it reflects on the facts of Scottish local government decline.

I ask the minister to reflect on the fact that spending on health, education and all comparable services is increasing two and half times more quickly in England than it is in Scotland—those are not my figures, but the figures of Professor Brian Ashcroft of the Fraser of Allander Institute. Is that fair and right? Does the minister recognise that a Barnett squeeze is biting hard on Scottish public services? Will he act on that? That is what the SNP amendment asks him to do.

It is not enough to focus on the narrow picture that the Executive—the Lib-Lab pact—will paint for us in this Parliament. We should look beyond the end of our noses, as the amendment seeks to do. We need look no further than Ireland. Barely a fortnight ago, with the tools of a normal country at his disposal, Ireland's Minister for Finance, Charlie McCreevy, delivered a budget that will allow all Ireland's people to share in its prosperity. Old-age pensions in Ireland rose by £7 a week—not 73p. When they reach 100 years of age, pensioners in Ireland will receive a bounty of £2,000. [*Laughter.*] Members may laugh—

George Lyon (Argyll and Bute) (LD): Will the member give way?

Andrew Wilson: I would be delighted.

George Lyon: Does Andrew Wilson also agree with the provision in Mr McCreevy's budget that stipulates that everyone in Ireland who wants to access the country's national health service can receive free health care only if they earn less than £11,000 per year? Anyone who earns above that must contribute to a private insurance scheme.

Andrew Wilson: I do not. I believe in absolutely free delivery of health, as of education services—unlike, perhaps, the Lib-Lab Executive. I do not regard a free health service as a middle-class subsidy, which is how the Executive appears to view a free education service.

Alex Neil (Central Scotland) (SNP): Does Andrew Wilson think that Mr Lyon does not realise that the Irish have abolished tuition fees?

Andrew Wilson: It remains the position of the SNP that there is value in free delivery of public services in both health and education. That remains the position of the SNP. It is a shame that it is no longer the Labour position. We wait with interest to see what the Liberal Democrat position will be.

The fact of the matter is that it is good to be a pensioner in Ireland. Pensioners are treated with respect because of the wealth of their country's economy. In Ireland, corporate taxation was cut, progressive taxation was introduced and spending on education was increased by 40 per cent. That is the bounty of a real budget, when a finance minister has two hands with which to deliver. A recent editorial in *The Times* said that the Irish finance minister had delivered an early Christmas present for the citizens of the republic. We will hear no such homily for Mr McConnell during his budget process. Great chap as he may be, the Minister for Finance has one hand tied behind his back and is delivering a hand-me-down budget from London.

Mr Keith Raffan (Mid Scotland and Fife) (LD): Mr Wilson mentioned corporate taxes in Ireland. Does he agree with the income tax levels in Ireland of 45 per cent for people earning more than £14,000 and the extremely high VAT rate of 21 per cent? Is that what we would have in an independent Scotland?

Andrew Wilson: No, is the short answer. What Ireland shows is that low corporation tax can be mixed with progressive income tax.

Dr Richard Simpson (Ochil) (Lab) rose—

Andrew Wilson: I will move on.

I point out to Mr Raffan—who is, I believe, a Liberal Democrat spokesperson—that the Liberal policy is to abolish tax allowances and to increase the top rate of tax to 50p in the pound. That is the position set out last month by Matthew Taylor in the House of Commons, who also said:

"Public spending . . . has been restrained and we see continued deterioration in key areas of public service. Where has the money gone?"—[*Official Report, House of Commons*, 24 November 1999; Vol 339, c 638.]

Does Mr Raffan agree with that, or does he simply go along with what Labour tells his party to do? The reality is that the Liberals are finished as a

serious force.

The SNP asks the chamber to face up to the choices that are before us. We have a choice between decline masked by spin under the Labour party, with its Liberal lap dogs, and the chance for modern investment in the 21st century. Do we want a right-wing, direct-tax-cut, unfair-tax-rise agenda, or a fair and honest investment in the services that we care about? Why is Ireland, with nothing like the resources at its disposal that we have, able to set its sights so high, when all that we do is stare at our collective feet?

Dr Simpson: Andrew Wilson has been very eloquent in saying how much extra spending the SNP would provide, but he has said absolutely nothing about how he would raise that money. Would the level of VAT go up, or would the level of income tax go up? How would the SNP raise the millions and billions of pounds that it promises every week?

Andrew Wilson: The member has been one of the fairest contributors to the debate on finance. I ask him to reflect on the fact that we were very honest at the election in saying that our priority was not a 1p cut in income tax, but a freeze in tax.

We also pointed out that we could access the £20,000 million that will come out of the North sea in the next five years. Our priority is not a war chest, but investment in public services. I ask Dr Simpson how our country, after the war, when it was infinitely poorer than it is today, could afford to demobilise the troops, rebuild our homes, schools and infrastructure, and build a welfare state and a modern health service that was the envy of the world. The answer is that the country chose to do it.

Nye Bevan—a man whom members may remember—said that socialism was “the language of priorities” and that those priorities were jobs and social justice. That point remains, whether one wants to use the terms socialism or social democracy. Our amendment seeks to follow what Jimmy Maxton said in the 1920s—he said that

“a home rule parliament could do in five years what it would take Westminster 25 years to do.”

He was right, but that will be true only if we give ourselves the chance.

For Labour, the Thatcher agenda has won. For us and for Scotland, I hope that that agenda will not stand, because the choice for Scotland is between constraint and growth—between what Fergus Ewing has called Jack’s tax and honest investment in public services. We have the chance to grow into a normal country and to make normal choices for ourselves. I urge the chamber to back the amendment.

I move amendment S1M-378.1, to leave out

from “commends” to end and insert:

“notes the increased pressure being placed on the Scottish budget through the effects of the ‘Barnett Squeeze’, which means that spending is increased two and a half times quicker in England than in Scotland despite the fact that there is no evidence of a reduction in relative need; calls upon the Scottish Executive to prepare a detailed assessment of the impact of the ‘Barnett Squeeze’ in consultation with the Finance Committee; regrets the fact that the Parliament is not responsible for raising the revenue it allocates, and notes that normal fiscal autonomy would secure maximum fiscal responsibility and accountability and would allow the Scottish Parliament to allocate the required resources for Scottish public services”.

10:31

Mr David Davidson (North-East Scotland) (Con): Today, the Minister for Finance has given the chamber the first coalition budget, in level 2 terms. Some weeks ago, the Finance Committee tried to scrutinise these figures with the help of two eminent economists. Those gentlemen advised the committee that they could not unscramble the figures to identify in reasonable detail how the major budget heads were broken down. Here is an example in the figures that the minister has given: we know the totals for Scottish Enterprise and Highlands and Islands Enterprise but we do not have a clue about how the money will be spread among the activities of those organisations.

Under the new process, this Parliament has the right to seek budget modifications, but it cannot do that unless it gets the right level of information from the Executive. If everything is aggregated, how do we suggest alternatives or even try to guess the priorities of the Executive? I welcome what the minister said a few minutes ago about openness in future. On that basis, perhaps we will tick him off only a little about this year’s process, but it was dropped on us at fairly short notice. Certainly I hope that the minister will ensure that there are better information flows in future.

If committees are to do their job properly, they must have access to information at the level at which they need it. I think the minister agreed to that, but why, given that all the committees will need that information, and the Finance Committee and the Audit Committee must have it, does he not save time, go for gold and put out the information in a better form?

We have to move away from the magic-show mentality, under which money appears again and again, spun and spun by the huge army of advisers—or at least by those who are left. On that matter, perhaps the minister will come clean and tell us why the taxpayer should be liable to pay off Mr Rafferty.

The Minister for Finance has taken pride in the new budget, but he must practise what he

preaches. Andrew Wilson talked about the all-party document that was produced today by the Finance Committee. I hope that the minister will take heed of it. I look forward to the day when we will conclude the written agreements that we have been promised week after week.

The expenditure statement shows clearly that spending is down in real terms in many vital areas. The minister says that the statement is prudent. Is it prudent to have 22 ministers and their cohorts of staff, when Scottish hospital trusts are making public statements of overspends on clinical service and saying that they cannot fund their activities in coming years? Such statements are being made all over Scotland. Why is Susan Deacon not banging on Jack McConnell's door—perhaps she is—to seek priority spending for certain aspects of the hospital life that we try to run in Scotland?

Is Susan Deacon aware that Grampian staff vacancies cannot be filled because of a lack of resources? Why does the Scottish Executive not allow for drug bill inflation or new treatments coming on stream? Why does it not recognise the increasing demands on hospital services? One cannot just use a flat figure across the budget; it does not work. There are rumours about patients in Tayside even being asked to contribute to the cost of treatment—somebody said something similar about Ireland.

What happened to the coalition claim to have health as a priority? Where is the detail in these figures? There is a line that says that revenue for hospital and community health services is £3.67 billion. Does anybody in the coalition know what is hidden in those figures? Perhaps, when some coalition members speak, we might find out.

Health is not the only area of concern. The figure for local government is £5.76 billion. What mysteries lie there? Parents ask about school spending, the elderly ask regularly about home helps and support from councils, and the nervous ask about street lighting. The figures before us today do not provide any answers to those questions. What about the hidden but massive hit on the ability of local councils to provide services? I do not have to go to the Convention of Scottish Local Authorities to find out what local authorities think of that.

Christmas is approaching, but it will not be a happy one for people in the public sector. They are worrying that their jobs may go or that they will not get the pay rise that is vital to pay for the many stealth taxes that have been imposed by new Labour. What kind of Dickensian Executive forces our mentally ill patients out of hospital at Christmas, hoping that staff will take them into their homes, as in the sad case of Lennox Castle? An answer to that question would be welcome.

It is a pity that members of the Executive do not often read *The Scotsman*. If they did, they might take a hint from an article that appeared on 26 August, when Mark Sneddon of Labour's ruling executive committee said that the lack of money for schools and hospitals was

"enough to make a lot of Labour people and Labour voters weep".

I do not know about that, but it is making an awful lot of Scots weep.

Hidden in the Executive's figures is the fact that, despite the rhetoric and despite the fact that Labour has already been in power for two years, it will be another year before total Scottish expenditure reaches the level spent by the Conservative Government. Even the separatists and the three socialist members agree with that.

That wonderful spinning machine, the partnership agreement, is supposed to have produced the biggest spending increase in history on the national health service, and waiting times—

Mr McConnell: Will Mr Davidson give way?

Mr Davidson: Certainly.

Mr McConnell: I have two questions. First, I note Mr Davidson's new-found interest in jobs and employment. I welcome that conversion by the Conservative party. Will he confirm that one of the reasons we are able to increase public expenditure so much this year, next year and the following year is that the economy is in better shape than it has been for a generation, with the lowest unemployment, the lowest interest rates and the lowest inflation?

Secondly, will Mr Davidson confirm that, had the Conservatives still been in power, total public expenditure would have been £5.5 billion less over that three-year period? That is according to published figures; it is not me trying to guess, as I sometimes have to do, what Conservative policies might have been. That amount comes from the figures published by the previous Conservative Government.

Mr Davidson: I am happy to answer the minister's questions. The first was about unemployment, was it not? Did not we hand the current Administration a golden legacy? All Labour has done is continue what we gave it.

Secondly, nobody is arguing about published projected figures, which is what Mr McConnell has been quoting from. If one looks carefully at what happened when the Conservatives were in government, one can see that projected figures were published every year. However, we actually spent far more than those projected figures every year, because we focused on initiatives as they needed to be dealt with. Even Mr Raffan will

remember, from his days as a real politician and a Conservative, that that was the case.

If coalition members are not careful, I shall let Phil Gallie back in again.

Members: He has left the chamber.

Mr McConnell *rose*—

Mr Davidson: I will let Mr McConnell intervene again if he will answer one more question. Are we seeing the beginning of rationing in the Scottish health service, caused by the starvation of funds in key areas? Is the answer yes or no?

Mr McConnell: The answer is no. Returning to what Mr Davidson has just said, the overall expenditure in Scotland would have been significantly less this year, next year and the year after that, had the Conservatives remained in power. That is stated in the figures that they published. Year on year, the Conservative Government managed to underspend the Scottish budget. The money was not carried forward as it has been this year under Labour; it was kept back at UK level for redistribution in the future.

Mr Davidson: Now Mr McConnell has got another speech off his chest, perhaps he would like to consider the truth of the matter. We do not deny that we published projected figures, but members ought to look at the money that we actually spent. The Labour Government, by the way, has published no such figures since coming to power. Committees have asked for those figures, but they have not been supplied. The guys in the Executive are the ones in power. Why worry about the past? It is their ball; why do they not play it?

Andrew Wilson: May I clarify what Mr McConnell is arguing? He is arguing that the Executive is spending less than the Conservatives did, but if the Conservatives were in government they would spend even less.

Mr Davidson: I am grateful for Andrew's help, but he knows that that is not true. If we were in power, we would be doing a far better job than is the Executive. At least we would address the issues.

We will not address the cost of the new Parliament, but I hope that when Mr McConnell sees the First Minister, he will respond to my question about the funding for it.

Let us turn to the coalition; I cannot put all the blame at Labour's door. At every opportunity, the Liberal Democrat party tries to take the credit for steering policy in the coalition—really. The Liberal Democrats were bought cheaply. Does the Minister for Finance think that he got value for money when he bought them?

Mr McConnell: Yes.

Mr Davidson: Will he come to the Audit Committee and argue that point?

We had pre-election promises from the Liberal Democrats. I will not list them all, but they ranged from the abolition of Skye bridge tolls to 1,000 additional nurses and 500 doctors. The list went on and on. None of them has been realised. The best promise of all was the promise to abolish tuition fees. If I remember rightly, on 4 May Jim Wallace said that tuition fees would be dead by the following Friday.

The Deputy Minister for Parliament (Iain Smith) *rose*—

Mr Swinney: Give way. Give way.

Mr Davidson: I am winding up. Presiding Officer, am I allowed to give way?

The Deputy Presiding Officer (Patricia Ferguson): You are in your winding-up period, so you should push on.

Mr Davidson: I must push on. It is not my fault; it is the lady's.

On Tuesday, will tuition fees be dead, and how will the Liberal Democrats pay for them? The money that was used to buy them to play on the Labour reserve team has been spent. Is not it dishonest to be elected to this chamber to abolish tuition fees, yet sign up with the Labour party and not ask Mr McConnell to put money aside in the budget to do that? Does that mean that the Liberal Democrats had no intention of honouring their promise? Why do they not make Scotland's day and prove me wrong on Tuesday?

Andrew Wilson's speech was an interesting standard piece. The economics were reasonable. I am not sure what the final total was, but he should not play the same old record again and again. He recently released a new one. I believe that the best tune is "The Rowan Tree", which possibly will grow faster than his party's policy, but I do not know.

This is a Scrooge budget that is full of deception and hits at our public services, those who depend on them and those who work within them. It is a budget that must be rejected at this stage. Therefore, I ask the Executive, as the song "Flower of Scotland" states, to go away and "think again."

I urge Parliament not to adopt the budget.

10:43

Mr Keith Raffan (Mid Scotland and Fife) (LD): That was a singularly ill-judged speech from Mr Davidson, in view of his party's record. Nobody denies that the Conservative party knows about money. How could we deny that, when on one

day—black Wednesday—it lost not hundreds of thousands, not millions, not billions of pounds, but one half to three quarters of the entire Scottish block?

Miss Annabel Goldie (West of Scotland) (Con) *rose*—

Mr Raffan: I will not give way yet. Miss Goldie knows that I have a soft spot for her, and I will give way to her later, but she must restrain herself.

Miss Goldie: I can hardly wait.

Mr Raffan: Miss Goldie must not get carried away because she has been nominated as a front bencher to watch. That happened only because, within her party, she is elevated by the flatness of the surrounding countryside. That is a cautionary compliment. She must not get over-excited and intervene too early because I have a lot more to say about the Tories. In just one day they saw more than half the Scottish block disappear down the drain, and with those reserves went their economic credibility. They have absolutely none. Certainly Mr Davidson has none.

On behalf of the Scottish Liberal Democrats, I support a budget that provides the highest ever real-terms spending in Scotland. We are proud to support the partnership and the minister. We congratulate him on the excellent job that he has done. We welcome the broad thrust of the budget—it reflects the partnership agreement—particularly the extra £80 million for Scottish education, which will deliver 500 more teachers. It will also provide more new books and equipment for every school, classroom and pupil in Scotland.

Alex Neil: Will the member give way?

Mr Raffan: In a second. Let me get into my stride, Mr Neil.

The budget will provide much more: £91 million over three years for the child care strategy; £26 million for schemes to improve public transport; £12 million for the healthy homes initiative to improve damp and cold homes. Within the limits of the block, that is money well allocated, but the minister knows—as we all do—that there are pressures everywhere.

Fiona Hyslop (Lothians) (SNP): Mr Raffan mentioned £12 million for the healthy homes initiative. Is not he confusing that with the warm deal proposals? Will he explain exactly where that £12 million will be spent or does he agree that it does not actually exist?

Mr Raffan: I certainly do not agree. Ms Hyslop must not get over-excited. She and I are both members of the Social Inclusion, Housing and Voluntary Sector Committee and we have discussed this matter. She knows that the money exists and that it will be spent in a way that the

Minister for Communities has said, in the chamber, will improve homes—

Mr Lloyd Quinan (West of Scotland) (SNP): The committee has not discussed the matter.

Mr Raffan: It has been mentioned in the committee. I am sorry that Mr Quinan was not paying attention at the time.

As I said, there are pressures everywhere—in local government, in the national health service, in the police. Councils are in their sixth year of having to absorb wage increases; in Fife Council alone, the cost amounts to £47 million.

Those pressures have produced a partnership at local council level in Fife, as the minister well knows—I remember handing him the motion. The joint Lib Dem-Labour motion in Fife calls for more help from central Government for pay awards and more discretion and freedom in setting budgets; it also emphasises the need for greater resources for capital expenditure, school building maintenance and so on.

Brian Adam: Will the member give way?

Mr Davidson: Will the member give way?

Mr Raffan: In a second. Let me finish this section of my speech.

The partnership at local level reflects the pressures on local government.

In the NHS, consider the predicament of our health boards. I have met two boards in my region recently; they have had to face efficiency savings every year since 1986. They have cut administration to the bone and now say that they may have to turn from non-clinical to clinical savings. That is ominous, if it means health service rationing. The boards face significant inflation, particularly in their generic drugs budget, and are carrying out a sensitive and complex acute services review.

Turning to the police—

Andrew Wilson: What about rationing?

Mr Raffan: If Mr Wilson had been paying attention, he would know that I mentioned rationing; I said that the situation could lead to rationing.

About 86 per cent of the police budget is spent on wages and salaries—I mentioned that to the minister at the Finance Committee yesterday—so efficiency savings must be made on the remaining 14 per cent. Fife constabulary must make savings of 1 per cent this year, 1.7 per cent next year and 2.5 per cent the year after that. Those savings have been described to me by the chief constable of Fife as unsustainable in the long term.

Our public services are under enormous strain

because their budgets are under so much pressure, yet the chancellor continues to sit on the lid of his treasure chest.

Alex Neil: Will Mr Raffan give way?

Mr Raffan: In a second.

It is speculated that the contents of that treasure chest amount to anything from £10 billion to £13 billion—perhaps even more. The Liberal Democrats do not want that money to be released suddenly—pre-election—in one go. We do not call for huge increases in expenditure, but we do need gradual, phased, well-planned increases in spending where it is most needed.

Alex Neil: Will Mr Raffan point out where in Mr McConnell's budget the money has been set aside to pay for his party's policy of abolishing tuition fees?

Mr Raffan: It has been said several times in the chamber that we are sure that the money can be found; perhaps Mr Neil was not present, but that was made quite clear.

Tuition fees are a matter for next week and the following weeks. The Minister for Finance is a man whose ingenuity I have never underrated or doubted. Over the Christmas period, following the publication of the Cubie report, I know that the minister—with remarkable ease and in his usual relaxed style—will find the necessary resources to fund tuition fees. I am grateful to the Minister for Finance for the eyebrow that he just raised.

Andrew Wilson: Will the member give way?

Mr Raffan: I gave way to Mr Neil; I must carry on.

Andrew Wilson: He cannot answer the question.

Mr Raffan: I just answered it. The minister, rightly, warned the Finance Committee—and other subject committees when he appeared before them—that we should not produce an unrealistic wish list. If we are to propose budget increases, we should say at the same time where the money is coming from.

Andrew Wilson: Where is it coming from?

Mr Raffan: I am grateful to Mr Wilson; I was just coming to him. That message has been lost on the Scottish National party. Earlier today I counted how many SNP members in the chamber had not made spending pledges. Three. Perhaps it is fewer now—so many have been made. Spending pledges made by the SNP since 1 September total £1.3813 billion—

Mr MacAskill: John Prescott has promised £80 billion.

Mr Raffan: Most of those spending promises

have come from Mr MacAskill. He is completely out of control, as we know. His spending commitments did not, however, include a bus trip to Wembley.

Andrew Wilson rose—

Mr Raffan: I am not nearly finished. I will happily give way to Mr Wilson when I have finished with the SNP wish list. Its total spending pledge is not merely the figure that I just gave—in addition there is the electrification of the east coast rail line, which is so far uncostered. The total is £13 million per day—

Mr Swinney rose—

Mr Raffan: I will give way in a second, when I have finished with the wish list. That pledged spend equals £13 million per day since 1 September. The shadow Minister for Finance—no iron shadow chancellor—cannot control his three colleagues on the SNP front bench, let alone those behind him. He is not the iron shadow chancellor—he is the jelly shadow chancellor. He is seen as Mr Salmond's protégé and that is why the fundamentalists disregard and bypass him at every possible opportunity. They have nothing but contempt for him.

Andrew Wilson rose—

Mr Raffan: Mr Wilson should sit down.

The SNP has made pledges galore. On 9 September it said that it would spend an extra £300,000 on Grampian police. On 20 September, Mr Ewing pledged £1.7 million for Inverness College. Mr MacAskill would spend £8.6 million on the abolition of tolls on the Forth road bridge. On 21 October, £50 million was pledged for health care and £13 million for the Scottish Prison Service. On 26 October, Mr Swinney entered the fray and pledged £42 million for the abolition of tuition fees. On 28 October, Mr MacAskill pledged £130 million for public transport and on 4 November he pledged £800 million for roads. On 8 November, £75 million was pledged for the police.

The Deputy Presiding Officer: Wind up, please.

Mr Raffan: Mr MacAskill also pledged £119 million for a stake in Railtrack. On 10 November, £100 million was pledged for the Borders railway, £2 million was promised as compensation for scallop fishermen and £1.4 million was promised for firefighters over the millennium celebrations.

The Deputy Minister for Local Government (Mr Frank McAveety): Will Mr Raffan confirm that the SNP's new song—which should be included on its compact disc—should be "Big Spender"?

Mr Raffan: Shirley Bassey is modest by comparison.

The Deputy Presiding Officer: Please bring your comments to a close, Mr Raffan.

Mr Raffan: On 2 December, Mr MacAskill pledged £19 million for a national concessionary fares scheme—he makes daily appearances on this list—and £19 million was pledged for health trusts in Glasgow.

Some—perhaps most—of that spending is desirable, but the SNP never tells us where the money will come from. The chancellor's treasure chest is not bulging.

The Deputy Presiding Officer: Come to a close, please, Mr Raffan.

Mr Raffan: The SNP has taken a vow of silence on taxes. Mr Wilson withdrew from a debate with me on "Good Morning Scotland" this morning. I thought that he had more guts and that he would debate the spending pledges of his colleagues and the policies of his party, but he would not. The SNP's shadow chancellor is not made of iron—he is not made of any mettle at all. He has no control over SNP spokespersons, least of all over Mr MacAskill, who has gone from spending commitments to the proposal of new taxes on, for example, house sales. He would also divert revenues from certain taxes—such as landfill tax—to extra expenditure.

The Deputy Presiding Officer: Close, please.

Mr Raffan: I will close.

The SNP has zero credibility and its shadow Minister for Finance has no credibility with his own party, let alone with others, so why should any of us listen to him?

The Deputy Presiding Officer: We now move on—[*Interruption.*]

I realise that we are in the pantomime season, but I would be grateful if members observed some decorum in the chamber.

We now move to the open part of the debate. Members have four minutes.

10:54

Malcolm Chisholm (Edinburgh North and Leith) (Lab): As I have grappled with Scottish expenditure tables for most of the decade, I welcome this first ever debate on level 2 expenditure totals. I look forward to a more comprehensive process next year, in which all the committees will be involved, to the implementation of the minister's undertakings on real-terms spending, and to more disaggregation of figures where that is appropriate.

I would like to add one note of caution: decisions on the two biggest lines in the budget—local authority revenue and hospital and community

health services—are, fundamentally, made at local level. That should be borne in mind when we talk about further disaggregation.

Mr Wilson used a lot of figures in his speech today. I will address some of them. He talked about public expenditure as a percentage of gross domestic product, but he did not mention the extent of GDP—because we have a stronger economy and a much larger GDP than we did during the Tory years to which he referred. He talked about the final years of the Conservative Government, but he did not mention the unsustainable levels of borrowing during that period, which have to be dealt with. Mr Davidson spoke on the same theme and referred to the high point of Tory public expenditure in 1994-95. That was a freak year, if members consider the whole period of Conservative Governments. That level of expenditure was unsustainable without the economic problems being dealt with.

The main point that Mr Wilson made—and repeated in his amendment—was about percentage increases in England as distinct from Scotland. I tried to deal with that issue at question time last week, which was perhaps unwise given that most members had their minds on another matter. If we start with a higher base, we will have lower percentage increases each year.

Andrew Wilson: As the Barnett squeeze means that we start per capita spending at one level and it decreases, does Mr Chisholm believe that that is fair today or fair tomorrow? Does he think the current share of UK health spending in Scotland is fair?

Malcolm Chisholm: Mr Wilson was especially unwise to talk about health spending, given that health spending in Scotland is 20 per cent per head higher than it is in England.

The point that Mr Wilson did not consider about the budget is that, over the three-year period of the comprehensive spending review, Scottish Parliament expenditure goes up by £856 million in real terms. Can Mr Wilson tell me of any three-year period in Scottish politics when that has happened? We should keep that fact in our minds.

Mr Wilson was unwise enough to emphasise health. The real-terms increase in spending on health is £546 million over three years. Again, I defy Mr Wilson to find a three-year period in which there has been such an increase. It was especially inappropriate for Mr Davidson to talk about starvation of health funds in that context.

In the papers today, Mr Wilson talks about the increase from this year to next. As I pointed out when I dropped in briefly to the Finance Committee yesterday, the reason for that is that there was a big in-year increase in health expenditure this year—an extra £140 million in

October. That reduces the percentage increase from this year to next. Over three years, the increase in spending on health is £546 million in real terms, or 11 per cent. That is unprecedented.

Mr Davidson: Will Malcolm Chisholm give way?

Malcolm Chisholm: I have five seconds left, so I cannot give way.

As usual, the SNP says—in the second part of its amendment—that fiscal autonomy would allow the Scottish Parliament to allocate the resources required for Scottish public services. I know that there is controversy about the details, but this week's "Government Expenditure and Revenue in Scotland 1997-1998" report makes it clear that the overall range for the Scottish fiscal deficit, including oil, falls somewhere between—this is where the argument arises—£5.25 billion and £2 billion. We also know the long-term trend in oil over the next 10 to 20 years will be falling production levels.

I know that Mr Wilson is one of the few SNP people to have acknowledged a structural fiscal deficit, so perhaps that point can be addressed in the summing-up at the end of the debate.

10:59

Mr Kenny MacAskill (Lothians) (SNP): Listening to the Minister for Finance and his deputy, I am minded of the line in the Proclaimers song, which says:

"But I can't understand why we let someone else rule our
land
Cap in hand".

What a poverty of aspiration—boasting and bragging about expenditure levels that are inadequate to meet the needs, never mind minister the aspirations, of our people.

At this time of year, people have their mind on family reunions and enjoyment. We should remember that we are the fifth largest oil producer in the western world, yet one in five of the youngsters sleeping rough on the streets of the city of London are Scots kids driven from their native land by a lack of housing, lack of employment and lack of hope. That is a badge of shame which every man and woman should wear until that wrong is righted.

The draft budget is tokenistic and only tinkers with the nation's serious problems. We are the only country in the world that discovered oil and got poorer. Other nations discover oil and make the desert bloom; we discover oil and see the creation of an industrial desert in parts of the central belt.

In what way is the budget an advance from the years of financial famine that we experienced

under Thatcherism? The adage that there are lies, damned lies and statistics comes to mind when figures trip from the lips of the minister and his supporters. Their tarty publication attempts to mask real-terms cuts with cash-terms statistics. After years of Tory under-investment, it seems that Labour can do no better than the Tories.

Scottish spending on transport during the next three years will be about £360 million less than if it had remained at the inadequate level that was inherited from the Tories. In October, the minister sounded a fanfare and announced that Ms Boyack would have an additional £35 million to spend on the roads programme. However, that would not cover even half of the long-overdue safety improvements on the A77. Incidentally, in the financial fog of the figures, I have been able to find only an increase of £20 million. However, I am not interested in pursuing a paper-chase that—in relation to the investment that we need in our infrastructure—amounts to a pittance.

Two-Jags Prescott says that £80 billion for transport is available in the next 10 years. What is our share? Under current spending levels, the Scottish transport budget would be only a cumulative £3 billion in the next 10 years.

In another fanfare of publicity, the Chancellor of the Exchequer announced the abolition of the fuel duty escalator. Was it really abolished? The name of the mechanism might have changed, but we face an increase next year, although this time the money will be ring-fenced for transport. What will our share of any ring-fenced fuel duty increase be? Just 1 per cent of any increase would pay for the much-trumpeted new money for Ms Boyack's budget.

As I said earlier, John Prescott announced that £750 million would be made available to councils in England for bus priority and integrated transport schemes. Mr Raffan and others have criticised the Scottish National party for wanting to spend. I was criticised by the minister for saying that we should implement the strategic road review in full, even though I said that it should be implemented during a certain time scale. That £750 million would almost meet the strategic road review in full.

Mr McConnell: I know that Mr MacAskill might be restricted to speaking only about his budget responsibility for the SNP, but I want him to indicate to the chamber—as he has not done at any time in the past two months—which budget would be reduced, to pay for the significant increases that he repeats every time he speaks.

Mr MacAskill: That is just what I am moving on to.

The situation does not need to be as it is. We do not need to go cap in hand to London. We are an oil-rich country. We are also a highly taxed

country. I will leave it to others in other debates to confirm the wealth of our country and to articulate the fact that only with independence can we build the nation that our people need and deserve—that is on a macro level. However, resources are available on a micro level to provide what we need. The minister offers a one-off investment of £2.5 million to Scottish local authorities to implement a waste strategy, while £40 million a year—and rising—is sent to London to be hypothecated to reduce employers' national insurance contributions. That is neither green nor environmentally sound.

As has been said, we have the only airports in mainland UK with more than 4 million passengers but without direct rail links. However, £65 million—and rising—is paid in air passenger duty.

Some £12 million is given to the Exchequer from fiscal fines, principally road traffic fines, at a time when we still have to pay tolls for bridges long since paid off. I say to Mr Raffan that the Erskine bridge makes a profit, as does the Forth road bridge, as the Automobile Association pointed out. When platitudes are uttered about cycle training and other such worthy measures, no funding is available to support them. We would not have to touch our oil revenues—a fraction of that £12 million would suffice.

I could go on and on, listing Labour's hidden stealth taxes. The Labour party provides us with so-called financial cake but steals the bread from our mouths at every opportunity. Let us be clear: we do not need to live that way. Let this Parliament run our country. Labour can keep its charity; we will keep our oil revenues, our excise duties and our taxes.

11:05

Nick Johnston (Mid Scotland and Fife) (Con): I suspected that, like the minister's document, the debate would be long on promises and short on detail; it is a debate that follows new Labour's policy on recycling, where money is laundered, and used time and again. If the Scottish National party has plumbed the heights of economic illiteracy, the Executive has mastered the art of economic chicanery.

Let not the Labour party boast about how much it is increasing spending. Let it consider the problems that underlie that spending; let it consider the cost to the health boards, as a result of the revaluation of properties; and let it consider how much money has been taken out of the health service by the shortage of generic drugs and the increase in the drugs bill. Let us not forget that this Government is the Government that, for the first time in the history of the national health service, is capping spending on prescriptions, cash-limiting

treatment and bringing in rationing by the back door.

The Conservatives have always said that we would maintain vital services, as we proved when we were in office. We want to see money being spent efficiently. For example, Perth and Kinross Council has dispensed of five directors—five heads of departments have taken early retirement and are not being replaced. The total saving must be about £400,000. If that council can do it, other local authorities can do it.

When will we get rid of directors of leisure, of public policy, of recreation and of legal administration—director upon director upon director, all feeding from the public purse? There must be savings of at least £12 million in local authorities, at director level alone, in Scotland. Let us root out, in our local authorities, our health boards and in all our public services, those who are costing but not performing, and who are feeding from the public purse. Why is the model for best practice, for the way in which our local authorities run their services, not working? Efficiency savings in local authorities would release money for services, and efficiency savings in the health service would release money for patient care.

I keep returning to the example of the planning system, which—as I have said many times in the chamber—is archaic, creaking and holding back development. However, all we are promised is another Government review: that kiss of death, the Government review; that excuse for doing nothing, the Government review—

Dr Simpson: Will the member give way?

Nick Johnston: One moment.

Perhaps when the minister winds up, he will explain why elderly hospital patients are being denied food and drink, when Gordon Brown is increasing taxation and sitting with his war chest of £12 billion.

Dr Simpson: I was hoping to comment on efficiency savings. In fact, the health service is required to make such savings every year. That requirement has been there since the Conservatives introduced it in 1986, as part of a process of re-engineering. I am not sure why Nick Johnston made that comment, and I am also appalled by his awful comment on food and drink.

Nick Johnston: I have succeeded in appalling Richard Simpson.

Perhaps when the minister sums up, he will explain why our roads are still congested and our road building programme and economic development are being halted, when Gordon Brown is increasing taxation and sitting with £12 billion in his war chest. Perhaps he can explain

why 20 per cent of our children emerge from our secondary schools illiterate, when Gordon Brown is increasing taxation and sitting with £12 billion in his war chest. As Gordon Brown sits counting that £12 billion, perhaps just for once, to use Mr McConnell's favourite phrase, the Executive will admit that the careful husbandry of the Conservative Government, in the last five years of its administration, laid the basis for this economic boom. I beg him to remember that, above all, all he is doing is redistributing our money.

If the Labour party is intent on spending less of the gross domestic product than the Major, Thatcher, Heath, Wilson or Callaghan Governments—in fact, any Government that I can remember—at least let it admit that the raised expectations as a result of electoral promises will not be realised. The people of Scotland will remember those who promised so much, yet whose spending will not reach that of the previous Conservative Government until 2001. The people of Scotland will come to realise that they are paying more in tax and getting lower standards in return. I reject the motion.

11:09

Des McNulty (Clydebank and Milngavie) (Lab): It is always instructive to speak soon after Mr MacAskill, with the single transferable rant that he seems to adopt as his argument on any issue.

There is a genuine debate about how much is spent in Scotland, and the future of the Barnett formula. Unfortunately, we are not having that debate—rather, we are having a debate on different sums of money spent in different parts of the UK, and the Scottish National party and the Conservatives have had nothing enlightening to say on any other matter.

The comprehensive spending review has put more money into services in Scotland. The figures that have been produced today, alongside those that have been presented in the past, make it clear that there has been a significant growth in spending on new projects.

We need to focus our attention on how allocations between different budget heads are made and how effectively those budgets are used. The debate is not just about the volume of money, but about the way in which resources are applied and used.

Andrew Wilson: Mr McNulty is correct in what he says, but I would like him to reflect on the long-term issue. Mr Chisholm mentioned that, according to the Government, 20 per cent of UK health spending is in Scotland. Does Mr McNulty agree that that is a fair share, or does he think that it should be reduced, as I expect will happen?

Des McNulty: The volume of health spending in Scotland is significantly higher than it is south of the border. It is interesting that Mr Wilson raises the health issue, given that members of his party have been particularly prominent in opposing the early implementation of the findings of the Arbuthnott report.

Before I became an MSP, I sat on Greater Glasgow Health Board, which, under the Scottish health authorities revenue equalisation formula, was faced with a progressive, relative reduction in the amount that it could expend, despite having Scotland's greatest health needs. That reduction was relative because money was being diverted elsewhere under the formula introduced by the Conservative Government. The Arbuthnott formula is a method of changing that by linking health spending more closely to need.

The budget contains a series of proposals that reinforce that process of change. Addressing health disadvantage is not just about health spending, but about dealing with housing expenditure, employment-linked expenditure and the way in which local government expenditure is implemented. All those aspects need to be brought together to deal with health disadvantage. Simply arguing about the volume of money that has been or could be spent and arcane Treasury processes is not addressing the issue. We must consider how we bring together the resources—health, local government and housing expenditure—to ensure that we bring benefits to our people, particularly those in areas of the greatest health disadvantage.

Mr Davidson: Will the member give way?

Des McNulty: No. I will carry on speaking, because I do not have much time.

I represent a mixed area: Clydebank, in West Dunbartonshire, which is the local authority area of highest health disadvantage in Scotland, and Bearsden and Milngavie, which is relatively prosperous, with fairly good health statistics. To address the issue of poor health in Scotland, we must consider the fairness of allocation across Scotland, to ensure that the services that are provided reflect the pattern of need. We must not look at that purely in terms of particular initiatives; rather, we must bend the spend across a range of budget heads. We must consider how local government and health allocations are put forward and the way in which money is routed into local enterprise companies and Scottish Homes, to ensure that we apply the principles of social justice and fairness.

That is what the Government is about and that is what the economic debate in Scotland should be about. We must discuss how we organise the way in which we allocate and plan expenditure, to

ensure that we provide services that match needs. I regret that we are not having that debate, but I hope that I have pointed us in the right direction.

11:14

Nicola Sturgeon (Glasgow) (SNP): I welcome Des McNulty's speech. I would like to be able to say that this has been a constructive debate, but too many members of the Lib-Lab coalition were more interested in attacking the Scottish National party than they were in defending their policies on public spending.

I want to focus on education spending. I am happy to welcome the extra money that will be spent on education over the period of the comprehensive spending review. That extra money is welcome—but it is certainly not before time. Education spending in the first two years of the Labour Government was less than it was in the last two years of the Tory Government—a fact that was recently admitted in a parliamentary answer to my colleague Andrew Wilson.

Dr Simpson rose—

Nicola Sturgeon: Not just now.

It is also not before time when we consider that, hidden in the detail of Mr McConnell's consultation document, is the fact that between last year and this year central Government spending in schools was actually cut by nearly £12 million—a fact that was missing from his opening remarks today.

Dr Simpson rose—

Nicola Sturgeon: Perhaps a bit later on, Richard.

I want to concentrate on measuring education spending against education need. It has to be acknowledged that, although spending on education is increasing, so too are the burdens on local authorities. Much of the extra spending on education is ring-fenced specifically to meet new burdens on local authorities. For example, the spending on pre-school education and child care is for local authorities to meet new obligations in those areas.

I am not saying that there is anything wrong in that approach, but it means that core education budgets remain as stretched now as they have been in the past. Perhaps that is why it is so galling to find that substantial sums can be found to bail out Scottish Opera or the national stadium, but that money cannot be found to tackle, for example, the fact that in Glasgow half the primary schools cannot afford to install basic security systems. The Scottish Executive's answer to that is that no more money is available.

Education authorities will face several challenges over the next few years, and the

budgets that have been announced will not be able to cope with them. The outstanding repair bill for Scotland's schools is around £1 billion, and the Government's only answer is private finance. The SNP's views on the private finance initiative are well established, but it is fair to say—and the minister might even acknowledge it when he sums up—that, with the details that are emerging from the Glasgow PFI projects, some of the SNP's concerns are proving to be well founded. There are fewer classrooms, fewer staff rooms and poorer sports facilities—that is the reality of private finance.

There is no denying the fact that, when the McCrone committee reports next year, teachers will demand a substantial pay increase—and rightly so, because they have fallen behind other professions. How, within the budgets that have been announced, can local authorities properly reward teachers? They have to find a way of doing so if we are to attract the best graduates to the teaching profession.

Jack McConnell talks about "1,000 additional teachers". Given the shortage of supply teachers that already exists, it is absolutely essential that we find a way of properly rewarding our teachers if we are to be able to meet that commitment.

Dr Simpson rose—

Nicola Sturgeon: I am summing up.

In his summing up, Jack McConnell will no doubt attack the SNP again. He would perhaps do better to reflect on the fact that education spending is rising at a slower rate in Scotland than it is south of the border. Would he argue that the education system in Scotland needs less money than the system in England? Or does he agree with us that fiscal economy is needed in Scotland to allow us to spend appropriate sums on our much valued public services?

11:18

George Lyon (Argyll and Bute) (LD): The debate offers a good opportunity to discuss Scotland's first budget. The discussion has been reasonably constructive, although not always. On behalf of the Scottish Liberal Democrats, I welcome the increase in real-terms spending from the low, in 1997-98, of £14.17 billion to £15.8 billion by 2001. That is a significant increase in resources coming into Scotland, and especially into Scotland's public services. It reverses the Tory cuts from 1994 through to 1997—cuts that were, rather disappointingly, carried on by the Labour Administration. I am glad that the Scottish Executive is now turning that round, and that we will see a big lift in spending on public services over the next two to three years.

Miss Goldie: Does Mr Lyon welcome with equal relish his party's ditched promises, which, as Nicola Sturgeon will be interested to learn, included a promise at the previous election of 2,000 extra teachers? The Liberal Democrats' promise to abolish tuition fees has evaporated in the interests of the partnership agreement; they also promised to boost the planned education budget by £170 million. Can we anticipate that Mr Lyon will welcome such breaches with the same fervour as he welcomes the minister's statement?

George Lyon: I will come to the Liberal Democrats' specific spending commitments, of which education was a key priority.

Although we welcome the huge increase in funding that will come into Scotland in the next two or three years, there is still a major case to be made at Westminster for the Chancellor of the Exchequer to free up some of his huge reserves. I hope that Scottish ministers will make a case for the next comprehensive spending review to allocate some money to support our hard-pressed public services.

As Keith Raffan said, the partnership Government will deliver an extra £80 million for education, which is an extra £8,000 to every Scottish school for books and equipment. There will be an extra £26 million for schemes to improve public transport, which includes a welcome £13.5 million for rural Scotland. There will be 200 extra police officers for the drugs enforcement agency and £12 million for the healthy homes initiative, to improve 100,000 cold or damp homes. Finally, there will be £91 million over three years for the child care strategy, and the highest ever share of national wealth is now being spent on the health budget. The Scottish Liberal Democrats certainly support those major increases in funding.

The Scottish National party makes much of comparisons with England. We recognise that the Barnett formula will narrow the gap between England and Scotland, but there is a massive difference in the amount spent on Scotland year on year, which is a fact that the SNP has failed to acknowledge at every turn. Independent figures from Stephen Boyle of the Royal Bank of Scotland show that identifiable spending per capita in Scotland was 19 per cent higher than the UK average and per capita programme spending in Scotland is higher than in any other UK programme. The Scottish premium is greatest in such areas as agriculture, housing, environmental services and economic development. Those are independent, not Government, figures, which demonstrate that there have been substantial increases in the Scottish budget.

Andrew Wilson: If we accept those figures as true, does Mr Lyon believe that that is a fair share? Should that share stand or fall?

George Lyon: As I said earlier, the Chancellor of the Exchequer at Westminster should increase public spending to allow that share to increase again.

We need to discuss the Barnett formula; I will support any such discussions in the Finance Committee. However, we must be careful about opening up that debate, because there might be negatives as well as positives to consider.

Governments are responsible for ensuring that priorities are met while keeping the books balanced. There is a stark difference between the partnership Government's policies and the SNP's wish list. As Keith Raffan said, the SNP's spending commitments stand at £1.38 billion, which works out at £13 million a day since September. If spending is maintained at that level, it will have risen to £17 billion by the next election. The basic level of tax would have to increase by 99 per cent to cover that. How on earth can such la-la-land economics be taken seriously? Promises of endless cash being chucked at every problem only make good copy for the papers.

Andrew Wilson cannot control his spending spokespeople, who are led by Kenny MacAskill. The SNP should change its name to NSP—the national spending party.

11:24

Mike Watson (Glasgow Cathcart) (Lab): This has been a lively and important debate, which has been informed by the deliberations of the Finance Committee. However, only Andrew Wilson has made a brief reference to the fact that the Finance Committee report is available, and I am not sure that everyone who has spoken in the debate has received it.

The report highlights a number of areas where the Finance Committee probed the Government's initial figures. The Minister for Finance appeared before the committee on three occasions to discuss the issues. The report contains valuable points, some of them critical of the Minister for Finance, although he took the criticism in good part and responded positively. As a result, members will be even better informed when the 2001-02 figures come to Parliament for consideration, as the new three-stage system will be fully operational and the subject committees will have the opportunity to discuss in considerable detail the Scottish Executive's proposals. The process for dealing with the Scottish budget will be even more open than has been possible in the past, which I welcome.

I welcome also the minister's commitment to provide real-terms figures, to which most members who have participated in today's debate have referred and which, for obvious reasons, will be

much more helpful.

The figures must be put in their context. It is predictable that there has been considerable criticism, particularly from the Scottish National party. It is instructive that its members often use England as the basis for comparisons, when it is the party's policy to break all ties with England. In fairness to Andrew Wilson, he was far more relevant when he cited the Republic of Ireland. If the SNP wants to break away and have an independent Scotland, why use England as the basis for comparisons? Why then turn round and ask Labour or Liberal Democrat members why spending levels are so much higher in Scotland and whether we want to maintain them at that level, as Andrew Wilson has just done?

The reasons why levels of spending, particularly on things such as housing and health, are so much higher are well known. The priority is to tackle the root causes of those problems. The funding that has been made available in the budget will enable that to be done.

Des McNulty was absolutely right: the important thing is to prioritise resources within the various budget heads and to consider how resources are allocated and used. I am sure that almost any Labour or Liberal Democrat member could speak to the Minister for Finance one to one to argue for greater resources for a particular measure or for their local area.

The budget must be considered overall. There is no point in picking out one item and asking specifically what will be done on education or housing. Issues are being tackled in a wide array of ways and through different funding initiatives in addition to the budget heads that we are discussing today. It is important to put the debate in that context.

It is a bit wearing to keep hearing the same arguments. Mr MacAskill was at it again today. He keeps coming back to questions of funding for transport and comparing what Mr Prescott is doing in England with what we are doing here. The point is that we are trying to do things differently in Scotland. I find it strange and perplexing that Mr MacAskill wants to use England as a reference point.

It is far more instructive to examine the figures that are before us and decide what can be done with the resources that we have in Scotland. We all argue for a maximisation of those resources in our areas, but it is important to understand that the way in which the budget is evolving, particularly with the end-year flexibility produced by the comprehensive spending review, will have an impact in a number of departments. That fact has been widely recognised.

I welcome the budget overall, but greater

consideration must be given to the allocation of budget heads, and there must be recognition of what that will mean in different parts of the country. Rural affairs will have an increasing claim on resources, but recent figures on health, housing and other aspects of life in Glasgow mean that those must be priorities. Those of us who represent the city will continue to argue for increased resources.

Nevertheless, overall, it is disingenuous to talk about cuts when the real-terms figures are higher than have ever been produced, particularly in health, where around £700 million more will be spent in this three-year period than in the previous three-year period.

I welcome the fact that we are at the start of a process, which in future years will be even more fruitful, because the whole Parliament, the subject committees and many more members of the Parliament will have contributed to the plans in the early stages, before they come to the chamber at stage 3.

11:29

Tommy Sheridan (Glasgow) (SSP): Earlier, the Minister for Finance avoided the question that I asked. I invite him to answer it in his summing-up. The question was on using the comprehensive spending review as the baseline for gauging the spending level of the Government. The problem is that we have not a three-year, but a five-year Government. The fact remains, despite what Mike Watson and others have said, that the Government is spending less on public services than even the previous Tory Administrations.

The Trades Union Congress report of only four weeks ago—I also ask that this be referred to the minister's summing-up—states that, in real terms, we are spending 45 per cent less on public services than in 1994-95. A report carried out by Tony Travers of the London School of Economics, of which the minister will be aware, shows that the proportion of public expenditure on services is lower than that of any Government in the past 40 years. That is the background to the discussion on this budget. It is not enough for those in the new Labour party to argue that the settlement is a good one. It is not a good settlement.

It is fair enough arguing for a better, most efficient division of the settlement, but socialists should be arguing for an improvement in the size of the cake, not just for dividing it up better, which means that someone's improvement is someone else's cut. We in Glasgow City Council will be fighting for a greater share of the resources, but the problem is that, unless the overall resources are improved, Glasgow's improvement will be the loss of other parts of Scotland. That cannot be

acceptable to any members of this Parliament.

I hope that the minister will accept that, although it is factually correct that there is an overall increase in spending over the three years of the CSR, when it is compared to the five years of the Parliament, even the levels of the previous Tory Administration are not reached, because of the acute cuts in the first two years.

With regard to Andrew Wilson's earlier points, I support the SNP amendment if for no other reason than that the SNP refers to the need to discuss independence in relation to this settlement. I differ, however, on the SNP comparisons with the Republic of Ireland. It does have fiscal autonomy because it is an independent republic—and I wish Scotland to become an independent republic—but the Eurostat report of only two months ago says that, of the 15 nations of the European Union, Britain is bottom of the table for the proportion of the population living in poverty. Second bottom in that table is Ireland. Although it is an independent republic, it is one that is deeply divided in terms of the distribution of its wealth. We have to confront that problem here.

Early in the new year, we will bring to the Parliament the idea of a new, alternative tax, and I hope that the Minister for Finance will support it. He used to support progressive taxation and the redistribution of wealth. We will advance the abolition of the council tax and its replacement by a Scottish service tax. That tax will be redistributive, and will mean that MSPs will pay more. I hope that the Executive will support it because it will exempt pensioners and students while imposing a heavier rate on those with wealth.

I hope that Kenny Gibson and others will agree with me that we do not improve our share of oil revenues by cutting corporation tax. We do so by doing what Norway and most countries of the middle east do: we publicly own our oil industry so that we can use the £11.2 billion of profit that was made last year—£11.2 billion of profit was made in the worst year for two decades. We could do with a share of that for Scotland's public services.

The Deputy Presiding Officer (Mr George Reid): I regret that four members have not been called. I should point out that members who persistently overrun their speaking times may find themselves dropping back in the speaking order for future debates.

11:34

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): I believe that we need more money for Scotland. In the long term, this Parliament will not be able to do all the things that we want to do with the level of funding that is

available at present. Along with my Liberal Democrat colleagues in Westminster, I will continue to press Gordon Brown to loosen the purse-strings over the next few years in a way that is sensible and steady—[MEMBERS: "For tuition fees?"] Absolutely. I will come to that shortly. As long as there are real needs to be fulfilled I will not support Westminster proposals to cut income tax. As Tommy Sheridan said, the cake needs to be bigger and that will have tax implications. That is not for our Parliament—

Mr Quinan: Mr Jenkins welcomes the budget. Can he identify where the money for the abolition of tuition fees is in it?

Ian Jenkins: I cannot but it is not my job to do so; it is Jack McConnell's job, and he will need to find it. As Des McNulty said, we are considering the way in which we divide the cake we have. I welcome the expanded spending on education, which is part of the partnership agreement. Eighty million pounds will start to change the shape and mood of Scottish education, paying for more teachers and so on.

Along with that there is a massive extension of funding for child care. That is a strategy of early intervention—getting to the heart of problems at an early stage to prevent difficulties and spending later on. In the partnership we see this not simply as expenditure but as long-term investment. By getting education right, by early intervention through nursery education and child care, we should avoid youngsters becoming detached from schooling, disaffected, disconnected from the norms of society, bored, attention seeking, becoming disruptive and resentful and drifting into offending and not entering employment because they have not had an education.

Similarly, spending on drugs enforcement tries to get at the heart of the problem before it leads to social deprivation and more spending on justice and social work. Instead of mopping up, we are stopping things before they occur. In the warm homes initiative we are trying to combat the cold and dampness that is a breeding ground for illness and social deprivation, damaging people's lives and driving them out of the house for comfort, to fags and drink, their kids on the streets. If we can make their homes better places it solves problems. If we spend the money wisely early on, we will save money later.

Andrew Wilson said we should look beyond the ends of our noses. That is what we are doing—what we approve today. All of us dream sometimes about winning the lottery and think about how we would spend the money, but we cannot run our lives or our country like that. We cannot wait for Andrew Wilson's balls to come up. [Laughter.] We cannot wait for his Thunderball economics. We must work with what we have and

invest it wisely for the future.

11:38

Miss Annabel Goldie (West of Scotland) (Con): We welcome the Minister for Finance's statement. I was interested to hear that the consultation had elicited a low response. That may be because we are dealing with level 2, so many people felt unable to comment. I also listened with particular interest to his words: openness, accountability and probity. I agree that, as has been said, we need a greater disaggregation to make sense of the spending proposals. Even at level 2, however, there is cause for concern.

We are dealing with a presentation that is on a cash basis. Although Mike Watson applauded that, I find it a simplistic approach. The cash basis shows cuts in some areas, but they are even worse if an adjusting inflation factor is introduced. Will the people in Scotland relish cuts in real terms, since Labour came into power, in housing support grant, to funds to the Crown Office and fiscal services, to enterprise and lifelong learning and to the police?

The reality has been expressed frequently during this debate: Labour is spending £1.1 billion less than the Conservatives. If that is not bad enough, Labour has failed to anticipate demands on health, education and services in local authority areas. The Executive cannot sit back in complacency, look at the sums that have been divvied up and say, "We've done a good job." It is the Executive's business to anticipate the needs of our communities in Scotland and to make a serious attempt to address those needs.

I have no doubt that it will be of great comfort to patients, parents, pupils, teachers and the police that this Executive is able to fund 22 ministers and legions of special advisers, spin doctors and ancillary staff, not to mention Mr Rafferty's pay-offs. I suggest to Mr McConnell that charity begins at home, and some pruning of the Executive's ménage would be a start.

Politically, the coalition budget is not about openness, accountability and probity, because this Labour Government has taxed more than even the previous Labour Administration, and, in relative terms, it is spending less than any other UK Administration in four decades.

Dr Simpson: When did the Conservative Government ever publish level 2 funding for Scotland with any explanation at any point in its 18 years in power? How does that match up to transparency?

Miss Goldie: Alas, we have not had a Conservative Executive. Perhaps when we do, such transparency will not be a problem.

I already challenged Mr Lyon on the matter of his party's commitments, or at least some of them, which simply flew out of the window once the partnership agreement was hatched. Under Labour and the Liberal Democrats, Scottish expenditure is down in many key areas. The Lib Dem manifesto commitments include pledges on education, health and transport, but the money that the party could have used to abolish tuition fees has been quite clearly designated for other areas. There can be no other explanation for the prevarication and obscurity of the Executive's replies to questions posed about that matter.

This is a time of festive good will; far be it from me to be churlish and to not show some contemporary spirit concurrent with the times. We have watched with interest the debate about Scottish Enterprise. I spoke to Mr McConnell and to his colleague Mr McLeish, and I am pleased to note that the latter is a convert to Conservative thinking in relation to a reconsideration of Scottish Enterprise. I float the suggestion to Mr McConnell that there may be merit in considering the operation of Scottish Enterprise development funding, which is a successful activity. I suggest that there is good reason why Scottish Enterprise should be allowed to obtain net gain from successful development funding, thus creating a self-generating, indigenous enterprise development fund where success would, literally, breed success. I say that in a spirit of co-operation.

I do not envy Mr McConnell's difficulties in trying to examine a spending plan alongside his budgetary proposals. I have articulated my criticisms of those plans, which have been repeated many times in this chamber. At times, it behoves the Opposition to try to be constructive and positive with its suggestions. I suggest that if Mr McConnell adopts our idea on development funding, he could both create money, which is legitimately the fruit of development activity in Scotland, and retain that money for a fruitful and vital purpose.

We are unable to support the minister's motion and certainly unable to support the Scottish National party's amendment. While we welcome the minister's statement, we have profound reservations about the current levels of spending in Scotland. We are far from satisfied. With the degree of taxation—much of it by stealth—that applies to the population of Scotland, this spending round is a double blow to the Scottish people.

11:44

Mr John Swinney (North Tayside) (SNP): This has been an interesting morning. I will begin my speech by mentioning some of the issues that

have been raised by the Finance Committee. I am sorry that Mike Watson, the convener, is not present to hear me compliment the committee on the report that was published yesterday. I also wish to compliment warmly the committee's clerks for being able to arrange so speedily a meeting with the minister yesterday and for producing a report that adds meaningfully to the debate.

I welcome the minister's commitment, which was made earlier today, to provide further detail of a more disaggregated nature and a greater specificity to each of the subject committees at stage 1 of the consideration of the budget. I am glad that, at last, we have managed to extract from the minister—albeit somewhat grudgingly—a commitment to provide information in real terms as well as in cash terms. That is recorded in the Finance Committee's report.

I am sorry that it has taken so long to produce that report, and I am sorry that it took the publication of the Executive's glossy document, which does not include a real-terms figure anywhere, for us to get there. The Finance Committee yesterday agreed that some of the presentation of information in that document, in cash terms, could be thought to be misleading. I firmly take that view.

I shall give one example of that from the spending plans document that the minister has published. In that document, the minister says:

"Planned health spending will increase from £5076 million in 1999-2000 to £5558 million by 2001-02."

He also says:

"This fulfils our commitment to increase NHS spending substantially in real terms each year."

If I did not look closely enough, that paragraph would leave me with the impression that the real-terms increase was around £500 million. In fact, the real-terms increase is only £200 million. The text of the document is very misleading in the way in which the figures are presented. The minister's agreement with that fact is welcome.

Dr Simpson: Will Mr Swinney agree with me that the real increase over the four-year period is 12 per cent, and that the big increase—from £4.6 billion to £4.9 billion—came in the current year? Will he also agree that the increase in the first three years of the Labour Administration, nationally and in Scotland, was £700 million, which is a substantial increase that fulfils, at least in part, our commitment?

Mr Swinney: Dr Simpson is welcome to put those points on the record, but he should also have said that in the figures from 1996-97 to 1997-98—the first year of the Labour Government at Westminster—there was a real-terms cut in the health budget. That completes the information that

should be put on the record.

In this debate, a lot has hinged on whether we are spending enough in Scotland. We have heard different views from several different sources in the Parliament. The clearest and sharpest differences of view have come from Liberal Democrat members. Ian Jenkins made a most revealing statement, a moment ago, in which he said that he thought that much more money should be spent. We also heard a rant from Mr Raffan about the fact that all those things were not appropriate subjects for the debate.

Mr Raffan cited the interesting example of the situation of Fife Council, which does not surprise me, as such situations are occurring across the board. Last Friday, COSLA estimated that an extra £300 million is required by local authorities to meet the current policy commitments that central Government has allocated to them, which is not included in the spending settlement. Mr Raffan says all these things on the record, but nothing happens. We are not tackling problems such as the fact that Fife Council or Perth and Kinross Council, or whichever local authority it is, is having difficulty in meeting its requirements in relation to its spending commitments. Such issues are thrown into the debate—the problems that are expressed and the difficulties that are highlighted—but the Liberal Democrats have delivered nothing to address them in this spending settlement.

Mr Raffan also argued against east coast rail electrification. I was not at the Finance Committee meeting yesterday because I was at Scottish question time, a rather sad and lamentable occasion at Westminster. Who was arguing there for east coast electrification? Malcolm Bruce, the Liberal Democrat MP for Gordon. The Liberal Democrats had better establish some consistency, both in their arguments between themselves in this Parliament and in their arguments with their group at Westminster. They are fighting one argument at Westminster and a totally different argument in Scotland.

That brings us to the nub of what we get from the Liberal Democrats in terms of spending priorities next week. I am criticised for arguing that resources should be allocated to abolishing tuition fees. I am attacked not by the Minister for Finance—I might have expected that, because at least he has a manifesto commitment that would support it—but by the Liberal Democrats. What on earth is left of the principle of the Liberal Democrat commitment to abolish tuition fees?

Another unanswered question has arisen from today's debate. Andrew Wilson put it to Malcolm Chisholm, to Des McNulty and to George Lyon, without receiving a definitive answer from any of them. If the Barnett formula is about expenditure

convergence, do those three distinguished parliamentarians believe that Scotland's expenditure on key public services is right today or right at the end of the Barnett formula process? We do not have an answer to that. Perhaps some clarity from each of those people would help to inform the debate on the patterns of Scottish public expenditure and what is right and appropriate.

It is important that in this debate we set a clear vision for Scotland—a vision of which the Executive is bereft. We must raise the sights of Scotland and have ambitions about the type of public services that we want, the type of business environment that we want and the type of quality of life that we want for people. We must examine the public purse with greater imagination than this Executive has been prepared to show so far, to work out how we can leverage more value out of it and put that into our key services. So far, we have not had a word of that from the Executive. These are issues that we raised well in advance of the election to stimulate debate.

We need to hear more about taking responsibility for the finances of Scotland and the Scottish Parliament. That is why we want to go down the route of fiscal autonomy—to give this Parliament proper power and proper control over our affairs. By doing that, we would bring the honesty and transparency to this debate that the Government's report on expenditure and revenue in Scotland and the minister's statement fail to deliver. What the minister will not say is that his budget—what he is doing to local authorities—is not creating a uniform, stable environment for everybody, but placing the burden of funding this Government's proposals on the council tax payer. COSLA has highlighted that, and the minister should have the honesty to make it clear to Parliament.

Des McNulty: Will the minister give way?

Mr Swinney: I am terribly sorry that I cannot take an intervention from Mr McNulty, as I have reached the end of my time. However, if he wants to address my concern about the fact that he has not told us whether expenditure is at the right level today or at the end of the Barnett formula process, we can happily debate that in the future.

11:52

Mr McConnell: This has been an interesting and short debate, in which a number of good points have been made. It would be helpful if we could say that about all sides, but to some extent the nature of the debate was set by the SNP's amendment. Instead of taking this opportunity, for the first time in any parliamentary setting in the United Kingdom, to move amendments to the

proposed budget of the Executive—to suggest changes, to reorganise priorities and to set out an alternative vision—the SNP has complained that it did not get quite enough information, even though it received more information than has ever before been made available. Next year, we will provide even more information. As Mr Swinney should know, Westminster MPs have to find out that information themselves, by looking up the annual reports in the House of Commons library before they take part in debates.

Des McNulty: Has Mr McConnell ever heard from Mr Swinney, Mr Wilson or any other SNP member what their spending priorities are from among the issues that they have raised even in today's debate? We have had Mr MacAskill's comments on roads, Mr Swinney's comments on student fees and comments by other members on health. What prioritisation process does the SNP wish to engage in, because I have not heard it?

Mr McConnell: It is quite clear that the SNP—and, increasingly, the Conservative party—is more interested in rhetoric than responsibility. The truth was revealed earlier in the debate. Mr Swinney himself admitted that the real-terms increase this year in the health budget in Scotland is more than £200 million, once the end-of-year finance is taken out. That is significantly more than Mr Wilson was going on and on and on about in the Finance Committee yesterday. Even the amount that he was talking about is more than the additional health spending of £35 million that the Scottish National party was planning on a reduced Tory budget for Scotland this year. The increase of more than £200 million is enough for three new hospitals in Scotland. It is a significant amount of money, which should be welcomed rather than criticised and run down by the Opposition.

Mr Davidson: Will the minister give way?

Mr McConnell: No. I enjoyed Mr Davidson's speech so much that we will leave it at that for the moment.

There were a number of good speeches. Des McNulty made the very good point that we are here to ensure that money is spent on real priorities, on tackling deprivation and on need, and that this Parliament's duty is to ensure that the budget is skewed in that direction. Malcolm Chisholm made good points about the balance of expenditure between Scotland and England and the balance of expenditure within Scotland, and about how the Opposition parties' sums do not add up.

Unfortunately, we heard from colleagues in both the Scottish National and Conservative parties a depressing list of yet more proposals for additional expenditure. I thought that Nicola Sturgeon might shed some light on the process when she said, at

the beginning of her speech, that it was not all about money. I thought that, at last, we had a Scottish National party spokesperson who was interested in standards, exam results, perhaps the performance of our schools or the nature of our education system and the curriculum. But she went on to talk about money—again and again. As Mr Raffan has identified, there has been more than £1.3 billion-worth of promises in only three months. What on earth will be the promises over the next three years?

Mr Swinney: Will the minister give way?

Mr McConnell: No. I want to answer the point that Mr MacAskill makes so eloquently every time that he comes to the chamber. The Scottish National party has recently produced a compact disc and, obviously, we have moved on from the age of the long-playing record, but one LP certainly got stuck in the 1970s: the “It is Scotland’s oil” speech, which is repeated over and over again, not just in transport debates but in debates such as this.

Mr MacAskill clearly did not notice the publication this week of the latest edition of “Government Expenditure and Revenue in Scotland”, which showed that Scotland received 10 per cent of total UK Government expenditure in 1997-98—never mind now—which is well above its population share of 8.7 per cent. At the same time, Scotland’s share of total UK Government receipts was 8.6 per cent, which was just below our population share.

Andrew Wilson rose—

Mr McConnell: That left a deficit in Scottish finances, which is, quite rightly, funded by the United Kingdom, as funding is allocated on the basis of need. We should welcome that situation. There is a deficit of £5.4 billion between £32.1 billion of expenditure and £26.7 billion of receipts.

Andrew Wilson: Will the minister give way?

Mr McConnell: No. Let us go back to Mr Wilson’s figures. As he knows, the Scottish National party said that, even on its own figures, which are based on an over-optimistic claim on Scottish oil receipts of 75 per cent, there would be a deficit in Scotland.

Nicola Sturgeon rose—

Andrew Wilson: Will the minister give way?

Mr McConnell: No. Mr Wilson moved an amendment that referred to the level of expenditure in Scotland compared to the level in England, but did not address that issue in his speech. He should not try to use the time for other people’s speeches to dig up his arguments. If he wants to move the debate away from priorities in Scotland to a comparison between Scotland and

England, he should use his speeches to make his points, to which we will then respond.

Even if one took all the oil revenues—not just the 75 per cent that the SNP thinks that we would get—Scotland’s deficit is still more than £2 billion. That represents 10p on the basic rate of income tax. The SNP admitted earlier this year that that deficit exists. They could not produce a budget—beyond the figures from 1997 that I have here—in this year’s election campaign. The reality is promises here, promises there, promises everywhere. Different promises are made in different parts of Scotland.

Mr Swinney: Will the minister give way?

Mr McConnell: John Swinney has a cheek to talk about the Liberal Democrats saying slightly different things here and at Westminster, given the way in which the SNP tours around Scotland, making promises here, there and everywhere about the different budgets of this Parliament.

These spending plans balance. They allocate additional money to expenditure that is already at the highest level that Scotland has ever known. They are good spending plans for Scotland, which deserve the support of the chamber.

Infectious Salmon Anaemia

The Deputy Presiding Officer (Mr George Reid): The next item of business is a statement by Mr John Home Robertson on salmon anaemia. The minister will take questions at the end of his statement. There should therefore be no interventions.

12:00

The Deputy Minister for Rural Affairs (Mr John Home Robertson): I shall make a statement on infectious salmon anaemia, known as ISA for short.

Scotland is the home of the Atlantic salmon. Wild salmon are important for tourism in Scotland, and Scotland has the biggest salmon farming industry in the European Union, worth about £500 million to our rural economy and sustaining about 6,500 jobs. I am sure that all members will agree that we must do everything possible to protect those valuable resources.

ISA is a contagious viral disease that affects salmon in seawater. Other species are known to be capable of carrying the virus without ever developing the disease. The disease was first identified in Norway in 1984, outbreaks were reported in Canada in 1996 and the first Scottish case occurred in May 1998.

Under EU legislation, the disease is regarded as exotic to EU waters. Immediate clearance of fish is required when the disease is confirmed and a raft of controls is put in place when the disease is suspected. Those include movement restrictions on fish, equipment, material and personnel, the disinfection of nets, and fallowing. Zones are created around suspect and confirmed sites and broadly similar controls are applied to non-infected farms located in those zones, depending on the assessment of risk.

At present, there are 11 confirmed and 24 suspect sites, representing roughly 10 per cent of the total number of fish farms. The disease is confirmed where there is a combination of laboratory findings and clinical signs—in other words, where the fish show physical signs of the disease. It is important to recognise that the presence of the virus, which may give grounds for designating a site as suspicious, does not automatically mean that the disease will develop clinically. Only one in three sites declared suspicious have subsequently been confirmed as having the disease.

In November, I announced that the virus had been detected in wild fish for the first time. Virus had been isolated in three cases—two sea trout

and one eel. Other laboratory tests provided evidence that the virus may also have been present in brown and rainbow trout and in salmon parr in freshwater in the Conon, in the Tweed and on farms in Aberdeenshire and Kinross-shire.

For those among us who are not scientists, it is important to realise that it is only where the virus is isolated that we can be certain that it is ISA, whereas other screening tests can reveal the presence of a virus that may or may not be ISA. In those cases further confirmatory tests are necessary.

It is important to recognise the limited nature of the evidence surrounding wild fish. It is equally important to recognise that investigations into the latest suspected outbreaks on farms in the western isles and in Orkney, also announced last month, are not yet complete. The apparent lack of site contact with other ISA affected farms and the evidence of virus in wild fish, however limited, could suggest the possibility of a wider prevalence of the virus in the farmed and wild environment than previously thought.

Claims of spread from fish farming to the wild are not supported by any current evidence. The three isolates that I have mentioned were from fish in areas where there are fish farms, but that may be pure coincidence. The possible cases on the east coast are a very long way from fish farming sites.

More work clearly needs to be done. The Ministry of Agriculture, Fisheries and Food has agreed to carry out tests in wild fish south of the border. More intensive wild fish surveillance will be conducted in Scotland in the new year and further work on verifying the possible presence of ISA in freshwater is being carried out by the Fisheries Research Services agency in Aberdeen.

We have carried out a comprehensive review of current controls in the light of new circumstances. Central to that review has been the conviction, shared by the industry, that ISA is a pernicious disease and that everything possible should be done to prevent it and to stamp it out where it occurs.

I have decided to take the following action. First, controls on confirmed sites will continue. However, in the light of experience, we believe that greater flexibility in handling the clearance of fish is desirable. We have therefore submitted proposals to the European Commission. The Commission is supporting our initiative and I expect to report the outcome early next year.

Secondly, again in the light of experience, we believe that there is a case for reviewing the criteria for how and when suspect sites should be designated. We will discuss that matter with the Commission, and I can announce the introduction

of more flexible fallowing arrangements in relation to suspect sites.

Thirdly, after careful consideration, we can make adjustments to the requirements that apply to non-infected farms in zones around confirmed and suspect sites. Two thirds of our fish farms have been subject to those restrictions, which were applied on a precautionary basis. I have decided that such farms will be subject only to requirements for permission to move fish, because fish have been identified as the main vector for spreading ISA. Again, we are introducing greater flexibility for fallowing in those non-infected sites.

The details of these proposals are inevitably somewhat technical, and will be made available in the Scottish Parliament information centre.

Our scientists in the Marine Laboratory in Aberdeen are still working hard on this extremely important and difficult problem. I am grateful for the advice and co-operation that we are receiving from the European Commission, as well as from Norway and Canada. The measures that I have announced today are completely consistent with our overriding objective of getting rid of ISA. I will keep this Parliament informed about developments.

Richard Lochhead (North-East Scotland) (SNP): I welcome the minister's statement, although it is long overdue.

Why has there been such a lengthy delay in introducing flexibility into the Government's policy, which can only be described as heavy-handed and cack-handed? Why has it taken nearly half a year and the slaughter of millions of healthy fish to bring the minister to his senses and make him realise that his policy is untenable? Why has it taken so long to initiate intensive wild fish surveillance, when the incidence of ISA in wild fish has fundamental ramifications for the Government's policy? Does it remain the Government's policy to slaughter healthy fish, and what assistance will be given to the industry to help it to meet the costs incurred by the Government's policy?

Mr Home Robertson: Science takes time—the techniques for isolating and diagnosing the virus are complicated. It is important that we take decisions based on good science, rather than on media politics. That is why it has taken time to introduce flexibility. I waited until I had the best advice that I could get from the Marine Laboratory in Aberdeen.

Mr Lochhead should not lose sight of the need to safeguard wild fish. If, because of political pressure from the industry, we had simply agreed to relax restrictions early on, we might have been taking risks with a valuable resource. I am not prepared to do that.

The slaughter policy will not apply to healthy fish. That is one of the flexibility points that I am announcing today. Slaughter, disposal and destruction apply to infected fish. Under the flexibility that I am announcing today, we should be in a position to allow farmers to market healthy fish that do not have symptoms and are not diseased.

Rhoda Grant (Highlands and Islands) (Lab): ISA has imposed a major burden on affected farms. To what extent do today's measures provide relief for an industry that is a major contributor to the rural economy?

Mr Home Robertson: On the basis of the science and the good advice that we have had from the Marine Laboratory, we are in a position to introduce more flexible controls, which should help the industry in a number of ways. It will be possible for healthy fish to be marketed and the controls on fallowing areas are being adjusted to take account of the identification of more precise circumstances. I hope that it may be possible, given the new circumstances, for the industry to consider commercial insurance against this disease. All those measures should be helpful to an industry that is important to some of the remotest areas in the Highlands and Islands.

Mr Jamie McGrigor (Highlands and Islands) (Con): I welcome the minister's statement, but does he agree—or does he know—that the slaughter of stocks without compensation may be a fundamental breach of property rights, as enshrined in the European convention on human rights, which is incorporated in the Scotland Act 1998? Will the Government offer any compensation to those farmers who have been forced to slaughter their stock on suspicion of ISA, only to find that there is no evidence to support the claim?

Does the minister realise that in Norway, where ISA has existed for 15 years, the disease is dealt with case by case and only directly affected salmon are slaughtered? In that way, the incidence of the disease in Norway has been reduced from more than 150 outbreaks in the early 1990s to only two this year, whereas in Scotland, despite the wholesale slaughter policy, the number of outbreaks appears to be on the increase.

Does the minister agree that the compulsory slaughter policy should be ended and a different, comprehensive system should be introduced? We should establish a code of best practice in aquaculture hygiene and management to minimise the incidence and spread of the disease. We should remove the ban on vaccines and encourage further development of effective vaccines. Is the minister aware, for example, that in Canada—

Richard Lochhead: On a point of order. This is a speech, not a question.

The Deputy Presiding Officer: Yes. Mr McGrigor must come to a conclusion.

Mr McGrigor: To sum up, we should introduce—[*Laughter.*]

The Deputy Presiding Officer: You must sum up with a question.

Mr McGrigor: Does the minister agree that we should introduce a compensation system for affected fish farms, either through insurance-based schemes or on a co-financing basis, funded by the Commission and the UK Government?

Mr Home Robertson: Mr McGrigor asked a lot of questions. Sorry, I will rephrase that—he made a lot of points.

The fundamental point is that no one wants to have to live with this disease; it would be infinitely better if the disease could be prevented and, indeed, eradicated. We are addressing the current situation, but we are bound by EU rules. As those rules stand, ISA is an exotic category list 1 disease, which until recently was not present in EU waters. That is why the tough rules are in place. In light of the new circumstances, we are making proposals to the EU for a more flexible approach. That approach will maintain our position of wanting to minimise the risk of the disease and to get rid of it wherever it crops up, while safeguarding a very important industry in the remotest areas of Scotland. We are liaising with the Norwegians and learning from their experience.

Mr McGrigor referred to vaccines. One of our proposals to the EU is that, instead of a blanket ban on ISA vaccines, we would be prepared to consider vaccines, although it will take time for the pharmaceutical companies to come up with such products.

On compensation, it is in the industry's interests that ISA should be defeated; that is why the controls are in place. It would not be appropriate to compensate in those circumstances, even though we understand that a number of fish farming companies have been very hard hit by the effects of ISA. That is why we have made extra funding of £9 million available to Highlands and Islands Enterprise to enable it to assist companies that have been affected by the controls.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I have two points—

The Deputy Presiding Officer: Questions please, Mr Rumbles.

Mr Rumbles: I have two questions. First, will the minister confirm that he will consult industry representatives by sending officials from the

Marine Laboratory in Aberdeen to fish farms on the west coast and in the northern isles, to ensure that the disease is combated not only scientifically, but in the most effective way for the industry?

Secondly, the minister will not need me to remind him that his announcement last month—that the virus had been detected in wild fish for the first time—sent shock waves through those involved in the fishing industry and on many of our famous salmon rivers. In my constituency, I am meeting the Dee salmon fisheries board next month and I will want to be able to give assurances that that announcement will not impact on it unduly. Will the minister confirm that the claims of spread from fish farming to the wild are not supported by any current evidence or fact?

Mr Home Robertson: I can confirm that point straight away. There is no evidence that the disease has spread one way or the other at this stage. We may never find that out, but the scientists appear to have established that, in the three cases identified so far, wild fish have the virus. How that virus got to the wild stocks, or whether it had been there all along, remains to be seen. Some of the suspected cases in wild fish are on the east coast, including, for example, on the Tweed, which is a long way from the nearest fish farm. It would be a mistake to jump to conclusions.

Mr Rumbles mentioned the scientists. I am reluctant to impose any more work on the scientists at the Marine Laboratory in Aberdeen. They have a lot on their plates because of different problems that have arisen recently, but it would be good if everybody involved had as much information as possible about the way in which the problem has been addressed so that we can tackle it more efficiently.

Dr Winnie Ewing (Highlands and Islands) (SNP): I would like to thank the minister—he has said a lot of good things today, which bring great relief. With hindsight, would not he agree that we were slow to examine the evidence from Norway? Before I left the European Parliament, the Norwegians proved with graphs that their policy of containment rather than slaughter was working. Although it is good that the minister has told us that there will be some compensation, I do not see why that should be regarded as special in view of the fact that the EU legislation umbrella provides for compensation. We need to know from Mr Home Robertson how the £3 million a year will be distributed. Will it reach the small men with small farms, many of whom have invested heavily in, for example, well boats?

Mr Home Robertson: Hindsight is a wonderful thing and, having been in opposition for a long time, I am aware of its attractions when one is indulging in debates such as this. I do not have that advantage in this case.

I believe that eradication of ISA from Scottish waters, if it is possible, would from all points of view be infinitely preferable to containment. We might, however, be moving into a different set of circumstances, so the right thing to do is to act on the basis of good science, as with the measures that I have announced today.

Dr Ewing used the word “compensation”—we are not in the business of compensation. We are in the process of making funds available to Highlands and Islands Enterprise to enable it to help businesses that are affected by the consequences of this disease, or the suspicion that their stocks are affected by it. It will be up to HIE to apply its own criteria to assess which businesses are most deserving of support. It is better to leave that to HIE, which knows the Highlands and Islands better than I do.

Maureen Macmillan (Highlands and Islands) (Lab): I welcome the minister’s announcement, but will he endeavour to secure the implementation of measures for the control of viral haemorrhagic septicaemia in farmed white fish? Those measures should, at least, be on a par with the measures announced today for ISA. Will he also endeavour to ensure that VHS in the marine environment is not classified as an exotic disease?

Mr Home Robertson: That is a separate issue, although I recognise that what Maureen Macmillan says is important. I will consider the specific proposals that she has suggested because I understand that the problems are of great concern to fish farmers.

Alex Johnstone (North-East Scotland) (Con): I am sure that the industry will be grateful for the measures that have been announced today, but I would like to go back to a point that was raised by Mike Rumbles. What plans does the minister have to extend consultation with the industry, in light of the flexibility to which he has referred today?

Mr Home Robertson: We consult the industry all the time because it is so important in some of the remotest, most fragile areas in Scotland. Our decisions are driven by science, not by industry lobbying. That is in the interests of the industry. The industry has found some of the controls that existed in the past onerous and has challenged the necessity of some of them. The Executive has considered the situation in the light of good advice from our own scientists and from abroad. I am acting on that advice today. We will keep in touch with the industry at all times because I accept that there must be good liaison.

Tavish Scott (Shetland) (LD): I thank the minister for his statement—he will be aware that the words that he utters in the chamber are important to the industry in terms of the commercial decisions that it takes every day.

The minister mentioned Norway and Canada. In his discussions with the Norwegians and the Canadians, would he reflect on the control regimes that they have in place? If implemented here, such a regime would allow the Scottish industry to compete on a level playing field in an international commodity market.

Will the minister clarify the terms of the adjustments to the requirements that apply to non-infected farms in the zones around confirmed and suspected sites? Will farms in such areas be able to take commercial decisions on restocking without restrictions, or will restrictions still be in place? If so, what will they be?

Will the minister accept that terminology is important? Words such as “suspicious” are extremely market unfriendly for the industry in terms of supermarkets and consumers in general. Will he consider the terminology when, as he intimated, he makes a further report to the chamber?

Mr Home Robertson: The details of the proposals that I am announcing will be available in the information centre. At present, there is a fallow zone, which affects sites that are known to be infected. That is surrounded by a high-risk area, which is in turn surrounded by a surveillance area that extends by a 40 km radius from the infected site. At the moment, control zones of one kind or another cover two thirds of Scotland’s salmon farms. I am proposing that an infected area—an area within a tidal excursion area, or between 3 km and 7 km around an infected site—would still be designated and would be subject to exactly the same controls as is the case now.

Beyond that, there will be a surveillance area, which will cover two tidal excursions—between 6 km and 14 km around the infected site—and will be subject to movement controls, following requirements and the rest of the controls. The details are available in the information centre. We are now able to do away with the much wider 40 km area. We have taken that decision in the light of science from the Marine Laboratory.

Euan Robson (Roxburgh and Berwickshire) (LD): The minister mentioned the Tweed. Will he confirm my understanding that ISA—in fact, only traces of the virus—was discovered in only one of a batch of fry in one tributary of the Tweed? Will he also confirm that the alarm that has been raised about this should be taken in context? Is he aware of any research that shows that ISA has been prevalent within the environment of Scottish rivers before this latest understanding? Will he consider issuing an information leaflet, like the very good leaflet on *gyrodactylus salaris*, which was extremely helpful to proprietors, anglers and all other users?

Mr Home Robertson: I know that the member for Roxburgh and Berwickshire is a keen angler and so naturally has an interest in these matters. As he rightly says, one salmon parr in one tributary of the Tweed gave a positive reading on one of the three tests. Either the immunofluorescent antibody test or the polymerase chain reaction test—I am not sure which—indicated the possible presence of the virus in that fish. It is not confirmed whether that fish had ISA, but it had one of the key indicators of ISA. When we get information such as that, we publish it. That is in everybody's interest. The positive reading may indicate that the virus is present in the wild. That is a matter on which we are doing more work, in Scotland and in England and Wales, to improve the science.

Euan Robson is right to say that nobody is suggesting that the disease is out in the wild and that nobody has ever heard of a wild fish with the clinical manifestation of the disease. However, a fish may not survive for long if it had the disease, so that may not tell us as much as we would like it to. I can confirm that there is no evidence of the disease existing in the wild.

Mr Duncan Hamilton (Highlands and Islands) (SNP): I, too, welcome the minister's statement. May I press him further on what he means by flexibility, particularly in relation to suspect sites? I see from his statement that there is a clear understanding of what it means for sites that are confirmed and for those that are non-infected. However, there is no suggestion of what restrictions will be lifted. Will he recognise that one of the key concerns of the industry is that it continues to operate under unnecessary restrictions and that it is not on a level playing field with the industry in Europe?

Mr Home Robertson: I am grateful for the question, as it is helpful to get the facts out to the public. The facts are, of course, available in the Scottish Parliament information centre.

Farms where infection is confirmed will be subject to a six-month following period. Farms where infection is suspected—where the disease has not been seen but the virus has been detected—will be subject to a following period of between three and six months, with monthly inspections by scientists and inspectors. Farms that are not infected, within the narrow zone that I described earlier, will be subject to a six-week following period. Farms in the surveillance area, which is a wide envelope around the infected areas, will also be subject to a six-week following period.

Sixty-six salmon farms will be taken out of the restrictions that apply to them just now, which will mean that, instead of two thirds of our farms being affected, only half will be. I acknowledge, of

course, that that is still too many.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I am glad that the minister referred to remote and fragile communities, as the salmon industry is the lifeblood of parts of my constituency. He referred to the money that had been given to Highlands and Islands Enterprise. That is for the restart scheme. When will the scheme start? The industry is waiting for the answer.

Mr Home Robertson: I have met the chief executive of Highlands and Islands Enterprise to discuss the matter. There is a technical problem with getting clearance from the European Union on state aid but I am advised that that should happen early in the new year. Highlands and Islands Enterprise is already processing applications. The money is in place and we want to get it out to the people who need it as soon as possible.

Alex Fergusson (South of Scotland) (Con): I make no apology for quoting from a press release that was put out by a colleague of mine in the European Parliament. I happen to agree with it completely. He says:

"It is a matter of great concern to the aquaculture industry that the tabloid press continue to mis-represent ISA by using emotive terms like 'fish aids' or even equating the disease to BSE in cattle."

Will the minister put out a statement to reassure the public that ISA is of no danger to human health?

Mr Home Robertson: I am keen to be helpful, but it is not always helpful for politicians to try to reassure consumers, even politicians such as Struan Stevenson, who, I presume, issued that press release.

I have been advised that the ISA virus is killed at temperatures higher than 26 deg C. Assuming that we are all alive in this chamber, our blood temperature is 37 deg C. It would follow from that that it is highly unlikely that the ISA virus will do us much damage.

That is as far as I want to go on the matter. Politicians' track record of talking down food scares is not very good. However, the idea that the ISA virus affects people seems a bit far-fetched.

Mr John Munro (Ross, Skye and Inverness West) (LD): My question follows on from Jamie Stone's. Will the minister confirm that the financial package of support accorded to the salmon farming industry, on which he made a statement some weeks ago and which is being administered by Highlands and Islands Enterprise, does not require matching funding from the industry? If it does not, will he tell that to his colleagues in

Highlands and Islands Enterprise, who have taken a contrary view?

Mr Home Robertson: Disbursement of the money is up to Highlands and Islands Enterprise. There are some misunderstandings about the question of matching funding.

The original proposal on this package, which was discussed many months ago, mentioned a requirement on the industry for matching funding—in other words, a levy on the industry to match cash put in by the Scottish Executive to help to restart companies affected by ISA. Evidently, that was not realistic, because the industry was not in the position to fund a levy of that nature, so we have simply been putting the money, with no strings attached, in the direction of Highlands and Islands Enterprise, so that it can get on with running the scheme. That is not to say that we expect Highlands and Islands Enterprise to hand out 100 per cent grants. It is unusual for HIE to provide funding on that basis—the proportion might be 50 per cent, but it might be more or less.

Question, That the meeting be now adjourned until 2.30 pm today, *put and agreed to.*—[*Patricia Ferguson.*]

Meeting adjourned at 12:30.

14:30

On resuming—

Time for Reflection

The Presiding Officer (Sir David Steel): It is a particular pleasure to welcome the moderator of the General Assembly of the Church of Scotland, the Right Reverend John Cairns, to lead our last time for reflection before Christmas.

I take this opportunity to renew our thanks to you, moderator, for allowing us to use this splendid chamber—we are feeling very much at home.

The Right Reverend John B Cairns (Moderator of the General Assembly of the Church of Scotland): I would like to open by expressing the privilege that I really do feel in being invited to lead this time for reflection—almost in my own home.

I offer you two poems and a prayer. The first poem is by Maya Angelou, a black American whose spirit never broke despite abuse, rejection and violence. In her new-found confidence, she rejoices, even if some are a little offended. I see some resonances of Scotland past and present in this poem, “Still I Rise”.

“You may write me down in history
With your bitter, twisted lies,
You may trod me in the very dirt
But still, like dust, I'll rise.

Does my sassiness upset you?
Why are you beset with gloom?
'Cause I walk like I've got oil wells
Pumping in my living room.

Just like moons and like suns,
With the certainty of tides,
Just like hopes springing high,
Still I'll rise.

Did you want to see me broken?
Bowed head and lowered eyes?
Shoulders falling down like teardrops,
Weakened by my soulful cries.

Does my haughtiness offend you?
Don't you take it awful hard
'Cause I laugh like I've got gold mines
Diggin' in my own back yard.

You may shoot me with your words,
You may cut me with your eyes,
You may kill me with your hatefulness,
But still, like air, I'll rise.

Does my sexiness upset you?
Does it come as a surprise

That I dance like I've got diamonds
At the meeting of my thighs?

Christmas represents and your lives be touched with its
promise, its peace, its love and its joy. Amen.

Out of the huts of history's shame
I rise
Up from a past that's rooted in pain
I rise
I'm a black ocean, leaping and wide,
Welling and swelling I bear in the tide.

Leaving behind nights of terror and fear
I rise
Into a daybreak that's wondrously clear
I rise
Bringing the gifts that my ancestors gave,
I am the dream and the hope of the slave.
I rise
I rise
I rise."

I will now read a very short poem by Raymond Carver. It is the last in a book of poems which he wrote while he was facing death from cancer, at the age of 50. I believe that it reveals the deepest need of any man or woman: to be loved. For Christians, Christmas is the ultimate assurance that we are so loved; others find assurance of that kind in other ways. The poem is called "Late Fragment".

"And did you get what
you wanted from this life, even so?
I did.
And what did you want?
To call myself beloved, to feel myself
beloved on the earth."

Shall we pray.

We pray for the wellbeing of the world and all its peoples.
We pray for those who rebuild where things have been
destroyed; for those who fight hunger, poverty and disease;
for those who have power to bring change for the better
and to renew hope.

In the life of our world, may goodness grow.

We pray for our own country and its people; for those
who fulfil representational, legislative, executive and caring
roles in its life; for our Queen and her family; for those who
frame our laws and shape our common life; for those who
keep the peace and administer justice; for those who teach;
for those who heal; for all who serve the community.

In the life of our land, may understanding grow.

We pray for people in need: for those for whom life is a
bitter struggle; for those whose lives are clouded by death
or loss, by pain or disability, by discouragement or fear, by
shame or rejection, by lack of self-esteem.

In the lives of those in need, may hope and potential be
realised.

We pray for ourselves and for those whom we love: that
we find a unity of spirit and purpose; when we are fearful,
may we find courage; when tempted by the wrong, find
power to resist; when anxious and worried, find calm and
peace; when weary in our work, new energy and
inspiration.

In our lives, may love be found.

May you be blessed by all the good that this season of

Abolition of Feudal Tenure etc (Scotland) Bill: Stage 1

The Presiding Officer (Sir David Steel): The first item of business is motion S1M-214, in the name of Jim Wallace.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): On a point of order. The convener of the Rural Affairs Committee has written to the Minister for Rural Affairs asking that a statement on the latest position on the ban on the export of beef be made before the Christmas recess. Has there been a request to make such a statement?

The Presiding Officer: No, but I can say that at the Parliamentary Bureau meeting yesterday the Executive stated that it would be happy to make a statement when there is any development. The Minister for Rural Affairs is in Brussels today and, I understand, will be here tomorrow. No doubt he will consider the committee's letter but it is a matter for him, not me.

Mr John Swinney (North Tayside) (SNP): On a point of order. Last week at question time, I raised the issue of the Cubie report on student finance, the fact that Parliament had decided to establish the inquiry and that it was due to report to Parliament. Tomorrow, Parliament meets for the last time before Christmas and the report is to be published on 21 December. Has the Executive said to you when we will have an opportunity to debate the report or have a statement on it? I notice in this morning's business bulletin that in the provisional business for the first week after the recess there is no mention of the subject in the Government's programme.

The Presiding Officer: That was also discussed at the bureau meeting yesterday. The problem is that none of us has seen the Cubie report; we do not know what is in it or what the Executive reaction to it will be. For that reason it is impossible to give advance notice of a debate or statement, but common sense dictates that we will have to discuss the matter soon after we return. The bureau will consider it again at its first meeting.

We will now proceed to motion S1M-214, in the name of Jim Wallace, seeking the Parliament's agreement to the general principles of the Abolition of Feudal Tenure etc (Scotland) Bill.

14:37

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): It is a genuine privilege to speak to the motion to approve the general principles of the Abolition of Feudal Tenure etc

(Scotland) Bill. This is a truly historic piece of legislation that will bring to an end 800 years of feudalism in Scotland. It will benefit the vast majority of people who think of themselves as owner-occupiers in Scotland but whose homes are in reality held subject to the rights of one or more feudal superiors.

This is the kind of detailed law reform that would have been delayed for years waiting for a legislative slot at Westminster, but is ideally suited for consideration by this Parliament. I am therefore delighted that it is one of the first major pieces of legislation to be discussed by MSPs.

I would like to express the Executive's thanks to the various committees of Parliament that have played a part in the progress of the bill to date. The Finance Committee carefully scrutinised the bill, fulfilling its important duty. The Subordinate Legislation Committee played its role in examining the provisions for subordinate legislation. It is a tribute to that committee's care in that task that the Executive has accepted two of the points it made; we will introduce amendments to that effect during stage 2.

We all know of the very heavy load that the Justice and Home Affairs Committee has been labouring under. Only last week we considered another bill on which it has produced a report. Despite that, the committee has produced a most thorough and thoughtful stage 1 report on this bill. I congratulate the convener and the members of the committee on their excellent work. Subject to the approval of members, I look forward to working with them when we move on to detailed consideration of the bill at stage 2.

The Justice and Home Affairs Committee asked me for clarification on a specific point. In our policy memorandum, we said that the bill would have no effect on sustainable development. I understand that the committee received representations to the effect that a bill that affects land ownership must inevitably have some effect on sustainable development. The committee suggested that the Executive might be using a definition of sustainable development that is different from that used by those from whom it heard evidence.

There are a number of definitions of sustainable development. Perhaps the best way I can put it is that sustainable development is about economic growth, social development and environmental protection. I can certainly see that the ownership of land might have some impact on all of those matters, but the reform of the feudal system will not change who owns the land, nor can it be expected to alter the pattern of land ownership. It is a technical and legal matter that affects the way in which people own their property.

I should like to take this opportunity to pay

tribute to the work of the Scottish Law Commission and to its document, "Report on Abolition of the Feudal System", which forms the basis of this bill. The commission deserves our thanks for its care and diligence in formulating its proposals. As the committees that have studied the feudal system will readily appreciate—and will, no doubt, appreciate more as we go through stage 2 of the bill—this is a complex subject. The commission had to take the views of a wide range of often conflicting interests as well as assess the state of statutory and common law running back to medieval times.

The commission's main recommendation was that the feudal system should be abolished and replaced by a system of simple ownership of land. The bill would implement that simple recommendation, which I personally commend to members, as such a system already exists in relation to certain allodial land in Scotland. Udal land in Orkney and Shetland is held outright, with no feudal superiors. It gives me particular pleasure to introduce a bill that extends to the rest of Scotland the freedoms that my constituents have enjoyed for centuries.

The bill is divided into seven parts. Part 1 contains the major provisions abolishing the feudal system. Section 1 has a huge resonance:

"The feudal system of land tenure, that is to say the entire system whereby land is held by a vassal on perpetual tenure from a superior is, on the appointed day, abolished."

Scotland has waited an awful long time to hear that sentence.

Feudal tenure is, of course, the technical and legal way in which many of us own our property. The documents that prove that we own our houses are often feudal deeds. They have to be registered so that there is a public record of who owns what and of exactly what they own and what the limits of their ownership are. Part 2 relates to the transfer of ownership and registration of deeds, and is not intended to change the substance of the law. It makes provision to continue the law in a post-feudal context.

Perhaps the best known aspect of the feudal system is the feuduty. Most members probably recall the annual payment of small and rather peculiar sums of money each year to our feudal superiors. The majority of them have disappeared because, from 1974, the feuduty has been redeemed on the sale of most property. However, some properties have not changed hands during the past 25 years and the owner has not voluntarily redeemed the feuduty.

Part 3 would abolish all remaining feuduties. It also provides that if the superior claims compensation for their extinction, it will be paid by

the vassal on the same basis as the redemption of feuduty under the Land Tenure Reform (Scotland) Act 1974. The Scottish Law Commission estimates that only 10 per cent of feuduties are left and we suspect that most of those will be apportionments of larger feuduties that have been informally imposed on tenement flats and did not have to be redeemed on sale. The feuduties involved will be small: perhaps £2 to £5 per flat. When the compensation exceeds £100, the bill provides for payment by instalments. The Justice and Home Affairs Committee referred in its report to possible amendments to the compensation provisions, which we will be happy to consider during the stage 2 debates.

Part 4 deals with real burdens, which is one of the most perplexing features of the feudal system. While real burdens can be oppressive, they can also be beneficial and helpful. I will return later to the issue of real burdens, because it is an important and, I accept, somewhat complicated matter.

The next two parts of the bill deal with a variety of subjects. Part 5 covers the subject of entails, which are to be abolished. Part 6 is a miscellaneous part, which deals with a number of matters, including various archaic methods of holding land and the extinction of other payments that are akin to feuduty. I may confess to a certain sadness in abolishing the charming concept of the kindly tenancies of Lochmaben but, along with other anachronisms, they will have to go.

We are also taking the opportunity in this part of the bill of abolishing any remaining feudal privileges attaching to a baronial title. I draw the Parliament's attention to section 51 which, by abolishing rights of irritancy, removes the right of superiors, in certain circumstances, to evict vassals who are in breach of feudal conditions.

Part 7 deals with technical matters such as the appointed day on which the feudal system will finally be abolished. I will return later to the matter of the appointed day, which has given rise to some interest in the Justice and Home Affairs Committee. As well as prescribing several forms that are to be used in the various processes of registration, the schedules repeal many obsolete acts or parts of acts. The bill plays an important role in modernising and cleansing property law.

It might be helpful to give a short explanation of the way in which the feudal system has operated in Scotland and the way in which it operates at present, as there are widespread misconceptions concerning what it means. The feudal system is nothing to do with leasing, and the feudal superior should not be confused with a landlord. A person who owns land under a feudal disposition owns it in law. However, he or she does so as the vassal of a feudal superior who retains an interest in the

land in the form of a right to feuduty and a right to enforce conditions on its use.

With the phasing out of feuduties, the main use of the feudal system is to allow the imposition and enforcement of conditions on property, which are otherwise known as feudal real burdens. A vassal who wants to breach a burden will normally have to obtain the superior's consent. Often, the superior will grant consent only in exchange for payment. A typical modern example of that might be when the vassal wants to build a greenhouse or a garage. Real burdens can give superiors the opportunity to charge fees for waivers. The superior can say, "Yes, you can build your garage, but only if you pay me a fee." Some speculators have acquired superiority interests with the specific intention of deriving an income from waivers. That practice has been strongly criticised.

However, there are two sides to real burdens. Real burdens are often used to ensure that property is kept in good repair, to prevent nuisance and to safeguard the rights of neighbours. The Scottish Law Commission has therefore given careful thought to which burdens should be abolished and which should be retained. It has also thought carefully about the arrangements that will need to be made to retain burdens, which is a matter to which I shall return. The commission has recommended that it should be possible to retain four types of burden. I do not want to say much in detail about those, as they are set out in detail in our policy memorandum.

Broadly, the four types are as follows. First, maritime burdens are burdens that relate to important facilities such as piers and harbours. They will be saved by the bill. Secondly, common facility burdens are burdens that, as the name suggests, relate to a common facility on one property which benefits another property or set of properties. They might be concerned with a private access road or the common passages in a block of flats. Such burdens will also be saved, but the superior will lose the right to enforce them; they will pass to the properties that benefit from the burden.

Thirdly, conservation burdens exist where a burden preserves for the benefit of the public the architectural, historical or other special characteristics of land or buildings. An example would be an historic building that is restored by a conservation trust and feu'd subject to burdens that are designed to preserve the restoration work.

Finally, there is the neighbour burden. Under section 17, superiors may retain the right to enforce certain burdens on neighbouring land. The most common example of that will occur when the superior owns neighbouring land that contains a building of human habitation or resort within 100 m of the land that is affected by the burden. The bill

would, for example, allow the superior to continue to preserve a view from his home. The commission recognised that the 100 m rule was arbitrary but considered that the line had to be drawn somewhere.

In reaching policy decisions on the bill, we were concerned that the provisions for saving neighbour burdens did not go far enough. For example, the superior may own land but not yet have built on it. He or she may be planning to build a retirement home and might want to preserve the open aspect of the site. The Executive has therefore decided to give the superior an opportunity to reach agreement with the vassal on which burdens can be saved. As a last resort, the superior can take the matter to the Lands Tribunal for Scotland. The superior will, however, have to satisfy the tribunal that his property would suffer substantial loss or disadvantage if the burden was lost.

There is a fifth category that I want to mention. Although the bill does not propose that they be saved, it provides a compensation package for the loss of development value real burdens—burdens that have been deliberately used to reserve development value for the superior where land has been sold at a discount.

When the bill was referred to the Justice and Home Affairs Committee, I made it clear that there would be scope for reviewing whether those would be the only categories of burden that should be retained. We have received some representations from commercial interests that the bill may not do enough to protect the interests of commercial developers. It is clearly important that we get that aspect of our proposals right; we all want to ensure that nothing is done to discourage commercial investors from investing in Scotland.

The commission has received representations from commercial interests in connection with its current review of real burdens. It is right that I should emphasise at this stage that we will continue to monitor carefully whether what the bill proposes in this matter covers adequately all the burdens that need to be saved.

Another issue that will be familiar to members and the Justice and Home Affairs Committee—it has been raised by those interested in commercial transactions—is the proposed limit of 125 years on long leases. I want to assure the Parliament that we do not have a closed mind on that figure or, generally, on the detailed numbers and quantities that are prescribed in the bill. We fully expect those figures and any suggested alternatives to be properly and fully debated in committee at stage 2.

I turn now to the associated subject of the future of real burdens after the feudal system is abolished and to the package of property reforms that we will present to the Parliament over the next

few years. It is important to take some time over that, because the Justice and Home Affairs Committee sought clarification on, and referred to, it in its stage 1 report.

When I announced in June that we would introduce this bill, I explained that it would be very closely related to the report on real burdens that the Law Commission is preparing. I said that part of the feudal bill would be commenced at the same time as the bill on real burdens. The Justice and Home Affairs Committee has—with some justification—said that it had some difficulty dealing with one part of the package when it could not see the rest. However, there are good reasons for dealing with the matter in this way.

Not all burdens in Scotland are imposed through feudal deeds; many are set out in ordinary, non-feudal deeds of conditions and dispositions. Those burdens will not be affected by the Abolition of Feudal Tenure etc (Scotland) Bill. During its consideration of feudal real burdens, the Scottish Law Commission readily recognised that the general law of real burdens and conditions on property also required modernisation and simplification. It carried out work on the subject and issued a discussion paper in October 1998.

The Executive is committed to introducing a second bill to implement the recommendations in that report. The subject has two corresponding halves. The Abolition of Feudal Tenure etc (Scotland) Bill will abolish many feudal burdens but allow some to be saved and converted into ordinary real burdens. The title conditions bill—as it is to be known—will then introduce a new and modern system for all burdens or conditions on land. Taken together, the two bills will effect a radical reform of this area of Scots law. Obviously, it would have been easier for us all if we could have seen both bills together, but there are reasons why we did not want to hold up the Abolition of Feudal Tenure etc (Scotland) Bill.

I said that I would say more about the date of abolition of the feudal system. As I have explained, superiors will be given the opportunity to register notices if they wish to preserve certain burdens. They will also be given the opportunity to register notices if they wish to claim compensation for feuduty and the loss of development value burdens. If they wish to claim compensation for feuduty, they will have to prepare notices to be served. That will, inevitably, take time.

Superiors will have to identify the cases in which they want to preserve burdens or claim compensation. They will then have to go through the mechanics of registration. The length of the transitional period is a matter of some concern. The commission recommended no less than two years. We took the view that if we were to wait for the publication of the title conditions bill, we would

postpone the date on which the transitional period could start and, therefore, the date on which the feudal system would finally be abolished. That is why we have proceeded now with the Abolition of Feudal Tenure etc (Scotland) Bill.

Considering one bill in advance of a sight of the other might not be ideal, but it is possible that the title conditions bill will have to amend the Abolition of Feudal Tenure etc (Scotland) Bill. There may need to be further consideration of how the two bills are linked, and the commencement dates may need to be re-examined. I assure Parliament that we will not commence any aspect of the Abolition of Feudal Tenure etc (Scotland) Bill until we are certain that the time is right to do so. As we proceed through stage 2, we will keep the committee in touch with Law Commission developments.

The Executive is aware that the bill requires some further amendment during its passage, but much of that will be largely technical—I do not think members will wish to be troubled with that at this stage.

For the purposes of rule 9.11 of standing orders, I advise the Parliament that Her Majesty and His Royal Highness the Prince of Wales as Prince and Steward of Scotland, have been informed of the purport of the Abolition of Feudal Tenure etc (Scotland) Bill, and have consented to place their prerogatives and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

I know that these matters have sounded very technical. They are technical, but at the heart of them is a very simple proposition: after centuries, we are moving towards the abolition of the feudal system. Today's debate marks an important milestone on that journey.

I move,

That the Parliament agrees to the general principles of the Abolition of Feudal Tenure etc. (Scotland) Bill.

The Presiding Officer: During the open debate, there will be the usual four-minute time limit. It was reported to me during the lunch break that while the two deputies were in the chair two members not only exceeded their time but did not wind up and sit down when they were asked to do so. In fairness to other members, we cannot allow such behaviour. Therefore we are opening a black book. Those whose names are entered in the black book will find that next time they press their button their names will mysteriously appear at the bottom of the list. I hope that that will encourage fairness in the chamber.

14:57

Roseanna Cunningham (Perth) (SNP): It is with a distinct sense of *déjà vu* that I stand here. Some of my comments today will be similar to those that I made last week. The bill was the second major piece of legislation that the Justice and Home Affairs Committee was required to deal with in a limited period.

Once again, I record my appreciation of the work of members of the committee, only a handful of whom came from the legal background that might have made them more comfortable dealing with the issues that the bill raises. Indeed, those of us with a legal background were not much better off. There were times when I felt as if I were back in first-year conveyancing lectures—an experience that I had hoped to have long left behind me.

Nevertheless, the committee members took on the responsibility of becoming informed. I hope that the report exemplifies that work that they all put in. Needless to say, my thanks must also go again to the clerks who shared the burden with us. We were required to produce two substantial reports in only a few weeks, and without the clerks, that would have been well-nigh impossible.

This bill is not as controversial as the Adults with Incapacity (Scotland) Bill, but that does not mean that the committee could deal with it less seriously. There were many issues of detail that required to be examined, which included points on which the Executive had not made up its mind.

Issues concerning the effect of the time scale that was set for us are outlined in paragraphs 10 to 11 and 18 to 20 of the report. I do not propose to reiterate them, but the concerns that I expressed last week in the debate on adults with incapacity apply with the same force here.

The committee comments on the interaction between this bill and other bills that are planned by the Executive, which could all be thought of as parts of a whole. We found it difficult to report on the principles of the Abolition of Feudal Tenure etc (Scotland) Bill alone, when it became clear during our proceedings that those principles could not stand apart from those of the title conditions bill and the law of the tenement bill. In a sense, this is not a stand-alone bill, but we were obliged to behave as if it were. That created some difficulty for us and led to a degree of cynicism about the real, as opposed to the stated, reason for delaying the implementation of the bill.

Members who have read the committee's report will know that it highlights one big issue of principle on which there was controversy, and a number of other points of detail on which there was contradictory evidence.

The committee has made it clear that the bill is

to be welcomed. We all agreed that sweeping away the anachronism of the feudal system was long overdue. It was difficult to see how else it could be brought about other than by outright abolition.

It became clear, however, that although we were sweeping away one form of land ownership in Scotland, some organisations and commentators felt that a serious gap now existed. Evidence was submitted to us that there should continue to be a public interest in the new form of ownership. That submission was made on the basis of the argument that the Crown, apart from its position as paramount feudal superior, had been the guardian of the public interest until now.

It is fair to say that, although many committee members had sympathy with the public interest argument, there was a degree of scepticism about accepting that the Crown had traditionally fulfilled that role. Even those who do not hold quite such robust views about the Crown's future role in our constitution as I do were nevertheless unsure whether that argument was valid. However, in the absence of any outright hostility to the bill, that was the major point of principle that we had to address. I hope that the way in which we have covered that point in paragraphs 12 to 17 of our report makes that argument clear, even to those coming new to the debate.

At lunchtime, I saw for the first time a counsel's opinion on the generality of the argument. The document, which has today's date, is a brief preliminary outline opinion on the issue of paramount superiority. Had the committee had that information, it might have helped us to deal with the issue. The opinion is the work of Sir Crispin Agnew of Lochnaw QC. He states categorically:

"In Scotland the legal theory of landownership has been that the Crown owns all land for the benefit of the community of the realm and that the Crown grants out rights in that land to subjects, who hold that land under the Crown's paramount superiority or *dominium eminens*."

He goes on to say that the first bill proposed by the Scottish Law Commission had a section saying that

"the abolition of the feudal system of land tenure shall be without prejudice to any other rights, privileges, benefits of or derived from the Crown by virtue of the paramount superiority".

He says that the present bill contains no such reservation and that, in his opinion,

"the draft Clauses would appear to have the effect of severing all connection between the land and any other rights, privileges, benefits of or derived from the paramount superiority."

I will not read the whole opinion. I have not had a chance to read it in detail myself, but those parts caught my eye. The opinion would have been

useful to the committee and might have encouraged us to couch some paragraphs of our report in a slightly different way. That is a caveat for those reading our report, and I shall circulate copies of the opinion to members as soon as possible.

Robert Brown (Glasgow) (LD): Will Roseanna Cunningham tell us where that counsel's opinion came from?

Roseanna Cunningham: The instruction was by Scottish Environment LINK.

Other points of detail emerged that were more or less undecided—I was going to say controversial, but that would be the wrong word to use. Those included the question of payment of arrears of feuduty, the long lead time before the abolition of the feudal system, payment of compensation for the extinction of feuduty, and the limit on the length of commercial leases. Some of those points will no doubt be dealt with in more detail by other speakers this afternoon.

I shall now speak in my other persona as the shadow Minister for Justice, and echo the remarks that I made last week. I said then that the abolition of feudal tenure was a key commitment of the Scottish National party's land reform policy in the run-up to the elections in May. It is a testament to the widely expressed need for such reform that three of the four major parties in the chamber were committed to a similar bill. That allows us to proceed with broad support.

The bill is integral to any process of land reform and would always have been the first piece of legislation in any package of reform. It should be carefully considered in preparing the groundwork for future measures.

In that spirit, the SNP shares some of the concerns about the total omission of any reference to the public interest in the bill. Effectively, the bill introduces a form of absolute ownership, with which many people might have problems. It runs counter to the belief that the people of Scotland have ultimate ownership of the land. That principle would give us the ability to run public interest arguments as and when necessary. Andy Wightman, who has a long track record and a great deal of credibility in that policy area, expressed his concern that, without some recognition of the public interest, we might find ourselves bound more tightly in the future, in what we can and cannot do, despite there being a demonstrable social or environmental need.

Scotland should not become a series of parcels of land in the absolute ownership of individuals, organisations, offshore trusts and charities. The public interest should be explicitly enshrined somewhere as a principle, so that in future, recourse can be had to that principle in the courts

if need be. Whether the Crown's ultimate superiority did protect the public interest in the past, the fact is that landed interests believed that to be the case, at least in regard to planning law. Without that belief, the resistance to interference in their ownership would have been greater.

By omitting to include a public interest provision in the current proposals for land reform, do we not run the danger that in future such resistance will not only be greater, but might be successful? I ask the minister to comment on the fears that the lack of a legally defined public interest provision might have an impact on future planning controls or compulsory purchases which, by their nature, are based on public interest. Frankly, the matter can easily be dealt with by the inclusion of a *res publica* clause, which would acknowledge the public interest through the recognition of the ultimate ownership of Scottish land by the people of Scotland. I refer back to some of the comments in counsel's opinion in respect of the Scottish Law Commission's draft section in its original bill.

This argument may sound academic, but I remind members of the heated debate over the extent to which the multilateral agreement on investment would cause difficulty in otherwise domestic decision-making processes. In addition, the World Trade Organisation talks in Seattle similarly reminded us of the need to ensure that our legal concepts are clear cut.

I will now refer to other matters. The minister will be aware that a number of parliamentary questions have been lodged in my name, which seek more detailed information on who, and how many, will have to pay compensation and backdated feuduties under the legislation. The questions also attempt to establish who will benefit from the compensation. We are concerned that the legislation will leave the way open for clever operators to exploit aspects of feudality that have lapsed, the financial potential of which has escaped their owners and the general population. Anyone who has had to deal with the fall-out from Brian Hamilton's activities will be well aware of the distress that can be caused. It would be unfortunate if we opened the door to individuals to act for groups of clients who have neglected, forgotten or are ignorant of their rights. The last thing that we need is a raider of the lost feus appearing on the scene.

As a result, we wonder whether it would be more appropriate to cap the compensation that is payable. Equally, we should stipulate that payments will not be made unless there is proof that the income from the vassal has been a significant portion of the superior's income. Those changes would target people such as the Duke of Buccleuch, or large corporations, who would be able to claim compensation only if they gave a full

statement of their income, and proved that the loss of feu income would cause them financial hardship. At the same time, the measures would protect groups such as the Church of Scotland which, as I understand it, relies heavily on feu income. They would keep out those who have not claimed feuduties in recent years, but who plan to use the legislation to catch up on payments.

Indeed, I would go further. Compensation could be made dependent on the provision of information, which brings me to the third area that I wish to address, a land information system. Tying the payment of compensation to registering land interests in Scotland would provide additional information for public consumption. That information could be extended if we used the opportunity afforded by the bill to review the availability of information relating to ownership of, use of, development of and access to land in Scotland. Eventually, we could have a fully comprehensive land information system for Scotland. Before anyone asks where the money will come from, I suggest that the compensation payments owed to Government departments be paid directly into the Scottish consolidated fund as a contribution to land development projects such as the land information system.

As I said at the outset, the bill is broadly similar to that which the SNP would have wanted in its land reform package. However, there are ways in which it could be made even better and, indeed, in which it could be—even more—part of the Executive's overall reform.

I know that the Executive has left some matters open to further consultation and debate, and has not closed its ears to other changes. We are grateful for the Executive's input at various points during the committee's taking of evidence and we note that the Executive has responded positively to some of the concerns of the Subordinate Legislation Committee. I hope, therefore, that the Executive will be able to respond as positively to some of the proposals that I have raised today and, for that reason, I look forward to hearing the minister's closing speech.

15:11

Phil Gallie (South of Scotland) (Con): There is a welcome throughout the chamber for the bill, which seeks to sweep away an archaic and largely symbolic form of land tenure and replace it with a more modern and practical system. Having said that, I believe that the system has served us well over many years; it has brought controls and assisted in the development of our country in a way that has brought great benefit. However, it has served its purpose and it is time for it to go.

Roseanna Cunningham mentioned the link

between the Abolition of Feudal Tenure etc (Scotland) Bill and the land reform bill. While I expect that there will be consensus on the bill today, I suspect that that consensus will not extend—in full, at least—to the land reform bill that she envisages.

The Abolition of Feudal Tenure etc (Scotland) Bill represents a long-awaited change. Its history could be said to have started with the Land Tenure Reform (Scotland) Act 1974. In 1991, under the Tories, a discussion paper on abolition of the feudal system was issued. In February this year, the Law Commission presented to Parliament a report on the abolition of the feudal system; the bill under discussion today is substantially the same as that contained in the Law Commission report. Some people might say that the bill is long overdue, but as I said, it is welcomed all round.

However, the Parliament must take care when discussing the bill. We must ensure that the proposed reforms represent a real improvement on the present system and do not create greater problems of their own. The bill will transform the system of land tenure and will have a significant impact on business, conservation and conveyancing practice in Scotland. I quote from the Law Commission report:

"The feudal system of land tenure . . . has degenerated from a living system of land tenure with both good and bad features into something which, in the case of many but not all superiors, is little more than an instrument for extracting money."

Abuses of the system happen. For example, in Prestwick, some residents received requests for payment of a significant sum to ensure blanket waivers for title deviations made over the years, prior even to the present occupants living in their homes. Wisely, the great majority of those residents ignored the requests; one or two, unfortunately, made the payments. That bad aspect of the system will disappear; under the new bill, there will be no means of enforcing such payments.

It is ironic that local authorities are among those who exploit the existing burdens laws. I understand that Labour-controlled City of Edinburgh Council charges £50 for window consents and £200 for porches, while SNP-controlled Angus Council demands £60 for waivers. We should all take note of that.

Comments were made about outstanding feu payments. Happily, outstanding feu payments have almost been cleared. It is interesting to note that the Royal Institution of Chartered Surveyors suggested that the formula that was set up in the 1970s was, perhaps, too generous for present times. The minister might want to examine that when he addresses those issues later.

There will be introduction of feudal reform today and reform of title conditions and tenement law tomorrow. Following the publication of the bill, the Justice and Home Affairs Committee carried out its allotted task of pre-legislative scrutiny of the bill. That included hearing oral evidence from a fair number of people during several committee meetings. The committee's scrutiny also attracted a considerable number of written submissions. The value of the scrutiny procedure struck home when it became apparent to committee members that the bill was not a stand-alone bill.

The Scottish Executive—on its second visit to the committee—acknowledged that there would be a title conditions bill and a law of the tenement bill. It appears that the former might play a part in setting the appointed day for enactment of the bill that we are debating today—one reason for leaving the bill open-ended. I noted the references that the Minister for Justice made to that in his comments.

Perhaps a lesson that can be learned is that in future there should be more openness or clarity about the Executive's intentions when it presents such bills. The benefits of the present committee system have not been demonstrated.

A number of representations have been made that seek the retention of the ultimate superiority of the Crown in a reformed feudal system. From a practical point of view, the Justice and Home Affairs Committee remains unconvinced of the merits of the arguments for that. There seems to be little point in extinguishing the powers of numerous mid-superiors only to retain nominal Crown superiority, especially as rights relating to the Crown prerogative—mineral rights, fishing rights and so on—are to be retained by the Crown in any event.

When he addressed the Justice and Home Affairs Committee, Professor Robert Rennie commented:

"The Crown, as paramount superior, does not own the land for the people; the Crown owns it for the Crown."—*[Official Report, Justice and Home Affairs Committee, 9 November 1999; c 367.]*

Professor Rennie also made clear his view that the Crown does not have rights over vassals and superiors and that any involvement in future in burdens of any kind would have to be legislated for.

I note Roseanna Cunningham's comments about the submission that was brought to her attention today. We must, perhaps, accept that the submission has come rather late for the Justice and Home Affairs Committee, but we are only at stage 1 of the bill. We are moving towards analysis of it and there will be time to take on board such submissions. Perhaps the discussions

that we had in the committee have induced those who want to seek legal opinions to do so. That will be to everybody's benefit in the long term. The objective of Parliament must be to ensure that we get land reform legislation right. It is a complicated issue; Roseanna Cunningham mentioned that many of the committee members do not have the legal background that she and a couple of colleagues on the committee have. If the issue confuses them, how do the rest of us who are members of that committee feel?

It seemed to me that the removal of burdens might make the transfer of houses easier for purchasers and for sellers. Disappointingly, Professor Rennie suggested that there would not, at the end of the day, be any reduction in conveyancing fees. The worst news was when he looked forward to future bills, which were mentioned earlier. He did not say that there would not be added charges for investigations into the implications of those bills.

There was some concern on the Justice and Home Affairs Committee about commercial leases. At present, residential leases are limited to a maximum of 20 years, by the Land Tenure Reform (Scotland) Act 1974. The new bill does not affect that. However, there is no limit at present on the length of commercial leases. The bill proposes to limit the length of new commercial leases to 125 years. The minister suggested that he would be prepared to consider that area. Perhaps the figure of 125 years has been plucked out of the sky to create a debating point.

In view of commercial interests and the way in which we want our economy to develop, perhaps we should widen the commercial lease. In so doing, we must consider legislation that has passed through Parliament more recently. Environmental legislation often entails the clearing up of land after use for various processes by manufacturers. That could be a consideration when companies are considering taking land on board under lease terms, if it was felt that the processes that they wanted to carry out could not meet environmental requirements at the end of the period.

I welcome the fact that there will be the opportunity for neighbours and others to retain an interest in feudal burdens, which has helped neighbourhoods to develop in a consensual way over a period of time. It is important that neighbours should have a say in the developments that go on around them. However, there can be conflicting interests.

One example is of someone, in Corstorphine, who wants to split up a large flat into a number of other residencies. Three of the neighbours accept that, but one does not. That one neighbour has become the feu superior and has put a block on

the development. The 100 m rule probably means that that individual can continue that block once the bill is enacted. I want an assurance that such an issue would be passed on to the Lands Tribunal and fair decisions taken on that basis.

In another situation, a farmer sold a plot of land and specifically determined that there should be no dogs in the development alongside, for the protection of his animals. He feels that the 100 m rule in the bill will remove his say and could cause his business difficulties.

My time is running out, so I will finish by saying that many points in the bill can be queried. I believe that the Justice and Home Affairs Committee will need a considerable amount of time to examine the bill line by line. That will be in the interests of the bill, and I would like to think that the Executive will not make the committee meet false deadlines.

15:24

Pauline McNeill (Glasgow Kelvin) (Lab): It is almost beyond belief that in this day and age we still have laws that refer to vassals and superiors. Throughout the years we have had some attempts at reform, but never the determination or opportunity to abolish the system once and for all.

I have received some letters on the subject of feudal tenure and I have read some critical reports about how the reforms are weak or flawed. We should get one thing straight before we begin. This is not a reform, as Jim Wallace said earlier; this is about abolition—hence the title of the bill. Of course, we will retain one or two useful characteristics of the old system, but the fundamental aspects of the forthcoming bill will do away with feudal law for ever. The abolition of feudalism will pave the way for further legislation to modernise land ownership in Scotland. We will find ways to ensure that it is done in the interests of all Scots, not just an elite minority of wealthy landowners.

We do not have to abolish feudalism because it is old law but because it places burdens and restrictions on all those who think that they have outright ownership of their land but find that there is someone lurking in the background who has the ultimate say on aspects of development, with a personal right to receive payments in order to give consent to regional development.

Many ordinary people have bought their homes thinking that they had single ownership of their house and the land that it stands on, yet find—perhaps many years later when they decide to build an extension—that they need the permission of another person to alter their house and that that person can charge thousands of pounds, in some cases, for that permission. Brian Hamilton, the

most notorious feudal superior, has used his superiority rights to exploit the system to make a profit, ruining many lives in the process.

David McLetchie (Lothians) (Con): Following her remarks about exploitative superiors, will the member condemn the actions of those Labour councils that exploit citizens by demanding payments for superiors' consent?

Pauline McNeill: No, I will not. It is not right for people to be unaware that feudal superiors might be lurking in the background. We will abolish that sort of secrecy when the bill becomes an act.

There are 75 sections and 11 schedules to deal with when considering the bill, which relates to a complex area of Scots law. We have heard that the bill is much the same as the draft provided by the Scottish Law Commission and only departs from it in a few ways. One such way is on the matter of neighbour burdens: someone selling land will be allowed to retain some control over that land, to prevent the loss of an amenity. The principle is an important one and should be examined further in committee. We should try to determine whether the 100 m rule is practical. The Executive has stated that it has an open mind on the matter.

A controversial area has been the Crown's conceptual role as the ultimate feudal superior. Land Reform Scotland told the Justice and Home Affairs Committee that section 56 of the bill, which deals with the prerogative powers of the Crown, is ambiguous and should specify that the Crown's rights will be abolished only when they are shared with other superiors.

Roseanna Cunningham and Phil Gallie have told the chamber that the Justice and Home Affairs Committee listened to the groups that told us that the Crown should be retained as paramount superior in order to retain some public interest in land. However, having listened to those groups, we still believe that that is not the way to retain public interest in land. To quote Professor Rennie for the second time this afternoon:

"It makes no sense to abolish the feudal structure and retain the paramount superiority of the Crown. If that happens, we will not have abolished the feudal system."—*[Official Report, Justice and Home Affairs Committee, 9 November 1999; c 366.]*

The Crown acts in the public interest through public authorities, the planning system and the public law system, in relation to the regulation and the use of land.

I agree that we must find other ways to ensure that the public interest is well served. We have already begun to do that in other pieces of legislation dealing with access to land, the community right to buy and the Scottish outdoor access code. Interestingly, that is the area on

which I have received most correspondence from those who do not want people from cities roaming around all over the countryside. I believe that we have a foundation on which we can build other pieces of legislation that will legitimately act in the public interest.

Members heard from Jim Wallace this afternoon that the appointed day will be two years after the royal assent, which is quite a long period. As he has stated, that is because there is other related legislation and because of the complexities of abolishing the feudal system. There are issues that need to be resolved in that time, not least relating to feudal redemption.

Members will have heard this afternoon that the Justice and Home Affairs Committee is concerned about the length of the period before the bill comes into force. There is still scope for considering this further, as there is an issue to do with Brian Hamilton and other superiors not capitalising on that two-year period, and making unjust calls on their rights to enforce feudal burdens. We have to further consider the detail of that.

It is important that the bill talks about feuduties and other types of duty. In the west of Scotland in particular, there are other duties, including grounds annual. They are small amounts of money, but none the less will be swept away by the abolition of feudalism. There are two aspects to feuduty: one concerns arrears and how they will be paid back, while the second concerns how compensation will be paid to the superior. We know from Scots law, and indeed from European law, that the issue of compensation to superiors for the loss of their rights is one that we are legally bound to address. We have to pay some attention to the detail of what we are doing here. The Executive has said that it will consider the issue of those who are due to pay less than £100 and whether the instalment period could be increased.

Although compensation only affects about 10 per cent of the population, the Parliament has to be mindful that if we are going to compensate superiors, and ask people to pay those duties, the duties should be fair and reasonable. People on low incomes, particularly the elderly, should not be disadvantaged by the payment of those duties, which may be heavy.

It has been said this afternoon that there are other matters that are separate but related to the feudal system and are confusing to the public. One of those is the concept of leasehold casualties. While it is not an issue for feudal tenure itself, it has caused a bit of concern. Over the past few months, we have heard that steps will be taken effectively to abolish leasehold casualties. Again, Mr Hamilton appears to be making a killing from this loophole in the law. He

was awarded £94,000 by the courts and Grampian Regional Council, when the latter lost an appeal over a long-disused school and schoolhouse. He took over the leasehold interest, with the intention of collecting a long-neglected leasehold casualty payment. That is wrong and is an issue that has to be addressed.

There are many important land issues in the Parliament, not least the slow change from the old register of sasines to the new land register. We must build on the foundations that we are creating today, and in the months ahead, when we abolish the feudal system. We should ensure that land ownership in Scotland is transparent and clear-cut, and that ordinary people can go to the land register and find out who owns a piece of land and who has interests in it. I believe that by the year 2003 we will have made land ownership transparent.

The Deputy Presiding Officer (Patricia Ferguson): Before moving to the open part of the debate, I remind members that if they wish to speak, they should indicate it by pressing the request-to-speak button. There will be a four-minute time limit on speeches this afternoon.

15:34

Christine Grahame (South of Scotland) (SNP): I will deal with two areas: compensation and the issue of the Crown. I would like to address sections 7 to 12, particularly the issue of compensatory payment in instalments. Will the minister consider reducing the multiplier from 20 to 10? Representations have been made to us by the Royal Institution of Chartered Surveyors and Dundas and Wilson, a major commercial firm in Edinburgh, which felt that 10 would be a more appropriate multiplier. The knock-on effect of that might be that the 10-year period for instalment payments—we have had evidence suggesting that that might be too long—may be reduced.

I am pleased that the liability for payment falls on the vassal immediately before the appointed day and that the sum due is now not secured on the ground and that arrears will cease to be so secured. Feuduty is no longer an issue in examination of title for conveyancers.

Compensation for the extension of burdens in sections 32 to 38 is justifiable where real burdens may have been used to reserve development value. As ministers will be aware, property could have been feu'd for a heavily discounted consideration—perhaps for no consideration at all—on the basis that there would be a financial term for the discharge of the burden were it to be varied in whole or in part. That is proper as it would be unjust to have a windfall benefit to a former vassal.

I have some legal experience—not much—as a conveyancer and, as a member of the Justice and Home Affairs Committee, I felt my head fair birling again, just as it did in Professor Reid's constitutional law and conveyancing classes. The abolition of feudal tenure will affect the Crown just as it affects other superiors; land will cease to be held by the Crown. However, other Crown rights remain and it will continue to have residual title to property that is not otherwise owned, including heritable property.

Along with other members, I heard submissions regarding the role of Crown as representative of the public interest—expressed by some as *res publica*—and, like Roseanna Cunningham, I have extreme sympathy for the sovereignty of the people, which is at the base of our independence.

There are issues raised in Sir Crispin Agnew's submission that would have clarified the debate for the Justice and Home Affairs Committee. Sir Crispin refers to Professor McQueen, who wrote:

"in feudalism, landownership and sovereignty coincided, so that the Crown's sovereignty over Scotland and *dominium eminens*, its ultimate tenorial superiority, were the same thing, identical concepts."

He goes on to say that

"the sovereignty and the paramount superiority are inter-linked, so that the theory regarding to which right they pertained did not need to be determined in a feudal society."

As we are defeudalising, we must consider how we determine the role of the Crown. It is an important issue. Sir Crispin Agnew says:

"The extent of the Crown's ultimate rights as owner of all the land for the benefit of the community is far from clear in law, with the leading text book writers differing as to the extent or even the source of those rights; eg whether they derive from the paramount superiority or from sovereignty."

Those are issues that I and other members of the Justice and Home Affairs Committee would like to explore slowly, over strong coffee. Sir Crispin goes on to say:

"If absolute ownership to land is given by the proposed Act, then the legal basis on which that ownership can now be controlled may be lost."

There is a serious, constitutional legal issue at the heart of this, on which some of us may become experts in due course.

I am grateful to Professor Reid for his article—I say this to hearten Jim Wallace—in which he tells us that the bill repeals 45 acts, 246 sections and 57 schedules. As the minister said, it is goodbye to the kindly tenants of Lochmaben.

15:39

Robin Harper (Lothians) (Green): I make no apologies for pursuing points that have already

been raised by Roseanna Cunningham and expanded on by Christine Grahame. I welcome the fact that those members have said that they would like to pursue the debate in the Justice and Home Affairs Committee.

Scotland needs feudal reform and I welcome it. However, I am concerned that the present principles of the bill appear to betray the public interest because of the impact on the role of the Scottish Crown. Our present system of land tenure in Scotland is based on the principle that all land is owned by the Crown and granted out to those that we call landowners. This is the *dominium utile*—have I pronounced that correctly, Christine?—which translates from the Latin as the use, rather than the possession, of the land.

Of fundamental importance to our present constitutional settlement, the Crown is the core constitutional repository of the public interest. We feel that the principle embodied in the Crown and its public interest role must in some way be conserved. This bill appears to undermine or forget the interest of communities in their own land, and replace it with a system of absolute ownership.

Land Reform Scotland has today written to all MSPs to express its concerns. The Scottish Land Reform Convention, which is the land reform civic forum representing unions, local government, churches and the voluntary sector, has also expressed concern. The convention's convener, Dr Alison Elliot, has said that we must make it clear that owning land carries with it unique responsibilities to other people in the future. It is not like owning a bicycle.

Scottish Environment LINK, which is the umbrella body for the Scottish environmental bodies such as World Wildlife Fund, Royal Society for the Protection of Birds, the National Trust for Scotland, among others, is also concerned.

I would like to quote Sir Crispin Agnew QC on the subject of the Scottish Law Commission:

"What the Commission do not appear to have considered is the crown's rights, not only in, but over all land, which derive from the paramount superiority and which can be exercised by the crown for the benefit of the community."

Sir Crispin has also said:

"If absolute ownership to land is given by the proposed Act, then the legal basis on which that ownership can now be controlled may be lost."

He was referring specifically—and I stress this point—to town and country planning and environmental regulation. I repeat—environmental regulation.

Sir Kenneth Jupp MC, the retired High Court judge and an internationally respected lawyer with an interest in land law, has said that the proposed

legislation would be a retrograde step that would be very difficult to rectify.

In the face of such strongly argued and authoritative concern over this bill—concern that is coming from many sectors of Scottish civic society and beyond—will the minister reassure the chamber in the clearest terms, either today or in the future after taking advice from the Justice and Home Affairs Committee, that this bill is intended in principle to serve the public interest in the land of Scotland? Moreover, will he reassure the chamber that every effort will be made by the Executive during the ensuing stages of the bill to ensure that this public interest principle is contained in and made explicit in the provisions and terms of the bill?

15:43

Karen Gillon (Clydesdale) (Lab): I am grateful for this opportunity both to listen to the contributions of my colleagues and to say a few words myself. Listening to some of the more complex matters surrounding this bill, and, in particular, listening to Jim Wallace and Roseanna Cunningham, has certainly helped to enlighten me, as a lay person.

I welcome the bill, and I thank the Justice and Home Affairs Committee for the work that it has done so far on behalf of the Parliament in relation to this matter. The whole debate about land reform and land tenure is obviously very complex, but it is also very emotive. For me it is about a choice between the old Scotland and the new.

It is about a Scotland that allows an unscrupulous landowner to squeeze as much cash as possible from tenants by archaic means or a Scotland that recognises the contribution that tenants make to an individual property and the area around it, and a Scotland that does not allow the insecure position of tenants to be used to the advantage of an often already wealthy landlord. It is about a Scotland that is ready to enter the new millennium free from the chains of oppression that have silently hung around the heads of far too many tenants in this country for far too long.

I am glad that this debate is about a Parliament that is ready and willing to provide the focus to tackle an important issue that has been dithered over for far too long. Tackling the issues that affect people's lives will provide this Parliament and Scotland with focus and direction, which the bill and other aspects of the Parliament's work are now delivering. I am proud that the Parliament is willing to address the issue in such a forward-thinking manner.

I am particularly interested in the issue of leasehold casualties, which, although not a feudal issue, has the potential to cause the affected

tenants great financial hardship. There has been much mention of Brian Hamilton, who is the epitome of an unscrupulous landlord if ever there was one. The people of Clydesdale know only too well how they are affected by leasehold casualties and the feudal system. Some have lost their homes as a result; others have incurred considerable financial penalties. Although I acknowledge that the issue of leasehold casualties is complex and might not be dealt with best in this bill, I would welcome some assurance that the Executive will give some attention to the issue in future.

Mr Jim Wallace: As the Parliament knows, Mr Adam Ingram has indicated a willingness to bring forward a members' bill on the issue and the Executive is willing to co-operate with him on that bill.

Karen Gillon: I thank the minister for his reply, which will be of great interest to the people who have been affected in my constituency and throughout Scotland.

There is a frequent misconception that the issue of feudalism affects only people in rural Scotland and that urban Scotland does not care. From both my previous experience and my experience as a Clydesdale MSP, I know that this issue can affect both rural and urban Scotland, both wealthy and poor. Most people from both rural and urban areas are disgusted when they learn of the situation in which many tenants find themselves. Because of that, I warmly welcome the bill and look forward to Parliament passing it.

15:47

Tricia Marwick (Mid Scotland and Fife) (SNP): I am particularly grateful to all the witnesses who gave their time to present evidence to the Justice and Home Affairs Committee. That evidence helped me to understand some of the bill's technicalities—or at least I thought that it had until today. The prospect of the minister's summing-up gives me a frisson of pleasure and I look forward to hearing what he has to say.

I agree with the Scottish Law Commission that the feudal system is

"an anachronism which needlessly complicates the law"

and that

"abolition is an essential first step in any more general programme of land reform".

Terms such as "superiors" and "vassals" have no place in a modern system of land ownership.

However, I wish to raise some matters which I hope that the minister will address today and which the committee should consider carefully at the next stage of the bill. During evidence

sessions, it became clear that no research had been done to find out just how many properties are still subject to feudal duties and how many people are affected. It is reasonable to assume that many occupants are elderly and are living on fixed incomes. I am concerned that superiors who have not bothered to collect in the past will now demand payment of arrears. I would welcome a statement from the minister that the issue will be investigated to ensure that elderly people in particular, who have not asked for this legislation, will not be placed under financial penalties that they simply cannot meet.

As the minister said, commercial companies have made many representations about section 65 of the bill, which prohibits a lease of more than 125 years. I share the Executive's concern that, without a statutory limit, such companies could introduce leasehold arrangements every bit as restrictive as the current feudal system. However, although I am mindful that we should not create disincentives to investment, I am not persuaded by the companies' argument that any such restrictive arrangements would be a consequence of a statutory limit of a 125-year lease.

Roseanna Cunningham and Christine Grahame touched on my final point about the need to retain some public interest in land. Some witnesses argued that the Crown's role as paramount superior creates a public interest. There have been real difficulties in considering this bill in isolation from other parts of the Executive's legislative programme. The minister may be able to give members some indication of where, if anywhere, the public interest will lie. Following the submission today, I have no doubt that the Justice and Home Affairs Committee will consider the matter in much greater detail.

The bill is long overdue—probably by a couple of hundred years. I agree with the general principle of the bill, but look forward to the minister's response to the points that I have raised.

15:50

Robert Brown (Glasgow) (LD): I should perhaps declare an interest, in case it is relevant. I am an associate of Ross Harper & Murphy and a member of the Law Society of Scotland. There is bound to be something in all this lot that will cause them concern.

I suspect that the Abolition of Feudal Tenure etc (Scotland) Bill is not a subject on the tip of people's tongues in every pub in the land, but it is in a number of ways a momentous, interesting and significant bill.

First, it is a classic example of the need for this Parliament to be involved in the central issue of

law reform. The bill came from the Scottish Law Commission. At Westminster it would probably have languished on a shelf. If and when it received parliamentary time, it would probably have had a grudging and peripheral passage into law. Here, the bill is a central part of the Scottish Executive's legislative programme and can be readily consulted on and properly scrutinised.

I do not quite understand the problem that the members of the Justice and Home Affairs Committee have had with the other forthcoming bills. The bill seems to be reasonably self-contained, although every bill has overlaps to others. Nothing was said in the debate that led me to understand the nature of the problem. I am not a member of the Justice and Home Affairs Committee, but I knew that a law of the tenement bill was in the offing.

Secondly, the bill is a testament to how the law evolves over time. At party conferences, we often hear demands for the abolition of this or the repeal of that. This bill, with its grand title, aims to abolish the feudal system, as the first clause says. However, the register of sasines—a feudal-sounding device—will continue. Prohibitions against glue factories and slaughterhouses may mutate from being feudal conditions into real burdens. The Crown's prerogative rights over the foreshore will also remain intact.

Notwithstanding Sir Crispin Agnew's views on the matter, public interest in land is a genuine issue. This may or may not be a real issue in today's debate, but the implications for the Human Rights Act 1998 are cause for concern. Compensation for the loss of land rights could be put right if we included a specific reference to the public interest in land in the bill. If nothing else, that would reflect the traditional Scottish view that there are a variety of interests in land, rather than absolute ownership, as has evolved in England over a number of years.

The bill is a link to the old Scots Parliament, which was abolished in 1707. Traditionally, nothing was more important than land ownership. Almost all the business of the old Parliament was to do with aspects of land ownership, such as title, possession and succession to land. The bill will amend or repeal no less than 10 acts of the pre-union Parliament, which is something of a record.

At the end of the day, the important thing is that the law is certain, reasonably comprehensible and achieves a fair and workable system between seller and purchaser and between neighbours, in the interests of the local community. Many of the conditions attached to titles are hugely important in maintaining building lines, keeping the character of a neighbourhood and regulating activities in properties in the public interest. Despite what a number of people have said, that is far more

important in urban than in rural situations.

The important thing is for conditions to be good and workable, not whether they are feudal or non-feudal. We should not be led astray by the old-fashioned language. Where people have bought council houses, for example, there are huge problems with access rights in terraced houses whose titles were not drawn up as well as they might have been. The bill is symbolic and will be useful, but it is only part of a wider scheme of reform, which includes the forthcoming bill on the law of the tenement.

We should go ahead with the bill. Let us bring Scotland into the modern century, but without too much regard to the phraseology and rather more regard to the substance of what we are trying to do by bringing into being in Scotland a modern system of property law for the 21st century.

15:55

Mrs Lyndsay McIntosh (Central Scotland) (Con): At the risk of ending up in your little black book, Presiding Officer, you will forgive me if I race through this speech.

I thank the Scottish Executive for introducing the bill, but, having heard that the consideration of title conditions and the law of the tenement is ahead of us, I have to confess that it is like being given a jigsaw without seeing the picture or knowing the dimensions. Take, for example, the limitation in section 65 on long-term leases. The reference in that section to 125 years has been mentioned several times. Until very recently, the only thing that the figure 125 meant to me was a fast train. The figure can only be considered arbitrary, because it takes no account of individual circumstance or of a logical method for the determination of the period of tenure.

Why are we being asked today to scrutinise legislation that does not take into account the distinct differences between rural and urban lifestyles and the individual requirements that those respective communities have? The restriction on the right to impose a feudal burden on land sold for development to 100 m from an existing domestic property does not bear much scrutiny. Again, the figure has been determined arbitrarily.

In an urban area, 100 m might seem a reasonable distance. Within that distance, it may be in the clear interests of an existing property or, indeed, of the neighbourhood, to impose restrictions on the height, size or even colour of new developments in order to preserve the locale's identity. In a rural area, 100 m is not a long way when the nearest neighbour might be a mile or so from the doorstep. In such instances, it is important that existing landowners can impose a

feudal burden on land sold for development to preserve their own and, more important, the countryside's identity. That would be in the interests of all Scotland.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Is preserving the countryside's identity not why we have local councils and planning committees?

Mrs McIntosh: Yes, but those same local councils have imposed burdens and have made money from the situation.

I will have to race through the next part of my speech. I do not want to be in the Presiding Officer's black book—it is a long time since I was in anybody's black book.

Preserving the countryside's identity would be in the interests of all Scotland; it would preserve our heritage and landscape, from which we derive so many economic benefits. Imagine if we were to allow the desecration of our wonderful landscape, which provides our tourist industry with its most marketable feature other than our people.

The Minister for Justice's policy memorandum on the bill states categorically:

"The Executive recognises that certain feudal burdens are, however, beneficial".

Despite that, the minister and his colleagues have not seemed to take account of the diversity of the land use to which the legislation will apply. The arbitrariness of some sections will only give rise to problems similar to those that caused the bill to be introduced in the first place.

As was signalled last week in relation to the Adults with Incapacity (Scotland) Bill, I am sure that the minister will welcome many of the amendments that will be lodged, so as to allow unconditional support from across the chamber. I sure that, in so doing, he will show Scotland and the world beyond that this Parliament is a listening Parliament, truly in touch with its people.

Let us not avoid the issues of detail at this early stage. If we do, as good as the rest of the legislation may be, we will be condemned for making a half-hearted attempt at it.

15:59

Allan Wilson (Cunninghame North) (Lab): In preparation for this brief speech, I read the Scottish Parliament information centre note on the abolition of feudal tenure. It begins:

"Feudal tenure is difficult for non-lawyers to understand, with the obscure concepts and terminology making it particularly inaccessible."

As a non-lawyer and lesser mortal, somebody who spent most of their working life arguing with

employers' lawyers, I believe that, as Jim Wallace said, the rationale for the abolition of feudal tenure is widely understood and widely supported by ordinary people as well as by lawyers. That rationale, simply put, is that feudalism is outdated, gives rise to injustice and is a legal relic of a society with a regulation and use of land that is no longer relevant and should, as Tricia Marwick said, no longer play a part in the modern Scotland that we are trying to build.

I suspect that, unlike many MSPs, I have had a fairly hefty post bag on the matter, which has resulted in continuing correspondence with the Deputy Minister for Justice. In large part, that is because the Isle of Arran is in my constituency and feudal abuses there are well documented. There have been many instances of feudal superiors charging large sums of money for granting consent to breaches of feuing conditions.

The statutory amendments and modifications to the feudal system that Phil Gallie and others mentioned have had an effect on Arran, as elsewhere. In particular, the Conveyancing and Feudal Reform (Scotland) Act 1970 provided for the Lands Tribunal to adjudicate unresolved disputes about land obligations; in some circumstances, it has varied or changed those obligations. The Land Tenure Reform (Scotland) Act 1974 prohibited new feuduties and provided for the redemption of existing feus. Neither statute abolished those land obligations, however, and the feudal superior continues to have the right to enforce feudal conditions.

On Arran, that has been skilfully exploited by the descendants of the 12th Duke of Hamilton, who, although they no longer own the entire island as they did in the previous century, are fastidious in their pursuit of income from their position as feudal superior, charging tidy sums for agreement to prospective developments. One descendant, Charles Fforde, owner of the 16,000 acre Arran Estates, hit the headlines a few years back for proposing to charge geological students who came to the island to study granite formations. When the Church of Scotland in Brodick planned an extension to the kirk hall, £800 was demanded. That practice is not limited to Arran Estates. When it was discovered that the Free Church at Shiskine had never taken out a feu, the Church was billed for £15,000, which the parishioners paid. Splitting feus can also prove a costly business for home owners on the island. Buying or improving a property can mean a bill of between £500 to £1,000 from the feudal superior.

It is common practice, well beyond Arran, to demand payment in return for granting consent to a variation of feudal conditions, which is one of the main arguments for abolition of the feudal system. The bill will end such abuses, and for that reason I

commend it to the Parliament.

16:03

Fiona Hyslop (Lothians) (SNP): It is fitting that the Abolition of Feudal Tenure etc (Scotland) Bill is one of the first bills to be presented to the Parliament. I want to focus on a specific proposal that has been identified as a problem by all parties, but which the bill could deal with. I refer to a phrase in the long title,

"to make new provisions as respects conveyancing",

and to the proposal in the bill to amend the Conveyancing and Feudal Reform (Scotland) Act 1970.

I remind members that this is part of the "Your sofa is safer than your home" saga. In June 1999, the Minister for Communities rejected the idea of bringing the law in Scotland in line with the law in England to protect home owners against unjust repossession. Following a dramatic U-turn, the minister has been jumping through hoops to create a legislative solution to that unjust anomaly. First she said that she would look at it in the context of responses to the housing green paper and bring forward legislation in the housing bill. That route was abandoned when it was pointed out to her that the green paper had not invited comments on repossession.

My understanding is that she then moved to plan B, with her deputy suggesting that the issue could be resolved through Robert Brown's member's bill on the prevention of homelessness, provided that Mr Brown was prepared to dump all the other measures that he was proposing. Understandably, he was unwilling to do that.

Plan C was the proposition that, at some point, Cathie Craigie would introduce a member's bill to address the Executive's concerns. It is a dubious practice for the Executive to hand-pick back benchers to help to plug holes in its legislative programme. I think that Cathie Craigie is sincere in what she is trying to bring about, but members' bills should be non-party political and the process should not be abused.

I believe that the Abolition of Feudal Tenure etc (Scotland) Bill is a better vehicle for the necessary changes that we have identified across the parties. The same committees will have to address the issue of unjust repossession, whether in a member's bill or as part of this bill—the same consultation process will be involved. In the interests of efficiency, would it not be better to use Executive time to address the issue, rather than using up members' time?

How can we introduce suspended repossession orders, which would give sheriffs the right to take into account a home owner's circumstances

before granting a repossession order against them? Four months have passed since I asked the Minister for Communities whether she would introduce legislation—I have yet to receive an answer.

In England, the Administration of Justice Acts 1970 and 1973 allow for the suspension of mortgage repossession orders by permitting the court to use its judgment as to whether a reasonable time has been given to allow someone to pay back the arrears that are part and parcel of their problems. I want to propose an amendment that is not dissimilar to the provision in Robert Brown's bill—we both received help from Govan law centre with drafting. The proposed amendment would amend the Conveyancing and Feudal Reform (Scotland) Act 1970 to give Scottish home owners the same rights as their English counterparts. The Executive may argue that such an amendment is beyond the scope of the bill, but I would be grateful if, when the minister sums up, he would address the following points.

The long title of the Abolition of Feudal Tenure etc (Scotland) Bill includes the phrase

"to make new provisions as respects conveyancing".

Mortgages are covered by conveyancing statute. Section 67 seeks to amend the law on heritable securities by modifying the application of sections 14 to 30 of the Conveyancing and Feudal Reform (Scotland) Act 1970. To introduce suspended repossession orders, we would seek to amend those same sections. Accordingly, this bill already seeks to modify the same area of law that we propose to amend in addressing the problems of repossession orders. I will write to Roseanna Cunningham, the convener of the Justice and Home Affairs Committee, to ask her to consider these matters.

We should challenge Scotland to be more creative and innovative but, in doing so, why do we not provide leadership? If we want to prove that we are a can-do Parliament that uses a bit of common sense for the common good, why do we not end the misery of thousands of people who face repossession by supporting practical proposals for change?

Pauline McNeill: On a point of order.

Fiona Hyslop: I have finished my speech.

Pauline McNeill: I hoped that Fiona Hyslop would get to the point and wondered when she would mention feudal tenure. I seek your ruling, Presiding Officer, on whether her speech was strictly relevant to this debate. I do not think that the minister can be asked to address points that are relevant to another debate.

The Deputy Presiding Officer (Mr George Reid): That is a fair point, as the speech was

beginning to stray off the subject. Has Fiona Hyslop finished her speech?

Fiona Hyslop: Yes.

16:08

Scott Barrie (Dunfermline West) (Lab): Like many members of the Justice and Home Affairs Committee, I believed that the feudal system of land tenure was something of an anachronism but I did not know that it was as important as I now understand it to be. I thought that it was the preserve of rural communities and that reform involved a bit of tidying up, which would not affect the vast majority of the population of Scotland. I now realise that that is not the case and that this bill is long overdue—the legislation should have been passed a long time ago.

As we have heard, the Abolition of Feudal Tenure etc (Scotland) Bill is one of a series of bills that will reform the laws of property in Scotland. The Executive proposes to introduce other bills that will deal with title conditions, the law of tenement and leasehold casualties. The feudal system of land tenure in Scotland reflects its historic origins, when land was granted by the monarch in return for military or other services. In turn, land was granted to others, which created the existing hierarchy of structure and which is reflected in the terminology, with words such as "superior" and "vassal".

Obligations that were placed on vassals have evolved into the current system of payments or feuduties. Major reform of the system was made about 30 years ago, when legislation made it impossible to create new feuduties and provided a system for the redemption of existing feuduties. There is no doubt that the law needs a further, fundamental overhaul. Its presumptions and even its language represent a bygone age—a pre-industrial age.

However, when the committee was taking evidence on the bill, it was often stated that not all aspects of the feudal system were—or are—bad. It has been said that not all feudal burdens are oppressive or unreasonable. Currently, burdens allow someone who is selling land next to his own to retain some control over the way in which that land is used, to prevent loss of amenity.

The bill proposes to create new burdens. The Minister for Justice has stated that the proposed 100 m rule was somewhat arbitrary, but that the line had to be drawn somewhere. The bill goes further than the recommendations of the Scottish Law Commission, as it allows a superior to agree with a vassal that a burden on a neighbouring property should be retained, or allows a superior to apply to the Lands Tribunal for Scotland to retain the burden.

As we have heard, the bill proposes to end all superiority rights, including those of the Crown. The Justice and Home Affairs Committee took evidence that suggested that the Crown, acting as paramount superior, could act as the guardian of the public interest, as Tricia Marwick has stated. It was further suggested that the abolition of the paramount supremacy of the Crown would mean that the public interest in land would somehow be lost. I agree with members of that committee that there should be some sort of public interest in land. However, retention of the Crown as paramount superior is not the solution.

The bill prohibits the execution of commercial leases for more than 125 years. As the law stands, such leases could be as long as 999 years. Like the 100 m rule, the 125-year rule is arbitrary. However, without a time limit, property owners could establish some sort of feudalism. In evidence, we heard that some commercial developers might not develop their property if they did not get a lease of a certain length. I would have thought that any developer would be able to establish a rate of return if a lease was as long as 125 years.

This bill is long overdue. It is to be welcomed that, early next century, the feudal system of land ownership in Scotland will be over. I agree with the principles of the bill.

16:12

Linda Fabiani (Central Scotland) (SNP): I am genuinely glad to take part in this debate. One of the most exciting elements of our reconvened Parliament was the realisation that we, in Scotland, could at last address the issue of land reform. The abolition of feudal tenure is long overdue and, as previous speakers have stated, the Executive's initiative is warmly welcomed.

Having worked in rural community development for some years, I would like to remind the Parliament that the concept of feudalism in our society goes beyond legislative issues. Abolishing this archaic legislation should be considered by us all as a step towards changing ingrained social attitudes. However, I want to raise some specific issues, which I ask members—particularly those on the Justice and Home Affairs Committee—to consider in their future deliberations.

Sections 7 to 11 of the bill, which have already been touched on, relate to the abolition of feuduties that superiors are entitled to collect from their vassals and to the payment schemes that the bill will introduce. Often, feudal superiors have not bothered to collect their feuduties for some years, which has resulted in the accumulation of arrears. Owners often do not realise that, in law, they owe money.

My concern is that the prospect of abolition may prompt feudal superiors summarily to demand payment of those arrears. I want to reinforce what the Justice and Home Affairs Committee has stated—that people who live in properties that are subject to feuduties that have been unclaimed for many years may find themselves presented with an unexpected demand for an amount of money that, to a person on a low income, could be substantial. For example, Tricia Marwick referred to the plight of the elderly. A feu of £60 a year may not sound much, but back-dated and with the current formula applied, the demand could cause acute financial difficulty and a prolonged period of indebtedness.

The Executive has conceded that it cannot realistically quantify such amounts. The problem is so complex that, with the best will in the world, no one can estimate the total. By common consent, the purpose of this reform is to abolish the duty scheme and to end an archaic system. We must be careful that the bill does not unduly disadvantage those whom we are trying to help.

16:14

Mr Brian Monteith (Mid Scotland and Fife) (Con): I find it rather sad to be here today talking about the abolition of feudalism. I address members as a vassal, knowing my superior—who is, of course, the Presiding Officer. I would even tug my forelock, if I could.

I have listened to the debate with some interest and I am hoping to irritate a few people with my speech. When listening to Karen Gillon's speech, which had particularly strong overtones of class warfare, I thought of the phrase, "Empty vassals make the most noise." After those Tony Blackburn-like puns, I will move on to the real story.

Feudalism is, I believe, much misunderstood. If people were only to look at Edinburgh's new town and Glasgow's west end, they would see some of the real benefits of feudalism down the years. Indeed, those who enjoy Princes Street should take care to notice that the north side—which has been devastated since the Town and Country Planning Acts were introduced—faces the south side, where there are no buildings. That allows us to enjoy a view of the castle and Princes Street gardens and is the result of feudalism. Feudalism ensured that, because of burdens, the land could not be developed.

Feudalism has a number of things going for it. It is rather odd to argue that it is archaic simply because it is 800 years old. I do not hear people in this chamber arguing—certainly not today—against Christianity, which is coming up for its 2,000th birthday, just because it is old.

Feudalism in Scotland has changed and will change further with this bill. It will, in a sense, be abolished, but fortunately some of its benefits will be retained. I speak here of real burdens. It should be recognised that all laws have their defects and need to be amended over time. Not to change laws would be a mistake. However, no one would suggest that, because of spin-doctors such as John Rafferty, we should get rid of devolution. I am not convinced that, just because feudalism has defects, we cannot improve it. Nevertheless, we are seeking to abolish it while retaining its good parts.

We should consider the unintended consequences of what we might do—here the minister should take note. Feudalism gives some individual rights. It gives vassals the right to champion their cause against their superior and other vassals in a development. Planning, which people defend as preferable, also gives individuals rights to be heard—heard and, often, ignored by planning authorities. When changing this law, we must give due regard to unfinished business. We must consider taking forward the reform of planning.

This country is used to short leases, but one of the unintended consequences of the bill will be long leases. In a sense, we will anglicise our law—laws that predate this Parliament. It is ironic that one of the first bills that this Parliament seeks to pass would anglicise our law and repeal legislation that was passed by its predecessor, which last sat 300 years ago.

16:19

Dr Sylvia Jackson (Stirling) (Lab): I want to concentrate on an issue that has been raised by my constituents. It relates to concerns that have been expressed by home owners in sheltered retirement housing developments. In making my points, I realise that I may stray a little outside the debate on feudal tenure. I ask members to bear with me in this rather complex area.

I want to highlight owners' lack of powers to approve or be consulted by managers on proposals for the maintenance and repair of their properties, service charges and inadequate accounts of expenditure.

It was encouraging to learn from Jim Wallace, in a recent reply to my concerns that, under this bill to abolish the feudal system, the superior's rights will transfer to the residents. I am pleased that a working group has been set up to consider a voluntary code of management practice for owner-occupied sheltered and retirement housing in Scotland. The group includes representatives of developers, managers, owners and other interested organisations, such as Age Concern

Scotland, Scottish Homes, the Scottish Federation of Housing Associations and so on, and was set up because of the number of complaints by owners in sheltered housing developments. The managers' powers are often derived from the fact that they are the feudal superior of the development or from conditions that are included in deeds of conditions.

The remit of the working group is to address the proposal to introduce a voluntary code. I gather that it is expected that most management companies will abide by a voluntary code of practice. Where the body managing a sheltered housing development is a housing association, compliance will be mandatory as a condition of membership of the Scottish Federation of Housing Associations. Similarly, private sector companies that are members of the Property Managers Association will abide by the code.

I have three questions. First, what are the implications for buyers of properties in housing developments whose management has not signed up to the voluntary code? The whole process of buying such a property—as I know only too well from going through it with a relative—is complex, and management issues might not be at the forefront of an older person's thoughts. Older people need to be protected from companies that will not sign up to a voluntary code. Is a mandatory code the only way in which to provide that protection?

Secondly, could the minister say what feedback on the voluntary code has been received during the consultation period? Thirdly, could he give an indication of the timetable for either a voluntary or a mandatory code?

16:22

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I should declare an interest, as I am a practising solicitor. I say practising, as few people have accused solicitors of being perfect—certainly not in my case. It is the Parliament's extremely difficult task to make this legislation perfect. I have found several imperfections, which I will address in the hope that we might gain some answers from the Executive—I very much look forward to that.

The Minister for Justice described the 100 m rule as arbitrary, but it is more than arbitrary—there is a danger that we will set up a form of legal apartheid between urban and rural Scotland. As Lyndsay McIntosh and others pointed out, almost all rural Scotland lies within 100 m of feudal estates. Excluding Inverness, Nairn and Fort William, most of my constituency, and most of rural Scotland, will fall within that 100 m line. From where does one measure the 100 m? It is

measured not from the laird's castle, but from any habitation or permanent building that is owned by the feudal superior.

The effect of this bill might be, "The feudal system is dead; long live the feudal system in rural Scotland." I hope that all of us—with one or two exceptions—believe that that is not what we want to achieve. Therefore, I hope that the 100 m rule will be greatly restricted, as I do not know what continuing interest a feudal superior would have to enforce restrictions in an area within which he or she does not live. That would be unfair.

The essence of what we are trying to do is not to remove nomenclature—to get rid of the feudal names "vassal" and "superior", odious though they may be—but to remove the dead hand of unnecessary control. Brian Monteith is quite wrong—the feudal system has been entirely replaced by town and country planning. I am not an unqualified fan of that system, but it is absurd none the less to have two systems, and town and country planning provides a much more modern model.

Section 20 goes to the heart of the matter—the circumstances in which an owner can go to the Lands Tribunal to ask for a variation or discharge of land obligations. Such are the conditions that one has to ask permission to install a toilet in one's house or to build a conservatory or extension, and pay between £1,000 and £1,500 for the privilege. Allan Wilson highlighted that problem well in his comments about the odious Charles Fforde. If the systems of making payments in exchange for minutes of waiver are perpetuated, as I believe this bill will allow, the bill will fail Scotland.

I serve on the Subordinate Legislation Committee. Service on that committee has been compared to watching paint dry as an exciting diversion, but committee members have pointed out that section 20 is a Henry VIII clause—it will allow the amendment of primary legislation by subordinate legislation. I am pleased that, at stage 2, the Executive will address the circumstances in which section 20 will apply. If the Executive does not do that, we will be doing Scotland a grave disservice.

I am sorry that the Executive has not taken the opportunity to get rid of feuduty once and for all. It is an entirely artificial property right. Believe it or not, there are four things that one can do to a feuduty: pay it, redeem it, allocate it or apportion it.

The Deputy Presiding Officer: Please make your comments brief, Mr Ewing.

Fergus Ewing: I know that lawyers have wasted hundreds of thousands of hours charging unnecessary money to clients for doing all those entirely useless things to feuduties.

In that spirit—and to avoid the Presiding Officer's black book—I urge the Executive to consider those criticisms.

16:27

Mr John Munro (Ross, Skye and Inverness West) (LD): As members will appreciate, the bill is complex. Nobody imagined at the outset that it would be easy. Some difficulties have yet to be discussed. If it is any consolation to my friend Fergus Ewing, I am sure that it will be a bonanza for the legal profession. For the next 50 years, lawyers will be bankrolling as a result of it.

I gather that there is concern about what the ultimate superior should be called. There seems to be resentment about calling it the Crown, the Parliament or the feudal superior. That does not exercise me too much, but it is something on which we will have to agree. I am sure that most rational people agree that legislation is necessary and reform long overdue.

Another issue that has exercised my mind is the distinction between public ownership and public interest. Many parts of Scotland are currently in public ownership. For example, the National Trust for Scotland owns many properties. We must be clear about what is implied by the term public interest. Is it confined to a local community or does it apply to the wider community of Scotland?

Scanning the draft documents, I note that some change is just slipping through. I am concerned that the section on the barony title suggests that it can be transferred by simple assignation. That is a simplistic view of the matter. People who have a barony title should have to demonstrate their title to that barony. That would be in the interests of the public as well as of the land. We should not accept, as some people would like us to, that the land stops at the high-water mark; there should be more public involvement before any of those matters are simply disposed of by assignation.

The other issue that has exercised my mind—I see little in the bill to address the situation—its other uses of land that give it value. Who, or what, will control sporting rights, fishing rights and mineral rights, all of which have a community interest? We must have a clear answer.

16:30

Euan Robson (Roxburgh and Berwickshire) (LD): As many members have said, the bill is welcome. According to the explanatory notes, it will repeal 46 acts. I am sure that the Minister for Justice knows them off by heart.

The bill is part of a package. Although members have alluded to the difficulties of considering it without sight of the title conditions bill and the law

of the tenement bill, it had to come first. To put it in layman's terms, we have to clear the site before building the new edifice. We will retain a few of the useful features of the old system, but the updating of Scots law is to be welcomed.

There are four issues that I wish to concentrate on briefly. The first is the abolition of the feudal system. We should abolish the system, not just reform it. The Crown's paramount superiority should go and outright ownership should come in its stead. I have no objection to the incorporation of some form of public interest section in one of the later bills, but I have yet to hear what it would mean in practical terms. Given that the appointed day in this bill will be 18 months to two years down the line, there could be a seamless transition of public interest from the Crown as paramount superior to whatever replaces it as determined in other bills in the next two years. We may return to this issue during stage 2.

It has been said that capping compensation would be sensible, but that might contravene the European convention on human rights. We should consider the people who buy feudal superiorities now or after enactment of the bill, and add a section to prevent their obtaining compensation. In other words, we could restrict the ability of the raiders of the lost feus, as Roseanna Cunningham put it, to claim compensation, but not interfere with those who depend on feuduties for their income, such as the Church of Scotland. The payment of arrears may be governed by the statute of limitations. I wonder what would be the practical effect of capping.

Fergus Ewing alluded to section 17(7) and the 100 m rule. I do not share his concerns, because habitation is written into the section. We need to explore that issue in some detail at stage 2. There may be some grounds for reducing the figure to 50 m, for example, but I am not convinced by his case that the feudal system will continue by default because of the 100 m rule.

On section 65, there is a strong case for accepting that the 125-year limit on commercial leases should be extended to 200 years; 125 years is beyond most people's lifespan, so I do not see the difficulty with making the limit 200 years. If it is felt that the introduction of a limit into the Scottish system is artificial, the 125-year limit would be reduced. If, however, the 125-year limit is accepted and there is some identifiable prejudice to the commercial property sector in Scotland, 200 years could be accepted.

Having finished slightly early, Presiding Officer, I hope that I go into a different colour of book from the one that was mentioned earlier.

The Deputy Presiding Officer: Yes, you are comfortably within time—by 14 seconds.

16:35

David McLetchie (Lothians) (Con): It is indeed an irony that one of the first acts of the Scottish Parliament will, as my friend Brian Monteith said, be to abolish the feudal system of land tenure which—for all its faults—is distinctively Scottish. I always thought that one of the strongest arguments in favour of the Scottish Parliament was that it would help to preserve distinctive traditions such as our legal system.

For someone like me, who spent 25 years in the legal profession before coming to the chamber, the end of the feudal system is an occasion for saying goodbye to some old friends—the more esoteric aspects of the system that people such as Fergus Ewing, Robert Brown, Christine Grahame, Roseanna Cunningham and I laboured to comprehend in our law classes at university.

So it is goodbye to entails and—by section 53—goodbye to thirlage, a form of restrictive trade practice that I always thought particularly interesting. Saddest of all, it is goodbye to the kindly tenants of Lochmaben, an admirable body of people. I am surprised that they are being cast out in this manner, when their very name sounds like a social inclusion partnership. We are allowing them to pass without any reference to the tradition that they derived their heritable tenancies from grants made by King Robert the Bruce to his personal servants and their families. I am surprised that members of the Scottish National party—who are always telling us to remember Bannockburn—are prepared to cast such fine people into the legal dustbin with no further thought or comment.

However, we accept that any legal system must adapt or atrophy. There is no doubt that feudalism has many faults and there have been many changes to the system over the years. Most recently, the Land Tenure Reform (Scotland) Act 1974 prevented the imposition of new feuduties and provided for compulsory redemption on sale and voluntary redemption at return dates. In conjunction with the pernicious effects of inflation, that has meant that feuduties, for years, have been dying a lingering death. It is only right and proper that the Parliament should finally put them down.

Before members rush to condemn the feudal system out of hand, a number of factors ought to be remembered. We should remember that outright ownership of land does not mean licence to do as one pleases. There will still be a need for conditionality to be attached to the ownership of land; that was one of the strengths of the original system. We must be careful, in reforming our system, not to throw the baby out with the bath water.

Indeed, the saving provisions in the bill have been constructed out of recognition of the value of the feudal system and of the fact that certain categories of burden are beneficial to our community. Those have been identified as common facilities burdens, neighbour burdens, conservation burdens and maritime burdens. I welcome the fact that those are to be preserved. Those sections of the bill will require careful examination in order that their utility is preserved for future generations of Scots.

A number of concerns have been raised in the consultation process and are well recorded in the Justice and Home Affairs Committee's report. I welcome the minister's open mind on, for instance, the proposed limit on the length of commercial leases. We have to be careful on that, because although 125 years may seem like an eternity to us, that is not necessarily the case in terms of the lifetime of buildings and the investment in them by property companies. We should seek further evidence on the subject before finally determining a figure.

We should also look to amend compensation, which is another area of concern. The evidence of the Royal Institution of Chartered Surveyors suggested that the proposed redemption factor is too high for today's market and the payment period of 10 years too long. I welcome Christine Grahame's call for a reduction in the multiplier and a shortening of the instalment payment period. The Executive should take up that suggestion and, if I may say so, ignore the suggestion of Pauline McNeill, who went in precisely the opposite direction by saying that the instalment facility should be extended.

If we are going to put the feudal system down, let us do it neatly and tidily and in reasonable time. We must not prolong the collection-and-payment agony.

In principle I am happy to support the bill to abolish the feudal system, but we should pay tribute to its achievements. It married private interest with public and communal interest—an achievement that I would have thought would make it a model for new Labour in its desperate search for the third way.

The feudal system's most important function was as a system of development control. In that respect it has proved far more successful than many of our modern representatives in local government. It was, of course, the feudal system that created the architectural glories of Edinburgh's new town, but it was the Town and Country Planning Acts and local planners and councillors that ruined Princes Street. Tricia Marwick was well wide of the mark when she suggested that this reform is some 200 years too late.

The end of the feudal system will mean the welcome end of abuses of the system by superiors. Contrary to the myth that the feudal system was exclusively a charter for unscrupulous private individuals to buy up superiorities to exploit the system and extract money from the rest of us, many of the worst offenders are—as my friend Phil Gallie pointed out—Labour or SNP-run local authorities. Labour-run City of Edinburgh Council charges £50 plus VAT for consent to install new windows and patio doors. It charges £200 plus VAT for consent for the erection of a porch or conservatory. Angus Council—run by the SNP—charges £60 plus VAT for such consent.

The Deputy Presiding Officer: Wind up, please.

David McLetchie: Local authorities' imposing those charges on top of charges for building warrants and planning consents is a clear abuse of the system. Edinburgh's council seems to be using the system as a means of controlling alleged anti-social behaviour. One of the first cases to be referred to me as an MSP concerned a dispute among neighbours in Wester Hailes. I discovered that a housing officer from the council had written to one of the parties in the following terms:

"I am aware that you have bought your house, however the Council remains your feu superior and if necessary I can instruct our lawyer to irritate the feu and I will seek recovery of your property."

Stripped of legalese that means, "We can throw you out of your home without a penny in compensation unless you behave."

The Deputy Presiding Officer: I am sorry, Mr McLetchie, but you are almost two minutes over your allotted time.

David McLetchie: I beg your pardon.

Those abuses should be eliminated now. The appointed day is too long away and I call on the Executive and the SNP to instruct their colleagues in councils to end such abuses of the system. They can do that without legislation and without waiting for two years.

I am sorry to be in your black book, Presiding Officer.

The Deputy Presiding Officer: You were two and a half minutes over time, in fact.

16:43

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Some of us who were asked to speak in this debate thought initially that we had drawn a short straw. We wondered what we had done in our past lives to deserve this, especially when we saw the word "burden" in the bill. We wondered whether this was another such

burden—real or otherwise.

Those of us who made the mistake of picking up the bill before picking up the explanatory notes had the thought that we had been stitched up confirmed. When we saw phrases such as “dominant tenement” we wondered whether that was the medieval equivalent of high-rise flats. “Disentailment on the appointed day” sounded particularly nasty and made me think of the removal of specified risk material. We were glad—on further perusal—to see that thirlage was to be abolished. Anyone still being forced to take his or her corn to a particular mill will be grateful when this bill is passed.

As David McLetchie said, the south-west of Scotland will never be the same again after we sweep away the kindly tenants of Lochmaben. I have a vision of those harmless descendants of the good King Robert sitting in their cottages reading *The People's Friend* and Francis Gay's column in the *Sunday Post* being snuffed out by the onset of the new millennium. As the minister said—they have to go.

Robert Brown said that the bill is interesting historically. The list of statutes that it will repeal includes several that were passed by previous Parliaments of Scotland, and some that date from before the union of the Crowns. That, perhaps, brings home to us how much in need of review some of the legislation is.

Let us be clear that this is a serious matter and that reform is long overdue. Jim Wallace talked about this being detailed legislation and the difficulty of finding time at Westminster for such legislation. Robert Brown made the same point. It is therefore a pity that the list of devolved subjects is not much longer, so that we can extend that valuable principle to deal with other matters, which we are not allowed to deal with at the moment.

Roseanna Cunningham referred to the tight time scale under which the committees have to work. We will have to address that problem, which could be worsened if the membership of the Parliament is reduced in accordance with the Scotland Act 1998. That would certainly have implications for our committees.

More important in the short term, Roseanna Cunningham raised the issue of the paramount superiority of the Crown, to which other members have alluded. We heard about a legal opinion, which was received only today. We look forward to further discussions on that issue, because it is certainly complex. There does not seem to be unanimity on it among lawyers—as if there ever is.

Roseanna Cunningham, Christine Grahame and Robin Harper mentioned the bill's omission of the public interest as a concept. I would welcome comments on that, as it is a valuable concept that

we should include in the bill if at all possible.

Several members picked up on the issue of a restriction on the number of claims for compensation for feus. That argument seems to be worth pursuing.

Phil Gallie referred to some abuses that would be removed by the bill. He also referred, as did his leader, to the waiver of charges levied by councils. Whether we should criticise councils for levying charges, given their other financial difficulties, is a moot point. Both Phil Gallie and David McLetchie felt free to mention that, but perhaps the only reason there are no Tory councils levying such charges is that there are no Tory councils.

Brian Monteith spoke affectionately of feudalism. One could almost picture him using the same arguments in defence of the hereditary House of Lords; the arguments seemed almost identical. However, it seems strange that the Tories should defend a tradition that is Norman French in origin, given their antipathy to our continental neighbours.

Mr Monteith: Will the member confirm that Robert de Buis was Norman French in origin?

Alasdair Morgan: Yes, but I have no antipathy towards our continental neighbours. We also know, in the context of Bruce and Wallace, where the Monteiths were on one occasion.

Phil Gallie also mentioned the maximum length of non-residential leaseholds. He referred to some objections, but I need to be convinced that we must have planning horizons of greater than 125 years. In my experience, most commercial enterprises have planning horizons that are far too short rather than far too long. I am not sure how much time we are allowed in this debate.

The Deputy Presiding Officer: You have another minute.

Alasdair Morgan: Fergus Ewing raised some problems regarding the 100 m rule in rural areas. I hope that the minister can say either that his fears are unfounded or that they will be addressed in a review of the legislation.

Fiona Hyslop ingeniously identified the possibility of using the bill to tackle a problem in relation to repossession orders. That is an interesting suggestion and I will be interested to hear whether the Executive might consider bringing that forward.

As the minister said, we must be grateful to the Scottish Law Commission for its work on this issue. If reading the bill is difficult, it must have been a hundred times more difficult to write it. I welcome the bill; it is an overdue reform of our anachronistic legislation and it is part of a wider reform relating to land.

16:50

The Deputy Minister for Justice (Angus MacKay): Thank you, Presiding Officer. How long do I have to speak?

The Deputy Presiding Officer: You have nine minutes.

Angus MacKay: That should be more than enough time to deal with the complexities of the bill.

I have listened with substantial interest—to my astonishment—to the contributions of MSPs from all parts of the chamber. Some MSPs spoke with drawn looks on their faces; others with great enthusiasm. I would like to put on record my thanks to the Scottish Law Commission and anybody else who was involved in the drafting of what seems to be an inordinately long and complex bill.

I am sure that nobody in the chamber would disagree with the suggestion that the feudal system should be abolished and replaced with a system of simple ownership of land. Nevertheless, a substantial number of matters of detail were raised in the debate today and it is right that there should continue to be further debate.

In its stage 1 report on the bill, the Justice and Home Affairs Committee welcomed the Executive's willingness, expressed in the policy memorandum, to indicate areas on which we had not yet reached a final view. In the same spirit, the Executive continues to welcome constructive suggestions that are intended to improve the final bill. I am sure that members will agree that this Parliament should produce high-quality legislation and, particularly in this area, get the legislation right. The Minister for Justice has mentioned some areas where we intend to lodge amendments to improve the bill.

Christine Grahame said that strong coffee would be required by anyone sitting down to read the bill or any of the attendant briefings. I think that something stronger than coffee would be required.

I was entertained and amazed by the contributions of Mr McLetchie and Mr Monteith. I almost got the impression that if Scotland still had legislation allowing slavery and transportation, it would be our duty to defend that legislation in the interests of Scottish history.

Mr Monteith: Does the minister recall that it was a Tory who brought forward the abolition of slavery in Britain?

Angus MacKay: I do not think that I will get into that debate, as I might be tempted to make comments that I would regret later.

Mr McLetchie referred the Wester Hailes case that he spoke about to Mr Gray, as Mr Gray was

the constituency MSP. His action is an example to all the regional list MSPs in the chamber.

One of the earliest points that was made today was that this is not a stand-alone bill. The Minister for Justice covered that in his opening speech and said that we will continue to monitor the position carefully while the Scottish Law Commission develops its proposals on title conditions. He made it clear when the bill was announced that it was closely related to the report on real burdens that was still to be produced by the Scottish Law Commission. We have at no time attempted to hide that fact, which the Justice and Home Affairs Committee would acknowledge to be the case.

Roseanna Cunningham suggested that payment of compensation could be tied to the provision of information on land holdings. Whether that can be done is questionable, as the entitlement to compensation is linked to the European convention on human rights. The removal of the right to feuduty might be regarded as a form of expropriation. We might be able to take action on that matter, but will wait until the committees have conducted detailed examination of the bill.

A similar situation exists with regard to the suggestion of a cap on compensation for feuduty. It might be that, under the European convention on human rights, such a cap would constitute expropriation of the superior's property. We will take cognisance of that when we consider amendments.

At a late stage—something that the Scottish National party acknowledged—the opinion of Sir Crispin Agnew of Lochnaw QC was brought forward. It would be helpful if the Executive were able to take some time to reflect on Sir Crispin's opinion. However, an interesting and important point is raised, in relation to the interest of the Crown. That was echoed by Robin Harper, among others.

In so far as the Crown is a paramount superior, it can only enforce private rights in land. The Crown exercises its public interest role through giving royal assent to acts of Parliament and through the actings of public authorities. It follows, then, that there should be no need to prescribe specifically in any bill that the Crown acts in the public interest. That point bears further examination. At the time of its consultations on general land reform, the land reform policy group invited comments on the proposal for an enhanced role for the Crown in relation to the ownership of land. There was little support among respondents at that time for the creation of new public rights for the Crown. The idea was—rightly, I think—regarded as undemocratic, old-fashioned and potentially extremely expensive.

The feudal system of land tenure and the

general law of real burdens—that is, conditions on land—relate to the private regulation of land by property owners, including ordinary householders. The feudal system itself provided a kind of planning system, before such legislation was ever in existence. Its effect has been felt much more strongly in urban than in rural areas, so abolition will also impact more strongly in towns and cities than in the countryside.

It is difficult to see how the Crown could represent the public interest in relation to burdens affecting tenement property or burdens imposed by local authorities when, for example, council houses were sold under the right-to-buy legislation. The Scottish Law Commission has been extensively consulted on the arguments put forward by those who wish to see a statutory provision for public interest in land, by means of the Crown playing some kind of guardianship role.

The commission has commented that such an approach would mean that feudalism would not be abolished. Property owners would remain as feudal vassals, albeit as direct vassals of the Crown. The bill would require fundamental surgery and feudal law would have to be retained, to regulate the relationship between Crown and subject. As a result, the new system would continue to be almost as complex as the existing one.

One of the important benefits to be derived from feudal abolition is a uniform, clear, simple system of land ownership. That would not be achieved if the vassal-Crown relationship were retained. The commission has commented that it might be absurd to preserve the feudal system merely to allow the symbolic declaration of public interest. It went further, observing that such a declaration had little relevance to tenement flats and other urban properties. That gives a strong case of presumption against the notion that we should retain public interest vested in the Crown. Again, if members feel sufficiently strongly, it is an issue that can be further debated at stage 2.

I will pass on from the issue of the lack of defined public interest in relation to the Crown, as it is bound up in one debate. Tricia Marwick referred to the lack of research on properties subject to feuduties, an issue that has been raised in other quarters. There is no reason to doubt the accuracy of the Scottish Law Commission's assessment that less than 10 per cent of properties in Scotland are still subject to feuduty and that most of those sums are small. Many who have sold a property since the Land Tenure Reform (Scotland) Act 1974 have had to redeem the feuduty on that property. In this legislation, we are effectively sweeping up the remainder, but at stage 2 we can look again at the detailed arrangements for payment by instalments to

minimise any risk of hardship.

To address one final point, Phil Gallie raised the issue of the 125-year limit on commercial leases. The 125-year figure emerged from the Scottish Law Commission after consultation on that specific issue. The Executive recognises that there is room for argument and will be willing to discuss precise figures further at stage 2. As the Minister for Justice explained earlier in the debate, abolition of the feudal system is simply the first step in a programme of property law reform. This bill will be followed by another on real burdens and title conditions, which will in turn set the scene for the reform of the law of the tenement. The programme of technical reforms of property law should be seen as running in tandem with that of more general land reform.

Apart from the land reform bill and the bill to introduce national parks in Scotland, in future years, there will be further legislation on sites of special scientific interest, agricultural holdings and crofting. I am delighted that, after many years of neglect and inertia, land and property reform will at last take centre stage in political debate, forming a major part of the Scottish Parliament's initial legislative programme.

The Presiding Officer (Sir David Steel): That concludes the debate.

Abolition of Feudal Tenure etc (Scotland) Bill: Financial Resolution

Motion moved,

That the Parliament for the purposes of any Act of the Scottish Parliament resulting from the Abolition of Feudal Tenure etc. (Scotland) Bill, agrees to the following expenditure out of the Scottish Consolidated Fund—

(a) expenditure of the Scottish Administration in consequence of the Act; and

(b) increases attributable to the Act in the sums payable out of the Fund under any other enactment.—[*Mr McConnell.*]

Sitting Days

Motion moved,

That the Parliament agrees

(a) that between 20 December 1999 and 28 April 2000 (inclusive) the office of the clerk will be open on all days except: Saturdays and Sundays, the afternoon of 24 December, 27 December to 31 December inclusive, 3 January, 4 January, 21 April and 24 April; and,

(b) that the Spring recess should begin on 10 April and end on 24 April.—[Mr McCabe.]

17:01

Michael Russell (South of Scotland) (SNP): Can I speak against the motion?

The Presiding Officer (Sir David Steel): Yes.

Michael Russell: I do not intend to suggest a division. However, an issue has arisen that relates to the recess. Members will be aware that the agricultural business improvement scheme has caused much consternation in recent months and has been the subject of an inquiry by the Rural Affairs Committee, which will report tomorrow. It is essential that the business of the ABIS be settled by the end of December, as European legislation payments have to be approved by that time. Currently there are 4,000 outstanding payments, amounting to £22 million—many people have expended money under the scheme.

At lunch time today, the Scottish National party gave the Executive notice that we wished to use the last hour of tomorrow's Opposition time to debate motion S1M-376, in the name of Fergus Ewing, to allow the Parliament to discuss the matter before the recess. If we do not discuss it before the recess, many thousands of people will be disadvantaged.

The Executive has refused that request. That interferes with the right of Opposition parties to nominate the way in which they wish to use Opposition time. I ask Mr McCabe to reflect on the matter. I hope that when we meet tomorrow, the Executive will have accepted that the Opposition can bring the matter for debate. The issue has a direct consequence for thousands of people and, given the commitment made by Lord Sewel to pay the money, for the integrity of the Government.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): On a point of order. In November, I lodged a motion in much the same terms as the one to which Mr Russell refers. Why is it that no members of the SNP have bothered to take up the issue until today? We have wasted a whole month.

The Presiding Officer: That is not a point of order; it is a point of argument.

17:02

Alex Johnstone (North-East Scotland) (Con): I would like to take this opportunity to associate the Conservative party with the remarks made by Mike Russell. This week, I visited the Highlands and spoke to many farmers who are affected by the situation, and it is a matter for grave concern. We are as concerned as the SNP. I commend the SNP for its decision to volunteer part of its time and I hope that that is successful.

17:03

The Minister for Parliament (Mr Tom McCabe): There is a need for some reflection. We are discussing a motion on the recess that was agreed only yesterday in the Parliamentary Bureau. Yesterday, the SNP had the opportunity to alter its choice of subject for the debate on non-Executive business—it did not take it.

The request is at such short notice as to be a discourtesy to the whole chamber. I am surprised to hear the convener of the committee that is about to report to the Parliament on the subject requesting a debate before all members have had an opportunity to consider the report. That is another discourtesy.

There are very good reasons why the Executive has said that if it behaved in that manner, the SNP and Mr Russell would be the first to criticise. We do not wish to accede to the request.

Decision Time

17:04

The Presiding Officer (Sir David Steel): The first question is, that motion S1M-338, in the name of Mike Rumbles, on the Standards Committee report on cross-party groups, be agreed to.

Motion agreed to.

That the Parliament agrees the arrangements for the regulation of Cross-Party Groups in the Scottish Parliament set out in the annex to the Second Report of the Standards Committee and that these should apply with immediate effect.

The Presiding Officer: The second question is, that amendment S1M-378.1, in the name of Andrew Wilson, which seeks to amend motion S1M-378, in the name of Jack McConnell, on the draft 2000-01 budget level 2 figures, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

The Deputy Minister for Communities (Jackie Baillie): On a point of order.

The Presiding Officer: We cannot have a point of order in the middle of a division. I will take it as soon as I have announced the result.

Jackie Baillie: But it is because my console is not working.

The Presiding Officer: Just a minute.

FOR

Adam, Brian (North-East Scotland) (SNP)
Campbell, Colin (West of Scotland) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Gibson, Mr Kenneth (Glasgow) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harper, Robin (Lothians) (Green)
Hyslop, Fiona (Lothians) (SNP)
Lochhead, Richard (North-East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
MacDonald, Ms Margo (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McLeod, Fiona (West of Scotland) (SNP)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Reid, Mr George (Mid Scotland and Fife) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Russell, Michael (South of Scotland) (SNP)
Salmond, Mr Alex (Banff and Buchan) (SNP)
Sheridan, Tommy (Glasgow) (SSP)
Sturgeon, Nicola (Glasgow) (SNP)

Swinney, Mr John (North Tayside) (SNP)
Ullrich, Kay (West of Scotland) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Davidson, Mr David (North-East Scotland) (Con)
Dewar, Donald (Glasgow Anniesland) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Fergusson, Alex (South of Scotland) (Con)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gallie, Phil (South of Scotland) (Con)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gorrie, Donald (Central Scotland) (LD)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Henry, Hugh (Paisley South) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Johnston, Nick (Mid Scotland and Fife) (Con)
Johnstone, Alex (North-East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McAllion, Mr John (Dundee East) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McLeish, Henry (Central Fife) (Lab)
McLetchie, David (Lothians) (Con)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Monteith, Mr Brian (Mid Scotland and Fife) (Con)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Mundell, David (South of Scotland) (Con)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Ms Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Radcliffe, Nora (Gordon) (LD)
Raffan, Mr Keith (Mid Scotland and Fife) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)

Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Tosh, Mr Murray (South of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Ian (Ayr) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Young, John (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 32, Against 78, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: Does Jackie Baillie have a problem?

Jackie Baillie: My console is not working, despite the fact that my card is inserted.

The Presiding Officer: How do you know that it is not working?

Jackie Baillie: Because the wee light keeps flashing when I press no.

The Minister for Children and Education (Mr Sam Galbraith): Very technical. Go to another one.

The Presiding Officer: I am not an expert on these things, but, yes, if you go to another console, we will see whether your little light flashes then.

The third question is, that motion S1M-378, in the name of Jack McConnell, on the budget level 2 figures, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There is some disagreement, so we will have a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Dewar, Donald (Glasgow Anniesland) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)

Henry, Hugh (Paisley South) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 MacLean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, Mr John (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Ms Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Ian (Ayr) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Elder, Dorothy-Grace (Glasgow) (SNP)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)

Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Johnston, Nick (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 McLetchie, David (Lothians) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Mundell, David (South of Scotland) (Con)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Mr Alex (Banff and Buchan) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 64, Against 50, Abstentions 0.

Motion agreed to.

That the Parliament commends the Executive's expenditure plans published in the consultation paper Spending Plans for Scotland on 17 November 1999 and endorses the spending priorities set out in the paper in line with the commitments of the Partnership Agreement and the Programme for Government.

The Presiding Officer: The fourth question is, that motion S1M-214, in the name of Jim Wallace, on the general principles of the Abolition of Feudal Tenure etc (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Abolition of Feudal Tenure etc. (Scotland) Bill.

The Presiding Officer: The fifth question is, that motion S1M-236, in the name of Jack McConnell, on the financial resolution in relation to the Abolition of Feudal Tenure etc (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament for the purposes of any Act of the Scottish Parliament resulting from the Abolition of Feudal Tenure etc. (Scotland) Bill, agrees to the following expenditure out of the Scottish Consolidated Fund—

(a) expenditure of the Scottish Administration in consequence of the Act; and

(b) increases attributable to the Act in the sums payable out of the Fund under any other enactment.

The Presiding Officer: The sixth question is, that motion S1M-382, in the name of Mr Tom McCabe, on sitting days, be agreed to.

Motion agreed to.

That the Parliament agrees

(a) that between 20 December 1999 and 28 April 2000 (inclusive) the office of the clerk will be open on all days except: Saturdays and Sundays, the afternoon of 24 December, 27 December to 31 December inclusive, 3 January, 4 January, 21 April and 24 April; and,

(b) that the Spring recess should begin on 10 April and end on 24 April.

The Presiding Officer: That concludes decision time.

Fife Rail Service

The Presiding Officer (Sir David Steel): Members' business tonight is motion S1M-379, in the name of Tricia Marwick, on the Fife rail service. Helen Eadie will open the debate. I ask members who are not waiting for the debate to be courteous and leave very quietly.

Motion debated,

That the Parliament notes with concern the appalling level of rail services being provided to the people of Fife and makes representations to ScotRail and Railtrack to improve this service; notes with concern the overcrowding on these trains and the health and safety issues this presents; calls upon ScotRail to announce and implement an immediate action plan to improve punctuality, reduce train cancellations and increase the number of carriages on peak-time trains, with such an action plan to have been successfully implemented within six months, and further calls for an explanation why the new rolling stock which was ordered from the train manufacturing companies by ScotRail for use on this line has still not been delivered more than four years later.

17:09

Helen Eadie (Dunfermline East) (Lab): When it comes to high levels of unemployment, we in Fife are behind only the western isles and the Strathclyde area. Our routes into Edinburgh and the jobs there are our lifelines. The people of Fife have problems of access that are different from Edinburgh's problems of congestion. The people in my constituency want to travel by train and to use public transport. However, on cold, rainy and icy mornings, who will trade their car, with its heating and its stereo, for waiting on trains that either never seem to come or, if they do come, simply pass by without letting passengers on? Recently, I even witnessed commuters being put off an early morning train because of overcrowding.

In just two months, I have received more than 600 complaints—nearly 300 postcards and more than 300 letters. We all know that signing a postcard is relatively easy. However, the feelings expressed in some of the passionate and detailed letters that I have received would go right off the Richter scale of anger. Older, slightly infirm passengers in Fife should forget trying to travel in peak hours, as should pregnant women. In one of the most recent letters that I have received, a woman due to give birth in only two or three months said that she was told by ScotRail to get a later train into work. People who are disabled or are in a wheelchair should not even think about travelling on those services.

Some letters are diaries of inconvenience and financial loss. Commuters and their employers suffer economic loss because of ScotRail's

absolute inefficiency. Although commuters complaints mainly relate to peak travelling times, others question why there are no late-night services on Fridays and Saturdays. Adding insult to injury, people in Fife have the most expensive train fares per kilometre of any rail service in Scotland. The trains are so packed that conductors are not able to collect fares from passengers if and when those passengers are able to join trains from unstaffed stations. Furthermore, stations are often closed with no notice. Fare-paying passengers speak of the manifest unfairness of fares remaining uncollected and are angry at the loss of essential revenue that could be invested in new rolling stock.

ScotRail says that, in trying to increase the frequency of the trains, it has had to put on two-carriage trains, which are faster. However, that means that commuters have been deprived of the previous three-carriage trains. Trains are so old that ScotRail put around the story that a mechanic travelled on the older trains in case they broke down.

We have now been told that Fife will be provided with a cascade of left-over trains from the Edinburgh-Glasgow line. However, it is not clear when that will happen and any doubts that I might have are based on my experience of the past four years. In that time, I have witnessed my colleagues' most intensive efforts to secure extra seating capacity for commuters in Fife. For four years, we have lived on promises, promises and yet more promises that we would have newer and bigger trains.

It is clear that our country has a major problem with timeously acquiring new rolling stock. Of more than 500 trains that have been ordered in the past few years, only 75 have been delivered. There should be a major investigation of the manufacturers, who are apparently inept. It is becoming the norm for peak hour trains only to offload passengers from Inverkeithing onwards into Edinburgh, with every other passenger in Inverkeithing, Dalmeny and South Gyle often left standing helpless and angry on the platform.

This is the first joint-member cross-party motion before the Parliament. Cross-party support for the motion in Fife should send a powerful message to this Parliament and to all the agencies concerned. Since the introduction of the new 15-minute Edinburgh-Glasgow service, what was a dreadful service in Fife has now become diabolical. I have ensured that copies of every letter, e-mail and postcard on this matter that I have received have been sent to ScotRail; Railtrack; Deputy Prime Minister John Prescott; Sarah Boyack, Minister for Transport and the Environment in the Scottish Parliament; the rail regulator; and the rail franchise director.

ScotRail's performance is said by the rail regulator to be second only to the Isle of Wight. I have two comments to make about that. First, pity help the rest of the country. Secondly, that fact raises serious doubts about the software used by the rail regulator. For example, does that software emanate from Electronic Data Services, which was at the heart of many other major problems in the country's computerised systems?

ScotRail spokespersons have been quoted in press reports as saying that the Fife campaign is more about me trying to heighten my political profile. When people are losing the argument, they try to personalise the issues. I was elected to the position of roads and transportation spokesperson in Fife in 1996, from which time I have been acutely aware of the deplorable rail services in that part of the country. All the successes in improving the services have been due to Fife Council and the Scottish Executive and not to the privatised rail companies. I am not opposed to public-private partnerships when the partnership is real and meaningful, but in Fife, it is the public bodies that have delivered on transport issues, while the private sector has left question marks.

People in my constituency want to know how much longer they must suffer at the mercy of ScotRail, which is treating semi-rural and rural areas across Scotland with contempt. I appeal to the Parliament to support the motion and to require quality customer care and service level agreements to be paramount in all future dealings with train operating companies.

17:15

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

Before I begin, I should declare an interest. In an attempt to follow the best and friendliest environmental practices, as promoted by the Parliament, I am a rail commuter. I travel every day from Markinch and have done for many years.

I have travelled the railways of Fife before, during and after privatisation. The rolling stock on which Fifers are expected to travel predates even my first rail journey. Indeed, I suspect that the rolling stock is almost as old as I am. I have never before suffered the sustained delays and the shoddy standard of service which we have had to put up with in Fife during the past few months.

After standing on a cold platform in a futile wait for a train that simply does not arrive, we are offered platitudes, not reasons. Sometimes we are even offered apologies. Such is the anger of the commuters in Fife that at my station the clerk has the complaint forms ready for us before we ask for them. On the occasions when the long, cold wait yields a result, an old, dirty multiple unit from the 1950s rattles and belches its way through Fife.

Ancient rolling stock running on lines that have been starved of investment for years is not a recipe for a punctual or comfortable journey.

Sometimes the problem is the wrong kind of snow; sometimes it is the signals, the track, the points, engine trouble, the fact that there are no staff to man the station or a slow-moving train in front of us. Always, the problem is uncertainty, delay or cancellation. By the time that the trains pull into Inverkeithing, they are so overcrowded that they closely resemble cattle trucks.

Helen Eadie has already mentioned the problem of people at South Gyle and Dalmeny who simply do not get on. People from Inverkeithing stand in the aisles, because there is no space. They do not fall down, because so many people are jammed up against them that it is impossible to move in any direction—sideways, upwards or downwards. Initial relief at the eventual arrival in Edinburgh is tempered by the inevitability of the return journey. It is little wonder that ScotRail bosses declined my invitation to join their customers on the journey from Markinch to Edinburgh.

Among the platitudes that pass for excuses for the service, we are told that Fife is suffering because of a delay in getting new trains for the Edinburgh-Glasgow line. What is the relevance of that? The answer is that Fife is waiting patiently for the cast-offs from that line—the trains that are currently running between Edinburgh and Glasgow.

The message from the Parliament to ScotRail and Railtrack is that while we may not be the flagship Edinburgh-Glasgow line, we are not second-class commuters. It costs £46 a week for the privilege of travelling from Markinch to Edinburgh. We do not want second-hand rolling stock, nor do we want a second-class or, more likely, a fifth-class service, which is what we get at the moment.

I expect my work in the Parliament to be challenging. I do not expect the 25-mile trip home to be even more challenging. We cannot expect people to move from using their cars to using the train when the journey home at the end of the night is a fraught and uncertain experience.

I urge the minister to make representations to Railtrack and the operators about the service. Otherwise, commuters will vote with their feet—or their cars—and the already overcrowded Forth road bridge will be more congested than ever.

17:19

Iain Smith (North-East Fife) (LD): First, I thank Helen Eadie and Tricia Marwick for their initiative in obtaining this debate. *The Herald* suggested this week that I had taken a vow of silence by

being the Liberal Democrat whip, so I would like also to thank my ministerial colleague Sarah Boyack for allowing me to speak as a constituency member, which ministers do not usually get to do.

Like Helen Eadie and Tricia Marwick, I have to declare an interest. I commute from Ladybank—or try to commute from Ladybank—by train every day. I say “try to commute” because it is not always easy. I, too, have suffered the problems of rail in Fife over the last few months, with cancellations of services, delays, overcrowding and a lack of information.

One day, not long ago, I was waiting at Ladybank station for the 7.50 train, which decided not to bother turning up. I spent 40 minutes in the freezing cold on the platform of a closed station with no staff; there were no announcements on the so-called public information system. The 8.30 eventually arrived, a two-carriage train which took the place of the six carriages that should have formed the two services. I stood all the way to Edinburgh.

Sometimes, I do have a slight smirk when the train that I am in passes through Inverkeithing and I see some of my parliamentary colleagues desperately waiting to get on the train. They cannot get on, and the train passes by. I am fortunate enough to get on at a stage when there is still an occasional seat. Frankly, that is not good enough. There needs to be better rolling stock and more seats. It is not good enough that Fife has to wait for improvements elsewhere before it gets new rolling stock.

ScotRail recently ran a trial of a new Turbostar, which it hopes to run from Edinburgh to Aberdeen soon. I managed to persuade ScotRail to make an extra stop at Ladybank to pick me up and let me have a little shot on this fancy new train. I did not just get a shot on the train; I spoke directly to ScotRail executives. I have said to ScotRail representatives in the past, “Why not come to Ladybank some morning, join a train with me and see for yourself how bad it is?” I am still waiting for them to find time in their busy diaries to do that, but I at least got an opportunity to speak to them on that new train and to raise the concerns of Fife commuters.

I got some assurances from them that we are to get some improvements. They told me that all the Turbostars were finally in place for the Glasgow-Edinburgh service, and that better trains, which would improve the service and reduce the delays in the morning, were in the pipeline. Sadly, the last few journeys that I tried to make were subject to delays, overcrowding and cancellation.

The improvements that ScotRail keep promising us do not materialise. Frankly, the people of Fife have had enough; the train service is not good

enough. We have had enough and it is time that ScotRail and Railtrack did something about it. I am critical of their management, but, to be fair to them, they have to pick up the pieces from many years of significant under-investment. I see that Nick Johnston is the one member still on the Conservative benches. The Conservatives were not known to be friends of the railways.

In the immediate run-up to privatisation, there was a block on new investment in trains. As Helen Eadie will confirm, Fife Council had orders for new trains waiting to be filled as part of the improvement to Fife rail services. The trains could not be built because privatisation was coming up and no orders were allowed to be placed. That was absolutely ridiculous. We are still waiting for the new trains that Fife Council tried to order around six years ago. It is a disgrace that that is the case, but it is a result of the freezing of investment in the rail service at the time.

It is also a disgrace that, yet again, there has been a surprise rise in the value of Railtrack profits, as I learned today from Ceefax which, unlike Alex Salmond, I watch during the day rather than at midnight. Railtrack will be allowed to make even more profit. That is not what they should be doing, which is taking less profit and investing more in the railways, improving services, signalling, track and stations. Those things need to happen now—not profit for Railtrack.

I want to see big improvements in the rail service in Fife in future years. Only 1 per cent of journeys made in Fife are by rail, and that is not enough; the figure should be significantly higher. In particular, there should be more opportunities to travel to Edinburgh and Dundee from Fife. I want there to be more services to fill the current gaps at Ladybank, Cupar and Springfield. I want there to be improvements at stations and better information systems for passengers, particularly at unmanned stations. I also want there to be new stations at Wormit and Newburgh and, ultimately, a restoration of the St Andrews rail link.

The immediate priority for ScotRail must be to get its act together by providing the people in the north-east and the rest of Fife with a reliable, punctual and comfortable rail service to replace the unacceptable, unreliable and overcrowded services that we suffer at present.

17:24

Nick Johnston (Mid Scotland and Fife) (Con):

I thank Tricia Marwick for initiating the motion and Helen Eadie for following her lead in exposing the horrendous service from ScotRail and Railtrack. I take Iain Smith's point, surprisingly enough. There was a lack of investment in railways before privatisation but, since privatisation, most services

have improved. I used to travel often to Newcastle and the Great North Eastern Railway service on the east coast line is superb. There is no reason why ScotRail cannot give that level of service.

I was going to declare an interest but I do not need to any more because I have stopped travelling by train. I travel in from Kinross every day, a journey that over the past four weeks has averaged an hour and a quarter. This morning I left home at quarter-past 7 and got into the Parliament building at 5 minutes to 9. I have three choices: bus, car or train. I can get the bus door to door at £5.30 return; it is a good service but it meanders round by Dunfermline. I can drive, park all day, and drive home again, which costs the Parliament £42 a day. I can drive to Inverkeithing, which takes 15 minutes and, if I am lucky, get a train within half an hour. If I am very lucky, I will be in Edinburgh within 20 minutes, and that costs the Parliament £23.60. Sometimes I even get a seat.

My personal assistant's experience of trying to get the train from South Gyle is that she often misses not one or even two but three trains because of the terrible overcrowding. She often refuses to get on trains, even when the guard has opened the doors, because she feels that it is dangerous. There was a report in *The Scotsman* the other day of a train, I think on the Falkirk line, where a door burst open and the guard had to stand in the door to stop passengers falling out. That is not acceptable in 1999.

As a Conservative, and so by definition a fair-minded person, I contacted ScotRail and Railtrack. As other speakers have said, ScotRail's response was that the

"state of the Edinburgh-Fife rail service has been because late delivery of new Turbostar trains for Edinburgh-Glasgow"

delayed

"the elimination of the 40-year-old and increasingly unreliable Class 117 units used on the peak-hour Edinburgh-Fife services."

I am not a trainspotter so that means little to me.

"Meanwhile we were also experiencing unusually high levels of long-term sickness at Edinburgh, and in the midst of our worst period there was a particularly bad train failure on 22 October resulting from an unsolicited brake application."

I do not know what an unsolicited brake application is. Maybe someone was so bemused by the overcrowding that they pulled the communication cord. I do not think that is a satisfactory explanation. If they cannot run the service, they should move over and let in someone who can. That is what privatisation is about. I hope that they move over.

Those in Railtrack had this explanation. They

"have employed a team of six to travel on the Fife circle monitoring the delays and to speak to drivers about problems on journeys."

Now, that will make a difference.

"All factors of the journey are investigated including fleet failures, pinch points, passenger delays at stations, and time in the timetable."

They also gave me a list of improvements but I do not want to steal Sarah Boyack's thunder. To save time I will not read them out. However, I welcome Railtrack's investment of £1.5 million to reopen a key, strategic missing link in the rail network, the route from Stirling to Dunfermline via Alloa.

"Parliamentary Powers need to be sought to permit the running of trains, or otherwise the route could be lost for rail use."

That is under way at present. Fife Council says that it will use increased borrowing powers to buy additional rail services to provide 300 extra seats in peak evening and morning periods.

I hope that these investments lead to an improvement in service because, if not, the Executive's transport policy is in tatters and its hope of moving traffic from road to rail is fruitless. I would rather spend an hour in my nice, warm car, even in a traffic jam, listening to music or dictating letters, than stand on a cold, dirty, draughty platform waiting for a train that never arrives.

17:29

Marilyn Livingstone (Kirkcaldy) (Lab): I am pleased to support this cross-party motion. The Fife rail service is paramount for the economic, social and environmental well-being of my constituency. In common with the rest of Fife, Kirkcaldy needs and depends on a rail service that is reliable, punctual, accessible and meets people's needs and that has safety as its first priority. Indeed, safety must be first, second and third on ScotRail's and Railtrack's agenda.

Since being elected in May, I, like Helen Eadie and Tricia Marwick, have travelled on the Fife line. My mailbag supports our frustration with and concerns about this appalling and inadequate service. As someone who has begun commuting only recently, and as a regular user of the rail service between Kirkcaldy and Edinburgh, I empathise with the feeling of frustration felt by constituents and members.

Too many trains are overcrowded. It is commonplace for large numbers of adults to be crushed like sardines—that is the only way to describe it—into corridors, with many people not able to board the train, and for arguments to take place at the door about who will board and who will not. Too many trains are cancelled without any explanation. Recently on the Kirkcaldy to

Edinburgh line, a class 117 train, which I believe is older than me, had serious engine failure, resulting in smoke being emitted from the engine area and penetrating the saloon. My constituents thought that the train was on fire.

According to the response to that incident that I received recently from ScotRail, the engine blew—in layman's terms—because those trains are well past their useful life. However, they have to be used on the Fife service in order to provide a "sufficient"—that is the word that ScotRail used—number of seats and capacity. I do not think that members would agree with ScotRail's use of the word "sufficient"—it is not the adjective that we would have used.

We want to encourage use of public transport. I support the minister's transport strategy and we are already seeing evidence that it is working. However, ScotRail must recognise commuters' needs and put in place a sustainable development plan for the line.

We must not forget that in many constituencies—including mine—an increased number of stops and stations is required. I hope that there will be an increase in the number of stations in Kirkcaldy, with stations at Dysart and, perhaps, Sinclairtown. Car parking is another major issue—the car parking at Kirkcaldy station is absolutely diabolical. If one arrives after quarter to 9, one cannot park anywhere near the station, which deters people from using public transport.

I, too, have written recently to ScotRail's managing director, Alastair McPherson, who, in his reply, acknowledged the problems and told me about his plans to introduce new rolling stock. Many members are aware of the delays to those plans, but he stated that the introduction of new stock was imminent. Although we look forward to that, I am concerned that it will amount to the cascading of second-hand stock. The Fife service must be seen not as a second-class service but as a major one. In addition to new rolling stock, we need increased capacity, which, we are told, there will be in 2000—but when?

I asked Mr McPherson to join me on a journey between Kirkcaldy and Edinburgh, and he has agreed. I look forward to putting these points—and others that have been raised today—to him.

I conclude by echoing the words of the motion. We call on ScotRail to announce and implement an action plan to ensure that we have reliable, punctual, safe and—important for my constituents—affordable rail travel.

17:33

Mr Keith Raffan (Mid Scotland and Fife) (LD): I will be brief, as I do not want to repeat what

every other member has said, although I could do so easily, as virtually every word of my speech has already been said.

I pay tribute to both Tricia Marwick and Helen Eadie for obtaining this debate. Regional members are not known for receiving as much constituency correspondence as constituency members receive, but I have had more correspondence on this issue than on any other. I went through that correspondence this afternoon and noted complaints of cancellations, overcrowding, delays, no new rolling stock, stations with little shelter—such as South Gyle—and less seating. There has been a particular deterioration since the autumn, aggravated, of course, by the delayed introduction of the newer rolling stock, which, as Tricia Marwick rightly noted, will amount to the cascading of cast-offs freed up by the introduction of faster trains on the Glasgow to Edinburgh line.

The Fife rail link is a crucial commuter route, but ScotRail is not treating it as such. As Iain Smith said, only 1 per cent of all journeys made in Fife are train journeys. We must strengthen the role of rail in Fife, leading towards an integrated transport system. I do not think that anyone disagrees with the minister's integrated transport strategy. However, we want to see her strategy implemented.

I commend the minister for sending me last week what I think was the first e-mail I have ever received from a minister. It was on the subject of the Forth road bridge, about which she had just attended meetings, and the measures to reduce congestion on the bridge.

On Monday, I was briefed by the Fife police constabulary, which emphasised to me the crucial need for a reduction in congestion on the Forth road bridge. That will not be achieved until there is a decent rail service. Nick Johnston was right to mention the importance of reopening the Stirling-Alloa-Dunfermline link, as that will help by removing freight from the Forth rail bridge and so freeing up the bridge for passenger services. Railtrack could have made more infrastructural improvements if it had not directed resources to the urgent renovation of the Forth rail bridge. Those renovations may have been necessary; I am not in a position to make that judgment. The fact is that Railtrack diverted resources that could otherwise have been used to fund infrastructural improvements on the Fife line. The reopening of the Stirling-Alloa-Dunfermline line as a passenger link would also be of some advantage.

I have covered some of the points that I wanted to make. I endorse what all other members have said in this debate. This is a cross-party motion. As a fairly regular speaker in this chamber, I do not think that I have ever heard the same views being expressed so strongly by members from all

parties. The views that we are expressing are the views of the people of Fife. There is a need for urgent action by both ScotRail and the Scottish Executive.

17:36

The Minister for Transport and the Environment (Sarah Boyack): I am grateful to both Tricia Marwick and Helen Eadie for initiating this debate. It is unusual to achieve such unanimity throughout the chamber and to have so many members present for a members' business debate. That reflects the frustration, the irritation and the anger that exist in Fife. I have been made aware of the postcards and letters that Helen Eadie has received, some of which have been diverted to my office.

Tommy Sheridan (Glasgow) (SSP): I ask the minister to take on board the fact that, although I am not opposed to her reference to unanimity throughout the chamber, I do not agree with what Mr Nick Johnston said about the success of privatisation. I hope that my presence here does not in any way suggest that I support privatisation. Privatisation is one of the problems in the delivery of the rail service.

Sarah Boyack: The unanimity that I was assuming was the fact that all members want a dramatic improvement in the quality of rail services to Fife and the rest of the country. I am sure that there are details—of which privatisation is the major one—on which we will disagree. However, the overall objective of improvement must be one on which we all agree. I want to express my concerns, as a minister, that the rail industry is not meeting the needs of Fife commuters or the needs of Fife leisure travellers. We must sort that out.

I am well aware of the growing complaints, and I know that, although we are trying to persuade and encourage people out of their cars and on to buses and trains, the Fife rail service is not a good advert. That does not make my job as a minister any easier. Understandably, the prospect of being squeezed like a sardine in old rolling stock, as several members have pointed out, does not entice people further. If rail services in Fife are to make a full and increasing contribution to integrated transport and give people a real choice, the service will have to improve dramatically. Companies know that, as I have met them and told them so. I have told them of the Executive's objectives and of the daily complaints that I receive from individuals in Fife. They know that there is concern.

Scott Barrie (Dunfermline West) (Lab): It is important to emphasise that this is not just about ScotRail, although ScotRail is the major carrier of people from Fife to Edinburgh. Other companies

include GNER and Virgin. A lot of the problems at Inverkeithing station, in particular, occur when trains that are owned by those companies do not arrive either from Dundee or Aberdeen. People who had expected to catch those trains are left stranded and ScotRail is expected to take up the excess. Therefore, although ScotRail has many shortcomings, GNER and Virgin must share the responsibility.

Sarah Boyack: I used the term companies advisedly. The problem is not with only one company.

People read the *Official Report* of the debates that we have here and so the message will come across loud and clear. I expect that every rail company will read the *Official Report* of this debate to find out which members have contributed and to read the points that we have made. This is therefore a useful debate.

It is very much in ScotRail's interests in particular—because of its franchise—for it to read the *Official Report* and listen to what we have been saying. That company is number 2 in the UK—behind only the Isle of Wight Railway Co—which is a position that it will want to retain. I do not think that it would want to slip down the league of rail companies, particularly given the observations that members have made on some of the other rail companies. That would dent its pride, but also hit its pockets and those of its shareholders. There are very compelling reasons, based on self-interest, for ScotRail to want to improve its service.

ScotRail is also a net beneficiary by several million pounds a year from incentive payments that it receives from the shadow strategic rail authority, because historically it has exceeded its punctuality and reliability targets across most of the Scottish network. The situation in Fife is not one that the company will want to allow to continue.

The contract that governs the ScotRail franchise guarantees £1.3 billion of public funding for the seven years of the franchise. In 1998-99 alone, public funding helped to support 2,000 services a day, providing 59 million passenger journeys over the year. Money is going into the rail service; we need that money to be matched by decent services. In Scotland, we spend just over £200 million. For that, we want to get secure investment that is based on a contractual commitment to increase the quality and level of services.

That is linked to the amount of money that goes to Railtrack in the form of access charges. Under the terms of its licence, which is the responsibility of the Office of the Rail Regulator, Railtrack is obligated to invest to improve the rail network. If we are to have an efficient railway that meets the

needs of the customers, whom all members here represent, Railtrack must increase the investment that it currently plans to make.

There is some evidence that benefits are beginning to come through—Nick Johnston said that I would probably want to refer to one or two of them. Increased expenditure is coming through on other routes—the Edinburgh-Falkirk-Glasgow and the Aberdeen-Glasgow-Edinburgh routes. As members have pointed out, that is intended to free up other routes for refurbishment, including the Fife line. We should expect faster, more comfortable trains with increased seating capacity, to improve what is currently a substandard service. People would not get those improvements if the Government were not underwriting them. The challenge is to ensure that they are of the right quality and the right standard. That is a very good objective.

Part of the problem is that ScotRail's commitment to improving services has been let down by the inability of suppliers to meet delivery dates, as Tricia Marwick mentioned. That is the consequence of having a trainbuilding industry that, after privatisation, received virtually no orders for new trains. Now huge numbers of trains are being ordered and the industry has not been able to cope. We will have to ensure that that is tackled, because it is not acceptable for Fife commuters to pay the price.

We know that investment is only part of our toolkit for improving performance and for ensuring that the railways meet passengers' needs. The UK transport bill that is being considered at Westminster will enhance the powers of the strategic rail authority, which will mean a more effective strategy for Britain's railways. It will give this Parliament and Scottish ministers the powers to direct and guide the strategic rail authority for the services that are currently operated by ScotRail.

Those powers are coming to us at a critical time in the development of rail services in Scotland. This is a time of expansion. The experiences of people in Fife are due partly to failures in the system, but partly to the fact that people want to use the trains rather than to drive and to have to dictate their letters while driving—I am sure that that was a slip of the tongue by Nick Johnston. We want to make it easier for people to make that choice. My hope is that today's debate will put rail services firmly on the agenda and let people know that the Parliament is committed to improving the quality of rail services.

Sir Alastair Morton from the strategic rail authority has made it very clear that the performance of the train-operating companies that bid for franchise replacements will be a major consideration when those bids are assessed. The

performance of rail companies now will affect the extent to which they run rail services in the future. They all know that, and that is critical.

Tricia Marwick: In Fife, our problem is that the level of service that we get is not reflected in ScotRail's figures. The appalling nature of the service in Fife is hidden because ScotRail also runs services in Glasgow, Falkirk and so on. I would like ScotRail to carry out a survey, particularly on the peak-hour trains from 7 o'clock to 9.30 in the morning, and from 4 o'clock to 7.30 at night, and to measure the effectiveness of that service. If ScotRail does that, we will get a better service in Fife. At the moment the failings are hidden because ScotRail prefers it that way.

Sarah Boyack: That is an interesting point. The levels of reliability that ScotRail is trying to achieve are up in the high 90s. If there are regular problems in Fife, that will feed through to those performance figures. Leaving aside the publicity that MPs and MSPs have given to the problems of Fife rail services, the problems will show through in the figures and will be an issue when the franchises are replaced if ScotRail cannot tackle them.

Tommy Sheridan: Will the minister give way?

Sarah Boyack: No, I am about to wind up.

Helen Eadie has been one of the key people arguing for investment in Fife rail facilities. Improvements have been made in the rail services between south Fife and Edinburgh, such as the construction of Dalgety Bay station and of Queen Margaret station in Dunfermline.

We must tell people listening to—or reading—this debate that improvements will be made. From the middle of next year, 300 additional seats will be available on trains in peak hours. That is earlier than the requirements of the franchise demand. However, I know that members who have made speeches today will not be satisfied until their trains are not overcrowded or late. That will be the test of the improvements.

Another issue that was raised was access to rail stations—Marilyn Livingstone made that point most effectively. It is important to have good car parking facilities, as well as good bus timetables that link in with train services. The bus service from Inverkeithing to the airport is critical to the future of access to integrated transport. It is also important to have decent places for people to sit at stations, and decent cycle access. The whole quality of the rail experience must be improved.

Investment in Fife's rail services since 1997 amounts to £6.5 million, in addition to the support that the Scottish Executive provides through ScotRail. We need to get value for money and ensure that people experience the benefits of that.

Everybody else has declared an interest, so I will finish with my declaration of interest. As a representative of Edinburgh Central, I am all too aware of the problems that we experience when people from Fife and other places feel that they are forced into their cars. This is not just a problem for Fife commuters and residents; it is one for the central belt of Scotland as well, and we must tackle it collectively.

I thank Tricia Marwick and Helen Eadie for securing this debate. The test will be delivering the services in the coming months.

The Deputy Presiding Officer (Patricia Ferguson): I apologise to Scott Barrie, Maureen Macmillan and Tommy Sheridan, who indicated a wish to speak in this debate—unfortunately, time was against us.

Meeting closed at 17:47.

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