

MEETING OF THE PARLIAMENT

Wednesday 22 November 2006

Session 2

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Scottish Parliament

Wednesday 22 November 2006

[THE DEPUTY PRESIDING OFFICER *opened the meeting at 14:15*]

Time for Reflection

The Deputy Presiding Officer (Murray Tosh):

Good afternoon. The first item of business is time for reflection. Our time for reflection leader today is Father Ed Hone from St Patrick's in Edinburgh.

Father Ed Hone (St Patrick's, Edinburgh): In 1856, Bishop Gillis of St Andrew's and Edinburgh oversaw the purchase of Cowgate chapel—a few hundred yards from this place—to accommodate the increasing numbers of Roman Catholics living in the old town. Thousands of families from Ireland, Italy and the Highlands of Scotland were crammed into overcrowded, insanitary slums. From those desperate, humble beginnings, a proud history has been formed and, this year, in St Patrick's we are marking our sesquicentennial—our 150 years.

Our celebrations are many and varied. We have been telling the parish story, learning about the contribution of the Sisters of Mercy to the education of our children and hearing how Hibs football club was founded by Canon Hannan and Michael Whelahan in St Mary's Street halls. We have celebrated masses, listened to concerts and, on Friday, we will be feasting and dancing in grand style.

Perhaps the most significant of our events is one that will last a whole year or maybe longer: parishioners of St Patrick's have been invited to pledge themselves—as individuals, families or organisations—to give 50 hours of voluntary service to the church or to one of over 120 voluntary organisations in the city of Edinburgh. People are giving themselves generously to the service of their neighbour and contributing to the life of the community. This spirit of service is at the heart of our faith.

Each Sunday, people of more than 20 different nationalities worship in St Patrick's—people of all walks of life, people from every continent, young and old people and people of surprisingly diverse opinion. That diversity, held together in unity of faith, is a gift that we treasure.

One hundred and fifty years ago, Roman Catholics in Edinburgh lived in a ghetto—literally and metaphorically—and were isolated from whole sectors of society. Those days, happily, have passed. We are now a community within the wider

community. We celebrate the importance of belonging to each other and to God. Today, in a spirit of thanksgiving, we ask God's blessing for the continuing life of St Patrick's and for this great place. May God increase in all of us a spirit of service to our neighbour. May God help us to maintain unity in the midst of our diversity. May God strengthen our communities to be caring, open, inclusive and welcoming. May God bless us all this day and every day, Father, Son and Spirit. Amen.

Question Time

SCOTTISH PARLIAMENTARY CORPORATE BODY

14:18

Parliamentary Outreach

1. Rob Gibson (Highlands and Islands)

(SNP): To ask the Scottish Parliamentary Corporate Body whether there has been a lower demand for parliamentary outreach meetings involving communities and projects in schools from some parts of the country than from others. (S2O-11320)

Mr Duncan McNeil (Scottish Parliamentary Corporate Body): We do not collect details of the requests that are received for outreach events. Our aim is to achieve a broad spread of engagement throughout Scotland.

Rob Gibson: Given the written answers to Chris Ballance about constituencies in which outreach teams have not had events in the past couple of years, could the SPCB investigate whether there is evidence that some constituency members in the West of Scotland and the Borders do not wish to promote outreach events because they would have to appear on platforms with regional MSPs of a different party?

Mr McNeil: We should remember that a number of events can take place. They include community outreach, which involves members and parliamentary staff, parliamentary officials engaging with community groups, and MSPs in schools. The breakdown by parliamentary region of all outreach activity—including MSPs in schools—from September 2004, when the outreach team was set up, to November 2006 is: Highlands and Islands, 18 per cent of the total activity; Mid Scotland and Fife, 16 per cent; West of Scotland, 12 per cent; North East Scotland, 12 per cent; South of Scotland, 11 per cent; Glasgow, 11 per cent; and Central Scotland, 7 per cent.

The variance between the highest and lowest figures naturally reflects the fact that it can be easier for people in the central belt to visit Holyrood than it is for those who live in a more distant geographical area. Indeed, we prioritise communities that are further away from the Parliament.

The Deputy Presiding Officer (Murray Tosh): I call Jamie Stone.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Does the member agree that there is much to learn in how allowances can be used to develop MSPs' staff and that it is

disadvantageous that our staff, many of whom have been in our service—

The Deputy Presiding Officer: We are not on that question yet, Mr Stone; I will try to call you when we reach it.

Members' Allowances Scheme

2. Chris Ballance (South of Scotland) (Green): To ask the Scottish Parliamentary Corporate Body whether it has considered commissioning an independent review of the members' allowances scheme. (S2O-11321)

Nora Radcliffe (Scottish Parliamentary Corporate Body): On 7 November, the Scottish Parliamentary Corporate Body received an oral report on the type of issues that would be involved in a review of the allowances scheme.

The corporate body has requested officials to investigate and report on the matters that require to be taken into account in any review of the allowances scheme and to produce an issues paper that would inform the SPCB's legacy paper. When, and by whom, such a review might be conducted will be a matter for the next elected Parliament. The issues paper may provide options on how the review should be conducted, and an independent element might well be part of the process, but that matter ought to be for decision by the new Parliament after the election.

Chris Ballance: Does the member accept that there is public concern about the issue? Does she agree that there is a need for any review to be conducted by independent investigators and that all results, including the interim findings that are being discussed at the moment, should be made public?

Nora Radcliffe: I want to correct a misconception that crept into that last question. What is currently being prepared by officers is an issues paper that identifies just the issues and options. No decisions are involved—the work is purely investigatory, through collecting and researching information. It is important to clarify the basis of what we have asked our officers to do.

To return to the original question, an independent inquiry into or review of allowances is certainly an option, but a completely independent body or panel may not be the right answer. A better way forward might be a panel that includes both independent persons of standing and MSPs. MSPs are acutely aware of the demands that are made on them and the adequacy or otherwise of the allowances available in providing a high level of service to constituents and the expected attention to their other parliamentary duties.

However, I return to the fact that nothing has been decided. It will be a matter for the next Parliament to decide.

Christine Grahame (South of Scotland) (SNP): I note what Nora Radcliffe says, but will the issues and options paper include consideration of removing the payment of our staff salaries from the members' support allowance? Will the SPCB consider setting up an independent and separate framework, with a proper graded salary scale, so that we do not have to deal with both rent and remuneration for our staff from the scheme?

Nora Radcliffe: Christine Grahame makes a good point; I am certain that that issue will be laid out for consideration, because it is fundamental to how we employ and pay our staff and to how allowances are set up. The question illustrates the interdependence of all the allowances schemes and the fact that we need a radical, thorough and informed review that is given time to be properly debated.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): Will the SPCB acknowledge in its legacy paper that constituency case work is a vital and substantial component of the work of MSPs and seek to explore how appropriate staff and other resources can be made available to MSPs to enable them to undertake that task? In so doing, will it reflect on the experience that we have gained over eight years and consider the relative workloads of constituency and regional list members and MPs, who have considerably greater staff and other resources to enable them to provide a service to their constituents?

Nora Radcliffe: Mrs Deacon makes excellent points, all of which I am sure will be taken on board. What more can I say? I totally agree with everything that she said.

Tommy Sheridan (Glasgow) (Sol): There have been complaints about the operation of the Edinburgh accommodation allowance for five years. Given that, does the member agree that the fact that there will not be a report before the end of this session that will stop the unacceptable practice of members of this Parliament being able to profit personally from a public allowances scheme will do nothing to allay the genuine public concern that exists on that issue alone and will help drag down the Parliament as a whole? Will she give us an assurance that in the six months that we have left in this session, a report will be produced to take the personal profit element out of the allowances scheme before the next session so that no member sitting in the Parliament can profit personally from the use of an allowances scheme that was supposed to make up for expenses, not to allow MSPs to build up a property portfolio?

Nora Radcliffe: The member slightly misrepresents the facts of the case. None of the capital that is required to purchase a property is provided from the public purse. The interest on the mortgage is reimbursed. In point of fact, that is a cost-effective way of reimbursing members who live too far from Edinburgh to commute daily. There will not be a report before the end of the session. The questions that have been asked about the Edinburgh accommodation allowance have been answered.

I reiterate that the question of allowances is complex. Susan Deacon was right to say that we have a number of years of experience to draw on to perhaps draw up a better scheme of allowances. That should be considered across the piece, because lots of interdependent issues have to be explored thoroughly. It would be folly to consider one such issue in isolation; we should have a comprehensive look at the whole system.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): Is Mrs Radcliffe aware that, given that I am a constituency member, my staff cannot travel to Dumfries, which is only a mile outside my constituency—and indeed contains the main offices of the local authority and all other agencies—unless the expense of the journey is taken off my MSA? If I were a regional member, my staff could travel from Stranraer to North Berwick and claim the expenses from the staff travel allowance. Disregarding Tommy Sheridan's remarks, surely that anomaly justifies our having a serious, in-depth and urgent review of all allowances in time for the next Parliament to adopt its findings, rather than waiting for the next Parliament to initiate and determine such a review.

Nora Radcliffe: The member raises good points. The anomalies were included in the first allowances scheme because we did not have the experience of a working Parliament and we did not know how constituencies and regions would work out. We have a lot of experience to draw on to put together a better allowances scheme that will enable us to deliver more easily the service that our constituents require.

We are going about things in the right way, because it will be for the new Parliament to make the decisions. The research on the issues and possible options that the corporate body has asked officers to draw together is useful preparatory work, which will enable the new Parliament to take forward the scheme after the next election. It is right that we allow proper time for that and that we ensure that the new, incoming Parliament makes its decisions on those complex, interrelated matters on the basis of the information that has been collected.

Scottish Public Services Ombudsman

3. Alex Neil (Central Scotland) (SNP): To ask the Scottish Parliamentary Corporate Body what information it holds on the average time taken between the Scottish public services ombudsman deciding to investigate a case and the publication of the final report and, if it does not hold such information, what plans it has to introduce a procedure to monitor this issue. (S2O-11324)

John Scott (Scottish Parliamentary Corporate Body): We do not hold the information that Mr Neil seeks. I hope, however, that Mr Neil will be interested to know that, although there is no procedure in place for monitoring the processes in the ombudsman's office, when I gave evidence to the Finance Committee last week, I mentioned that, as part of the budget scrutiny exercise, we had asked questions about the measure of efficiency in the ombudsman's office and that the ombudsman had agreed to discuss that with us. Those discussions will take place shortly. As part of those discussions, we will request regular information from the ombudsman on performance with regard to reducing the backlog and we intend to monitor that on a monthly basis.

As Mr Neil might be aware, the SPCB has been invited by the Finance Committee to report to it on its findings in relation to the commissioners' and ombudsman's working practices, and we anticipate doing so by March next year.

Alex Neil: I draw Mr Scott's attention to the concerns of many members about the time that it takes to get reports from the ombudsman. I am dealing with one case in which it has taken 11 months for a decision to be made on whether to investigate the issue at all. I am not sure whether the issue is to do with resources, efficiency or some other matter. However, I emphasise that, for those people who want the ombudsman to resolve an issue, the problem is of major concern. I ask that the member and the SPCB do everything they can to address the issue as a matter of urgency.

John Scott: I agree that this is a matter of concern for members and the SPCB. We know that there is a backlog. However, I should say that, as part of the latest budget round for 2007-08, we agreed a budget of 7.3 per cent over this year's approved budget, which will enable the ombudsman to employ an additional seven staff to deal with complaints and inquiries. As Mr Neil's arithmetic is nimble, he will know that that is an increase in staff of almost 20 per cent. However, the ombudsman has had a 49 per cent increase in complaints and a 60 per cent increase in inquiries. We hope that the increase in staff will enable the ombudsman to deal with the claims more quickly, which will allay members' fears in that regard.

Holyrood Building Project (Loss Recovery)

4. Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): To ask the Scottish Parliamentary Corporate Body what sums it will seek to recover in legal claims associated with the Holyrood building project, which breaches of contract are involved in such actions and whether it will seek to recover from the construction managers the losses incurred as a result of the trades package that was awarded to Flour City Architectural Metals (UK) Ltd. (S2O-11317)

Mr Kenny MacAskill (Scottish Parliamentary Corporate Body): The SPCB is well aware of Mr Ewing's great interest and concerns. Indeed, Mr Ewing asked a question on this matter at the last SPCB question time on 10 May. As indicated then, the SPCB agreed to meet Mr Ewing. It duly did so. I can assure members that the SPCB has taken note of Mr Ewing's submissions on these matters.

Fergus Ewing: As the chamber knows, I have pursued this matter for five years. The large folder that I have with me is the second file of 2006 on the topic.

Why was a contract worth £7 million awarded to a company that had assets of £2, no United Kingdom directors, no track record, no work experience, no Scottish employees and no bank account in Scotland? Is the SPCB concerned that the fact that five years have elapsed might mean that any legal claim based on a breach of the general duty set out in the contract applicable by Bovis Construction has now prescribed?

Finally, is the matter not of sufficient seriousness that the Presiding Officer should now make a detailed statement to explain what on earth the SPCB is doing in respect of the fiasco relating to the engagement of this contract and the selection as a contractor of Flour City, a company that, quite patently, was never going to be able to perform the work?

The Deputy Presiding Officer: Could you leave some time for the answer, Mr Ewing?

Fergus Ewing: Finally, I stress that the decision has cost the taxpayer £4 million.

The Deputy Presiding Officer: I stress that that was your second "Finally".

Mr MacAskill: Mr Ewing raises several issues.

On the quinquennium of prescription, the corporate body and the lawyers have looked at that matter. We are satisfied that the position of the Parliament and of the taxpayer is protected.

On whether we will make a statement, we are not prepared to do that at this time. As members will recognise, completion of the final phases of such a project is not straightforward and takes time. I appreciate the member's frustration, but the

corporate body is still going through the final counts, which is a convoluted and complicated process. Any announcement at present would be premature as it is difficult to isolate Flour City from the overall package that we are addressing.

The Deputy Presiding Officer: I am afraid that that concludes questions to the corporate body.

Transport and Works (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-5043, in the name of Tavish Scott, that the Parliament agrees to the general principles of the Transport and Works (Scotland) Bill.

14:36

The Minister for Transport (Tavish Scott): We were all rather enjoying the previous item, but it is important that I open this afternoon's stage 1 debate on the Transport and Works (Scotland) Bill. I thank all those who were involved in the scrutiny of the bill. In particular, I record my appreciation of the contribution of the many individuals who volunteered their time in giving oral and written evidence.

The Local Government and Transport Committee's stage 1 report is considered and balanced, and I welcome its endorsement of the bill. I am grateful to members for the constructive tone of the report. It is clear that our proposals have found favour across the political spectrum and, importantly, from stakeholders who represent a wide range of interests. I am heartened that the proposals are on the right track and I am optimistic that that measured, consensual approach will extend throughout the bill's passage.

The bill seeks to provide a modern efficient process to authorise transport developments. The proposed process has the confidence of promoters, parliamentarians, the wider public and, perhaps most important, those who will be directly affected by proposed developments. That confidence is engendered by the fact that the bill will ensure that the new process operates in an open and transparent manner within a context that encourages public engagement and participation. That confidence is reinforced by enabling a public examination of proposals by a person who is appointed on the basis of their qualifications and experience. Finally, that confidence is confirmed by ensuring that all decisions are well founded, made in the public interest, informed by evidence and publicly explained.

The bill contains other provisions that will provide, where possible, conformity of approach for other transport systems by introducing parliamentary scrutiny to nationally significant road and harbour developments and by improving the publicity arrangements for pilotage orders. They will also remove the operation of what some have seen as the arcane special parliamentary procedure, which will be replaced by the more straightforward approach of a ministerial decision for transport-related matters.

Nora Radcliffe (Gordon) (LD): Having sat through one of those arcane procedures for railway bills during session 1, I fully welcome the progress that the bill will bring about. However, the bill will also sweep away the opportunity for ministers to introduce light railway orders, under which decisions on heritage railways could be made by ministers. That offered a light-touch approach for heritage railways such as the Keith and Dufftown railway, the Speyside railway or the Deeside railway—

The Deputy Presiding Officer: You must be quick, please.

Nora Radcliffe: Those heritage railways are concerned that they will be required to use the same procedures as are involved in heavy rail projects. Can the minister give them some reassurance?

Tavish Scott: I certainly recognise the concerns that Nora Radcliffe has expressed. It is important to recognise—as, in fairness, members did during stage 1—that the introduction of such railways can potentially have the same impact on people in a locality and that, therefore, such people should have access to the same rights. However, I can assure Nora Radcliffe that we have no intention whatsoever of introducing an onerous burden on those who, in many cases, voluntarily give of their time to work on light railways. She may wish to pass on the commitment that I gave to the Local Government and Transport Committee that the cost of an application for heritage railways under the bill will not be greater than it is at present. I know that that has been an issue of concern.

The Subordinate Legislation Committee raised a number of points. Its thoughtful comments were helpful and, as my officials have already indicated, we will address those matters through Executive amendments at stage 2.

As I said, the response to our proposals from stakeholders has been overwhelmingly supportive. However, we have sought to address concerns that a few stakeholders have expressed about their status as an objector. I agree with representations that have been made by the British Ports Association. Navigation authorities have a right to be heard if road bridge proposals have been made that affect their interests, and that right should be extended to cover, for example, an order authorising a rail bridge. As I said to the Local Government and Transport Committee, I will therefore lodge an amendment at stage 2 to add navigation authorities, regional transport partnerships and Network Rail to the list of statutory objectors. RTPs have a specific transport planning interest, and their role will become increasingly important in the coming years as they implement their regional strategies. It is right and proper that Network Rail, which is

responsible for our rail infrastructure, should be treated as a statutory objector if a proposed order affects its operational interests.

As members know, the purpose of the debate is not to provide definitive responses to all the points that have been made. However, I assure members that we will consider and carefully reflect on the Local Government and Transport Committee's report and the points that members make in the debate. The debate will focus on agreeing to the general principles of the bill, which are that there should be a fair and transparent process, a time-efficient and cost-efficient process and an authorisation process that operates at a level that is appropriate to the development's scope and impact. On that basis, I propose that the Parliament should be actively involved in the consideration of orders that relate to nationally significant transport developments.

The three straightforward principles of fairness, efficiency and appropriateness underpin our proposals. Our challenge is to make the proposed legislation as practical and as fit for purpose as possible. It is clear that meeting that challenge is a common goal for members. Our shared purpose has been evident in the constructive attitude that has dominated the debate on the bill. I hope that members will continue to have that constructive attitude.

I move,

That the Parliament agrees to the general principles of the Transport and Works (Scotland) Bill.

14:42

Ms Maureen Watt (North East Scotland) (SNP): I confess that my initial reaction to the bill was one of opposition, given that it will give powers to ministers. Powers should rest as far as possible with the people of Scotland and not with the Executive. We should devolve power further rather than give more of it to the centre. Indeed, I have heard the bill being described as the Westminster Transport and Works Act 1992 with knobs and bells on. However, having listened to the evidence that was presented to the Local Government and Transport Committee, and given that the bill is concerned only with projects of national significance, my views have mellowed somewhat, and I now see some merit in the proposals. The Scottish National Party will support the motion at decision time.

I hope that the public will not see the bill as the result of members being unwilling to take on the heavy responsibility of considering bills such as the Waverley Railway (Scotland) Bill, which we had to consider; rather, I hope that the public will realise that there is a more efficient way of running the Parliament and using members' time—

especially as, after the election in May, there will be more substantial and substantive bills to be dealt with under a new and innovative Government that is led by the Scottish National Party. I hope that the savings that will be made for each project as a result of the bill will be in the order of £85,000 in staff costs and 280 hours of members' time, as identified in the financial memorandum and the stage 1 report on the bill.

I was slightly perplexed that objectors to some rail projects that the Parliament has considered thought that it would be less intimidating to give evidence to a reporter than to a committee of members of the Scottish Parliament. I take it that they thought that the surroundings in the Parliament and the television cameras were intimidating rather than colleagues such as my dear friend Tricia Marwick. My experience is that planning inquiries with reporters can be more like proceedings in a court of law and can be scarier than appearing before a parliamentary committee.

Nora Radcliffe: The procedure under the old system was intimidating, because it was like the procedure in a court of law.

Ms Watt: Yes, but planning inquiries under the current system can be quite intimidating for people who are not used to them.

One problem that the Local Government and Transport Committee encountered was trying to find out the definition of "projects of national significance". At times, we thought that we were boring around in the dark and that the phrase meant different things to different witnesses. We hope that the minister will define the term as soon as possible.

As with the front-loading in the Planning etc (Scotland) Bill, in many ways the success of the Transport and Works (Scotland) Bill will be up to the promoters of key projects and will depend on how open and co-operative they are with all parties from the beginning of the process. We share objectors' concerns about their need to get information as early as possible and about how they can tease out the main concerns about specific projects. Although I agree that it would be difficult for the public to finance objectors, some of us quite like what happens in the United States, where volunteer planners—perhaps students and lawyers—help objectors to tease out the information. In general terms, we must see how the front-loading works.

I am glad that the minister has agreed to include harbours in the bill. A particular case in his constituency was brought to the attention of the Local Government and Transport Committee.

I share Nora Radcliffe's concerns about heritage railways, but we have been given an assurance that an application will cost no more under the

future system than it costs at present. I know that those who are involved in promoting the Deeside railway have had huge difficulties in dealing with local authorities.

There will be other matters to tease out at stage 2, and I have no doubt that we will lodge some amendments to improve the bill but, at the moment, we concur with the bill's sentiments.

14:46

David McLetchie (Edinburgh Pentlands)
(Con): Some members will regard the bill as a case of shutting the stable door after the horse has bolted; others, as a case of reforming our procedures in the light of experience. The truth is that the private bill procedure has already dealt with many of the major transport projects that will make substantial inroads into and demands on the public purse over the next few years, such as the two Edinburgh tramlines, the Borders railway, the Glasgow and Edinburgh airport rail links, the Stirling-Alloa-Kincardine railway and the Airdrie to Bathgate line.

In all, those projects are likely to consume the best part of £2.5 billion, at current prices. The Scottish Executive's failure to prioritise those projects, blithely stating that we have the money to do everything, may be politically convenient, but it hardly smacks of firm government. The cost escalations of the London Olympics, never mind our own experience with this building, together with the question of how we will fund a new Forth crossing—a project that will be greater in scale and cost than any that we have previously considered—will lead to a day of financial reckoning in next year's spending review, which is conveniently fixed for after the election.

The Parliament and many of its parliamentarians having been exhausted by the old approval system for rail and tramway projects, it would be ironic—to say the least—if we found that the new process gathers dust on the shelves for a number of years for want of money to finance other major projects. Be that as it may, although there may not be much for it to do, it is right that we should review the process in light of our experience. Conservative members therefore welcome the bill and give it our support.

One of the interesting features of the evidence that the Local Government and Transport Committee took was the extent to which the whole process was seen to be political or—heaven forbid—party political. In some people's eyes, the result was a foregone conclusion. That goes to the heart of the debate about major public projects and the planning system. The same questions will arise whether we continue with the present private bill procedure for certain transport projects or

adopt the new procedures that are set out in the bill.

The fact is that all the projects that have been approved under the present procedure—and, almost certainly, all the major projects that will, in time, be approved under the new procedure—are publicly funded projects that got to first base only because they have the political support of the Scottish Executive and a commitment in principle to fund them. The promoter who is charged with the conception, planning and execution of a project may be a legally separate entity from the Executive, but if there is no political green light the project simply will not happen.

Moreover, although the parliamentary committee or, under the new system, a public inquiry reporter will, quite properly, consider the project's details—routes, construction processes, compensation provisions and so on—and might also consider the wider issue of public benefit and whether a particular scheme represents value for money, we do not live in a world where such matters are objectively determined by some impartial Solomon who has carefully weighed up all the pros and cons. We live in a democracy where the elected Government decides and the taxpayer pays.

I do not regret that. Indeed, we must make that principle more explicit, because democracy and accountability are two sides of the same coin. If people do not like the policies and priorities of the parties that form the Scottish Executive, including the major transport projects that it has decided to fund, Scotland has a plethora of alternative parties from which to choose.

The new procedure will make ministerial responsibility and accountability for transport and works decisions far clearer and it will improve on the present system, which only confuses people and raises false expectations. It is therefore quite right that ministers should be required to bring to Parliament an order seeking approval of developments of national significance, because that will make it absolutely clear that it is ministers who are, in reality, financing and promoting projects. Moreover, if in bringing an order to Parliament for approval the Executive contradicts a public inquiry's recommendation, so be it. It is up to ministers to make the case and Parliament to grant approval or not as it thinks fit.

As I said in relation to the Planning etc (Scotland) Bill—and the same is true of the major transport projects that will come under the ambit of the Transport and Works (Scotland) Bill—economic development and the developments and projects that we want to carry out are matters for political decision. The process is political and we fool ourselves and the public if we pretend that the process is judicial or quasi-judicial. Those are the facts of life, which the bill will make more explicit, so I welcome it.

14:52

Mr Charlie Gordon (Glasgow Cathcart) (Lab):

I support the general principles of the Transport and Works (Scotland) Bill.

The notion that a proposal to build a railway, a canal or, more recently, a guided busway should require an act of Parliament has its origins in the powerful landowning interests that were vested in the Westminster Parliament in the 19th century. Their property rights were regarded as justifying the onerous requirement on promoters of railways in particular to obtain an act of Parliament. Amendments from promoters who were keen to avoid the loss of an entire scheme have left us with a legacy of strange railway geography. For example, someone travelling by train from Glasgow to Largs will see that the sea is on their left as they enter Largs, not on their right. That is testament to one such amendment.

By the early 1990s, that antiquated approach had been swept away in England and Wales by the Transport and Works Act 1992, but Scotland stayed subject to the same old approach under the Private Legislation Procedure (Scotland) Act 1936, under which Strathclyde Passenger Transport Authority, with me as chair, lost a tram scheme in Glasgow. It was rejected by parliamentary commissioners at Westminster with no explanation and, despite the project being aborted, it cost the council tax payer £2 million at 1995 prices.

Since the advent of devolution, the private bill procedure has been run more accountably by members of the Scottish Parliament in committee and, ultimately, in the chamber. However, as parliamentary reports have already identified, committees that have inadequate professional and technical resources have had to deal with too much complexity. To clarify, I am not talking about MSPs being lazy and not wanting to apply themselves to complicated issues. Ministers, council leaders and promoters of infrastructure schemes usually have recourse to professional expertise to help them to identify, shape and develop technical options. That is not the case for committees of MSPs, who are procedurally supported ably and professionally by the clerking system, but heretofore they have not had recourse to the same level of expertise as those I mentioned.

I could list the key elements of the bill, but that is unnecessary, as they are all to be found in various reports. Those elements will make the new procedures faster and more accountable, without compromising the legitimate rights of objectors or those of elected parliamentarians to take the final decisions.

David McLetchie is right about the history of transport projects. The boffins, as I call them, can

make all kinds of fancy suggestions but, ultimately, it is elected politicians who have to bear the burden of choosing an option, making a decision and trying to oversee its implementation, although in that latter context perhaps the political shelf-life of senior politicians is not usually long enough for us to see the completion of the schemes that we initiate on our watch.

David McLetchie was in danger of going too far when he decried the quasi-judicial approach altogether. At an earlier stage, Parliament could have taken the alternative view that some projects, especially those that are not regarded as being of national significance, could go down the route of the town planning system. For example, a local road could be built under town planning powers. It would have been perfectly possible to take the view that a local rail or canal scheme could be achieved similarly. However, the local town planning system is still substantially a quasi-judicial system. I suspect that we would have to amend all kinds of legislation, mostly to do with property, if we took the view that the process should be purely political.

I welcome the fact that transport will be more political in this place in future. Bring it on.

14:57

Bristow Muldoon (Livingston) (Lab): I speak today in my capacity as convener of the Local Government and Transport Committee. Although it is tempting to enter into the partisan debate, I will leave it to other colleagues for today.

Members have spoken in detail about the reasons for the bill, so I will not go over them at length. However, the bill received unanimous support in committee because members believed that the procedures that will apply after the bill is enacted will result in a more efficient and appropriate mechanism for the consideration of major transport projects and will aid the Parliament and Executive in continuing with a programme of much needed investment in our transport infrastructure to supply Scotland with the world-class transport system that we need to improve our competitiveness.

Certain concerns were, of course, raised with the Local Government and Transport Committee, including the need to clarify the intention of the bill and for possible amendments at subsequent stages. I will try to address a few of those issues.

Charlie Gordon referred to one of the issues—the reason why we will replace the private bill system for considering major public transport projects with a reporter-based system. That aspect of the bill was subject to mischievous misrepresentation by members of the media, many of whom did not even bother to contact

committee members for their views, and who seemed to believe that the aim of the bill was simply to relieve MSPs of the burden of serving on private bill committees. Although I am sure that some colleagues will be pleased that they will no longer have to serve on such committees in future, the central aim of the new procedure is to introduce a more efficient and less unwieldy system for approving transport projects than the current system, which has acted as a brake on the aspirations of Parliament to consider enhancements to our transport infrastructure.

Ministers and MSPs will still have ultimate responsibility for deciding whether to support major transport projects and will continue to receive representations both for and against such developments before making decisions. As a result, it is absolutely not the case that MSPs and ministers are trying to duck their responsibility for making decisions.

Although the Local Government and Transport Committee supported the principle of front-loading the consultation process before a formal application is submitted, it felt that a robust system for monitoring and assessing the standard of public engagement should be introduced and that the Executive should provide information on how it intends to assess whether a promoter has achieved a sufficient standard of engagement. We acknowledge that some interested parties might want only general information about a proposal, but others might seek detailed and even technical information, and promoters should ensure that all relevant parties are able to engage in considering projects.

We recognised that, in some circumstances, objectors might incur costs, and we considered the argument that public finance should be used to support them. However, we rejected that approach, because it could have the perverse result of public money being used to prolong consideration of a project that has environmental and economic benefits and is supported by the Government. We simply did not believe that that would be an appropriate use of public money. However, objectors should be given sufficient information and time to be able to marshal their case and put it effectively to an inquiry reporter.

I know that I am almost out of time, Presiding Officer, but I have two more points to make.

The Deputy Presiding Officer: I will give you one more minute, Mr Muldoon.

Bristow Muldoon: Thank you very much.

I welcome the commitment that the minister made in his opening speech to extend to navigation authorities, regional transport partnerships and Network Rail the right to object

where appropriate and where a proposal infringes on their responsibilities.

We welcomed the move to use the resources of the inquiry reporters unit to consider major transport projects, although we must ensure that that does not substantially increase the cost of considering projects. I do not believe that that will happen because, in most cases, the cost of an inquiry will be a small fraction of a project's overall cost. In any case, much of the work will have to be undertaken anyway. That said, I would welcome any further details that the Executive has on the matter. We must also ensure that the inquiry reporters unit is fully staffed to take on any increase in its workload.

The Local Government and Transport Committee recommends to Parliament that the Transport and Works (Scotland) Bill be supported at stage 1.

The Deputy Presiding Officer: We are now a bit behind the clock, so I ask members to stick to a strict four minutes.

15:02

Chris Ballance (South of Scotland) (Green): I speak today as a member of one of the few parties in the chamber with no direct experience of serving on a private bill committee. When the Greens volunteered to serve on one such committee, the Executive parties voted to exclude us. Despite that, we still support the bill's general principles.

Bristow Muldoon: Is the member not rewriting history? Is it not the case that the Greens once refused to serve on a private bill committee?

Chris Ballance: Indeed, no. The Greens have never refused to serve on such a committee. When we proposed to serve on the Edinburgh Airport Rail Link Bill Committee, we were voted off it by the force of the Executive vote.

Although we support the bill's general principles, we have one or two caveats. For a start, we are worried about the lack of parliamentary scrutiny in the bill. I believe that Donald Gorrie will express in more detail a concern that we share about the situation in which ministers propose a rail project; ministers decide whether the application is procedurally correct; ministers decide whether to hold an inquiry and appoint a reporter; and then ministers decide whether to proceed with the final order. The Parliament might simply be left to rubber-stamp a statutory instrument under the affirmative procedure which, unless standing orders are suspended, requires merely a debate of two three-minute speeches—one for the motion and one against it.

On the Waverley Railway (Scotland) Bill, which I supported, we had a detailed discussion in which Bristow Muldoon himself made a series of detailed points. I am worried that the Transport and Works (Scotland) Bill will preclude such discussions in the future.

The Procedures Committee has called for a stage of parliamentary scrutiny. In its report to the lead committee, it stated:

"we do not believe that the ... scrutiny opportunities referred to ... are an adequate substitute."

I hope that that will be considered at stage 2, because scrutiny is an important part of the Parliament's role. The bill might improve the existing procedures, but it is important that we get things right. We must not go too far the other way and exclude parliamentary involvement almost entirely.

Finally, I make two technical points. First, I draw the minister's attention to RSPB Scotland's submission on the bill, which calls for the Scottish Environment Protection Agency and Scottish Natural Heritage to be included in the list of organisations that can demand that the minister calls for an inquiry. Secondly, the RSPB points out that part IV of the Conservation (Natural Habitats, &c) Regulations 1994 should apply to orders made under the bill. I trust that the minister will lodge amendments to that effect.

15:06

Donald Gorrie (Central Scotland) (LD): I speak on behalf of the Procedures Committee, which set out its views in a unanimous report to the Local Government and Transport Committee. I recapitulate our views today because, in our view, they have not been taken on board.

The Procedures Committee instigated the process because it received lots of complaints about the current private bills procedure, which is inefficient and a terrible waste of members' time and does not necessarily produce good judgments. The Procedures Committee produced a paper that became the nucleus of the Transport and Works (Scotland) Bill, and it also produced changes to standing orders that have temporarily improved the position. After the election, presumably, the provisions in the bill will take effect.

We support the general concept of the bill, but we are concerned about parliamentary scrutiny. The starting position was the terrible waste of MSPs' time and the fact that they were doing the wrong things in trying to pretend that they knew about railways. However, the bill has moved too far in the other direction and written the Parliament out of the script.

We had a useful session with the Minister for Transport and he persuaded us on two points. First, our original position was that Parliament should have two kicks at the ball. We are now content that it will get one kick, but it has to be a really good kick—the sort of kick that will get the ball into the goal. Secondly, we thought that there should be more arduous arrangements for Executive projects, but the minister persuaded us that, in effect, all major transport projects are Executive projects and we should not distinguish between them.

We believe that there must be a single procedure for the proper scrutiny of projects by the Parliament, but the minister does not accept that. The Local Government and Transport Committee seemed to accept his arguments—wrongly, in our view—that other arrangements will allow adequate scrutiny, but that is simply not the case. Discussion of the national planning framework will not allow adequate discussion of particular projects, because it will be so general. One person might get one four-minute speech. That is not adequate consultation. The same will apply to debates on the national planning strategy or the strategic projects review, which will not have enough focus on particular road or rail schemes to give them proper scrutiny.

The idea that parliamentary questions scrutinise anything at all is ridiculous. Recently, I had a good reply to a parliamentary question, but it was the first good reply in seven years. Parliamentary questions are not the solution.

The Procedures Committee insists that there must be an opportunity to scrutinise everything. Low-key projects can be dealt with by negative resolution, so the process need not waste lots of people's time. That is a bogey produced in the argument against parliamentary scrutiny. Serious projects must have proper scrutiny and they must be judged by objective criteria. It should not just be a case of the minister making up his mind. If the decision is not made objectively, the Parliament as well as the minister must have a say on the categories of scrutiny. I ask the minister and the Local Government and Transport Committee to accept that there must be one really good opportunity for scrutiny.

The Deputy Presiding Officer: We now come to closing speeches. I ask Charlie Gordon to close for the Labour Party. You have four minutes, but I do not know whether you require them all.

15:10

Mr Gordon: No, I will not need that long, Presiding Officer.

I particularly wanted to reply to the points that David McLetchie made, but I did so earlier. Other

points have arisen to which I do not feel impelled to respond, because obviously the minister will address their implications. I am happy to save the Parliament's time.

The Deputy Presiding Officer: Would Mr Aitken like to make a brief closing speech?

15:11

Bill Aitken (Glasgow) (Con): It will be very brief. As a gnarled and scarred veteran of the Edinburgh Tram (Line Two) Bill Committee, I am well aware of the difficulties of what the minister delicately described as “arcane” parliamentary procedure. The bill will help greatly in addressing those issues.

As David McLetchie said, the bottom line is that it is for the Executive to make decisions about projects, on the basis of the expenditure that it commits to them, and thereafter come back to the Parliament with its recommendations. At that point, it is for Parliament to accept or reject the Executive's views in whole or in part. That is as it should be. It exercises the parliamentary democratic process. We will vote for the bill at decision time.

The Deputy Presiding Officer: I ask Brian Adam to close for the SNP. You have five minutes.

15:12

Brian Adam (Aberdeen North) (SNP): I hope that I, too, can save you some time, Presiding Officer.

In general, there are no objections to the principles of the bill. It is extremely welcome and the procedure that it introduces is not just a mechanism by which MSPs can shrug off responsibility.

Some genuine questions are yet to be answered about whether ministers can see the process through from beginning to end, what level of scrutiny there should be and when it should take place. However, that is a matter for detailed debate rather than a matter of principle.

Charlie Gordon made a good speech, as he usually does, but I noticed that he made it from a different position in the chamber. I do not know whether that means that he is now in the body of the kirk as far as the Labour Party is concerned, but he has definitely moved from the far right.

Mr Gordon: It is the left.

Brian Adam: Well, it is Mr Gordon's right.

David McLetchie said that ultimately the promoter will always be the Executive and that the bill will provide much more clarity about who is responsible for major infrastructure projects.

Criticism is often made of the time delays in the process. I hope that the bill will lead to fewer time delays, but the process is not the only source of such delays. We often find that such projects are delayed by ministers—I am not looking at anyone in particular—who, as Mr Gordon rightly said, must take account of the political realities of electoral cycles. That problem will not be solved by introducing a new procedure.

I note that no one has commented on the input from the Finance Committee, which the Local Government and Transport Committee today endorsed. I hope that the minister will pick up that point, if not today certainly during the next two stages of the bill.

On behalf of the SNP, I welcome the opportunity to endorse the general principles of the bill.

The Deputy Presiding Officer: I call Tavish Scott to wind up for the Executive. We have put out a call to inform the opening speakers in the next debate that it will start early, although as Santa Claus is in the public gallery, I am prepared to give the minister an early present and allow him a few extra minutes.

15:14

Tavish Scott: “Ho, ho, ho” is the obvious answer to that.

I thank the members who have spoken in the debate, who have been thoughtful and constructive in bringing a degree of consensus to our deliberations. We have been open about the reason for our proposals and our purpose of improving our legislative processes. We want to make our use of parliamentary time more efficient and to ensure that there is the right amount of parliamentary scrutiny. I continue to be willing to listen to any constructive arguments that will help us to improve the bill as it proceeds through its parliamentary stages.

I turn to Maureen Watt’s speech. We are grateful that she has mellowed—it was kind of her to say so. She made a fair point about more efficient use of parliamentarians’ time, for which the bill will provide, and called for more innovative government. Members of the Executive parties would argue strongly that we have innovative government now and that it will continue, for example through the completion of the Edinburgh trams project and the building of the Edinburgh airport rail link, which the Scottish National Party would not build. There is a contrast between our attitude towards innovation in government and getting things done and that of the SNP. I take the points that Maureen Watt and others made about defining projects of national significance. That issue will be progressed now that the Planning etc (Scotland) Bill has completed its parliamentary

stages. We have already had discussions on the processes involved.

I accept David McLetchie’s argument that the bill is about reforming our procedures for the future. In relation to his overall theme, we laid out how we will structure our capital transport project portfolio on 16 March this year and illustrated how we will develop the projects in our programme. I grant that it is an ambitious programme, but so it should be. We are ambitious about what we can do both now and in the future, and we will not go back on that.

David McLetchie was right to raise ministers’ accountability and the transparency of the process. I hope that Mr Gorrie listened carefully, if not to my arguments on the matter, to those of Bristow Muldoon, Charlie Gordon and David McLetchie. It has been and continues to be the case that ministerial accountability is central to parliamentary scrutiny. In my view and in the view of other members, the bill will ensure that ministers are accountable for transport and works projects.

Charlie Gordon mentioned the complexity that MSPs encounter without having sufficient resources to interrogate the massive level of detail to which such projects give rise. That is why we are so keen to ensure that the process is front-loaded effectively, from the point of view of involving communities and individuals who are affected by particular projects and the Parliament. That is the essence of the system that will be in place, provided that the Parliament agrees to pass the bill. Charlie Gordon also said that transport will be more political as a result of the bill, which chimes with David McLetchie’s observations, with which I heartily agree.

As the convener of the Local Government and Transport Committee, Bristow Muldoon made a number of detailed points. We acknowledge that the Scottish Executive inquiry reporters unit will have a vital role to play if the effectiveness and efficiency of our system are to be improved, and I take on board the comments that were made about ensuring that the SEIRU is adequately resourced. I confirm that the SEIRU has been fully involved in developing the bill as it affects its work and I will ensure that we pick up the points that have been made about that as the bill progresses.

On front-loading, the bill will require the promoter to engage with the local community before it submits an application, to minimise the number of objections and to improve the efficiency with which the application is processed.

I turn to the point that the Greens and the Procedures Committee have made. It is a fair point, but we need to get some balance into the system as regards the number of kicks at the ball the Parliament has, to use Donald Gorrie’s

analogy. Ministerial accountability is important, as David McLetchie, Bristow Muldoon and Charlie Gordon said.

As a minister now or in the future, I would in no way minimise the amount of scrutiny to which members subject ministers as part of our normal parliamentary processes. It is right that there should be such scrutiny. The Procedures Committee will continue to examine the matter, but it is an essential part of the process. The parliamentary authorities have yet to discuss fully and to agree how Parliament will scrutinise the national planning framework, but members will have an opportunity to scrutinise fully both individual projects and the Government's programme.

It is the job of Government to put a transport programme before Parliament. The process will not take place in a vacuum and will generate debate both inside and outside our Parliament. I hope that Parliament will have many opportunities to hold ministers to account for projects, but there is no need for the bill to tie up Government and Parliament in legislative straitjackets to achieve a certain level of scrutiny. We need to set the appropriate standard, and I have no doubt that we will do so when considering the bill.

I hope that my brief comments will have encouraged members to support the general principles of the bill at decision time.

Transport and Works (Scotland) Bill: Financial Resolution

15:21

The Deputy Presiding Officer (Murray Tosh):

The next item of business is consideration of motion S2M-5176, in the name of Tom McCabe, on the financial resolution in respect of the Transport and Works (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Transport and Works (Scotland) Bill, agrees to any expenditure or increase in expenditure of a kind referred to in Rule 9.12.3(b)(iii) of the Parliament's Standing Orders arising in consequence of the Act.—[*Tavish Scott.*]

The Deputy Presiding Officer: The question on the motion will be put at decision time.

Christmas Day and New Year's Day Trading (Scotland) Bill: Stage 1

15:21

The Deputy Presiding Officer (Murray Tosh): The next item of business is a debate on motion S2M-5169, in the name of Karen Whitefield, on the general principles of the Christmas Day and New Year's Day Trading (Scotland) Bill.

Margaret Smith (Edinburgh West) (LD): On a point of order, Presiding Officer. Many of us have concerns about the inclusion in the bill of new year's day and the impact that that might have. We would welcome the opportunity to lodge amendments to allow debate and separate votes on Christmas day and new year's day. I have sought and been given assurances that such amendments will be admissible. Are you able to clarify the position, for the benefit of all members?

The Deputy Presiding Officer: Under standing orders, decisions on the admissibility of amendments are the responsibility of the convener of the appropriate committee, once the bill has been approved at stage 1 and has moved to stage 2. I am not able to comment on the hypothetical circumstances of what Parliament may agree this afternoon. I can go a little further and say that considerations to be taken into account by the convener of the stage 2 committee include the advice that is given by clerks and, to a degree, the mood of the chamber during the stage 1 debate. However, I cannot say what the committee convener could or should not accept as admissible at some point down the road.

Mr David Davidson (North East Scotland) (Con): On a point of order, Presiding Officer. I thank you for taking my point of order without notice. Further to the point that was made by the Liberal Democrat whip, I understand that during today's debate ministers will seek to clarify the advice that the Scottish Executive has received and the guidelines that it will follow in this matter. I very much look forward to that.

The Deputy Presiding Officer: I am not sure that a point has been put to me on which I am required to rule. With due respect to the Executive and its role in proceedings, the interpretation of standing orders is a matter not for the Executive but for the chair.

Bill Butler (Glasgow Anniesland) (Lab): On a point of order, Presiding Officer. I am puzzled and seek further clarification of the position. Quite properly, you say that it is not for the Executive or for you to decide whether an amendment is admissible. Are you saying that that is clearly in

the province of the convener of the lead committee at stage 2?

The Deputy Presiding Officer: I had believed that those matters were widely understood, but for the avoidance of doubt, the decision on admissibility at stage 2 is entirely the responsibility of the committee convener. The Presiding Officer will be responsible for the admissibility of amendments at stage 3. All of that is predicated on the assumption that the bill proceeds and that there are amendments.

15:25

Karen Whitefield (Airdrie and Shotts) (Lab): I trust that the Presiding Officer's "Dear Santa" letter is in the post. Mine is already winging its way. I like to think that I have been pretty good this year, but I wonder whether everyone here can say the same.

We all grumble that the festive season starts earlier each year, but some of us are worried that Christmas may not come at all. The Christmas Day and New Year's Day Trading (Scotland) Bill seeks to address that concern and I ask Parliament today to approve its general principles. I believe that, if passed, my modest bill can help to make Christmas and new year a happier and less anxious time for the majority of shop workers in Scotland and their loved ones.

I fear that we risk overlooking the truly important things at Christmas: children; family; celebration; rest and recreation; and goodwill and friendship.

Mary Ellen Chase said:

"Christmas is not a date. It is a state of mind."

I am pleased that the majority of the Justice 2 Committee found themselves in that state of mind. I hope that others will be similarly minded come 5 o'clock. People outside the chamber are also in that state of mind and are pressing us to support the bill. More than 6,000 shop workers have bombarded colleagues in all parties with postcards calling for support. More than 1,400 people supported the bill during my consultation, while the BBC switchboard this morning was inundated by people supporting the bill.

The bill will prevent large shops from opening on Christmas day and new year's day for the purpose of retail trading. The intention is to maintain the special nature of that time of year for shop workers and their families. In brief, the bill will make it a criminal offence for a large shop to open for the purposes of making retail sales on either of those days. It defines a large shop as one with a trading floor area exceeding 280m²; exempts specified trades or businesses and shops at specified places; defines who commits the offence; and provides a defence of due diligence. This

Parliament has been declared the competent authority to legislate on the issue.

I welcome the Justice 2 Committee's stage 1 report and its majority support for the general principles of the bill. I note the minority view and would like to focus on some of the objections.

The Justice 2 Committee report stated that there is a lack of robust evidence to indicate the impact of the bill on tourism. I agree that there is a lack of evidence on how the bill will damage the important effort to increase tourism revenues. However, there is a lot of evidence to suggest that the bill will support tourism. Hogmanay is hugely successful and was voted the fourth best festival in the world; hotel occupancy rates in Edinburgh at hogmanay have risen from 50 per cent to a staggering 93 per cent; and 90 per cent of hogmanay visitors come from other parts of the United Kingdom, where the shops are open on new year's day—they choose Scotland, where they know the shops are closed. Are we in danger of killing the goose that lays the golden egg? If we allow shops to open on new year's day, it will fundamentally change its special nature.

Murdo Fraser (Mid Scotland and Fife) (Con): Does the member not see the inconsistency in her argument? If the tourism sector has grown over hogmanay, does it not mean more people have to work in hotels, restaurants, cinemas and places of entertainment during that period?

Karen Whitefield: The bill covers retail trading in Scotland. Tourism has continued to grow despite shops not opening on new year's day in Scotland. It is not a disincentive to people coming to Scotland. The argument that it is a disincentive is a bogus one.

The bill exempts small stores; 280m² is a long-established standard in the retail industry and is recognised by employers and trade unions. Even the Scottish Retail Consortium acknowledged that without the exemption, there would be widespread breaking of the law. However, it said that the bill as currently drafted would be respected by retailers should it become law. I ask any member who questions the small-shop exemption to say whether they would prefer that provision not to be in the bill.

I want to dispel the myth that retailers bring staff into work when the front doors are shut and the shops are not open for business. That may have been true 20 years ago, when shops were open 9 to 5, with a half day on a Saturday and no Sunday trading, but in today's retail environment of 24-hour opening, shop preparation is done while the customers are in store. Members do not have to take my word for it: Debenhams told the Justice 2 Committee that on the only day on which it is not currently open—Christmas day—staff do not work

in store. My bill will not prevent staff from working in a closed store, but retail employers do so.

Voltaire told us that "The best is the enemy of the good."

We should be mindful of that.

The bill will protect the majority of shop workers and a large number of non-retail workers. If shops open on Christmas day and new year's day, other workers who currently get those days off will be forced into work. My bill will not protect everyone—no legislation is perfect—but it will meet the policy objectives that I set out to achieve.

The bill is about preserving a special time that is a highlight of the calendar. It is a time that should be special to all those who wish it to be so and one that is both unique and universal. Without being too sentimental, it is a time that could even be said to be a little magic. If I was asked to decant that magic into a single sentence, I would borrow from Charles Dickens, who wrote:

"I have always thought of Christmas time, when it has come round ... as a good time; a kind, forgiving, charitable time; the only time I know of, in the long calendar of the year, when men and women seem by one consent to open their shut-up hearts freely ... as if they really were fellow passengers ... and not another race of creatures bound on other journeys."

I urge all members and fellow passengers to support my bill and to show that we can make a positive difference to the lives of many shop workers and their families and to wider Scottish society.

I have great pleasure in moving,

That the Parliament agrees to the general principles of the Christmas Day and New Year's Day Trading (Scotland) Bill.

15:32

The Deputy Minister for Justice (Johann Lamont): I congratulate Karen Whitefield on the work that she has put into examining how we can best protect vulnerable retail staff from having to work on Christmas day and new year's day. The bill seeks to prevent large shops from opening for retail sales on those days. In doing so, it aims to protect retail staff from being required or pressurised to work; to enhance work-life balance for hard-working people; and to protect the special nature of those holidays in the Scottish calendar.

The ban would cover shops with a floor area that is used for retail sales or display of more than 280m², which is slightly larger than a tennis court. There would be exemptions for cafes, restaurants, pubs and takeaways, registered pharmacies—for the purpose of dispensing prescriptions—shops within transport hubs and shops that sell mainly vehicle fuels. The exemptions would take account

of matters such as the need to travel and the demand for hospitality services on the two days. Small grocers would not be covered and could still be open for essential supplies. Breach of the ban would be a criminal offence. Enforcement would be for the police and the courts, with a maximum fine of £50,000.

I see good reasons to support the proposals, which are carefully constructed. Many retail staff already work long hours at that time of year and many already have to work at weekends, when children and other family members are at home. The two traditional holidays are precious times that are set aside for spending with families and friends, rather than the boss. Scotland has liberal trading hours and we are convinced that there is no need to have department stores and supermarkets open on these two days, as well as on all the others.

In considering the bill, the Scottish Executive acknowledges the increased cross-party support for action in relation to Christmas day. We also acknowledge the unresolved debate about new year's day and that members from all parties wish to explore that matter further.

Mr Brian Monteith (Mid Scotland and Fife) (Ind): The minister talked about department stores but, nowadays, many stores are in shopping malls and centres, such as the Gyle centre, Fort Kinnaird and Ocean Terminal in Edinburgh, in which anchor stores, which are large department stores, are surrounded by many retail outlets that are below the size limit in the bill. It would therefore be quite possible for shopping malls and centres to be mainly open, with only one or two of the larger stores closed. What does the minister say to that proposition?

Johann Lamont: As I said, there is an unresolved debate about new year's day, and such issues can be explored further if the bill gets to stage 2.

We want that process of exploration to take place and to be engaged in it with the objective of securing the best possible legislation for Scotland by balancing the various legitimate interests. We recognise that, at this stage, engagement in that process would be incompatible with a declaration of our position on the issues that are to be explored, so the Executive expects that amendments to be lodged at stage 2 that would give the Parliament an opportunity to express its views on Christmas day and new year's day separately. We also recognise that such amendments might come from back benchers, the Executive or both.

Margo MacDonald (Lothians) (Ind): The point that Brian Monteith raised could be covered by a simple amendment that would provide that smaller

shops that operate under the brand name of, or are owned by, large stores would also be caught by any decision that we take on which shops should be open or closed.

Johann Lamont: I thank Margo MacDonald for that helpful intervention. I was trying to say to Mr Monteith that his question would not be sufficient reason to kill the bill at this stage.

We intend to form an ad hoc ministerial group, involving ministers from all portfolios that have a direct interest; we also intend that the group should engage with the member in charge of the bill and representatives of various political parties prior to stage 2. On that basis, ministers are prepared to vote for the bill at stage 1.

I understand the concerns that have been expressed about the so-called domino effect. I am not aware of any large shops that open on Christmas day at the moment. Some, but not many, open on new year's day. However, to legislate now would let employers and employees know where they stand. Without the bill, employers may feel under pressure to open in future to compete with others who do not observe the holidays. The next step may be that employees feel pressured to work. They may not all be contractually obliged to do so, but it is not always easy to stand up for one's rights in such circumstances.

A voluntary code has been suggested as a possible way forward, but I acknowledge that it is an uncertain solution, as it might not attract widespread support or stand the test of time. The consultation on the bill suggests that most people with an opinion would prefer legislation now.

It is clear that people have strong views on the debate. There are particular issues with Christmas day and new year's day. It is a temptation to make everything entirely black and white, and there is a desire to do so. Those broader issues could be explored at stage 2, but I have no doubt that they will also be explored in this debate.

The committee acknowledged that there were some weaknesses in both sides' evidence on the impact on enterprise and tourism and it is important that those matters are explored further. I have outlined the Executive's position on taking the bill beyond stage 1 and I hope that members will reflect on those points when we come to the vote.

15:38

Jim Mather (Highlands and Islands) (SNP): The Scottish National Party intends to support the bill, which seeks to balance family values, our cultural values and modern terms and conditions. In particular, we are persuaded that the bill offers

an opportunity to start to ensure a sensible balance between spending more time at work hard on the heels of a hectic and stressful period and having the time to celebrate and relax with family and friends.

In addition, the bill offers an opportunity to halt an escalation in the erosion of the Christmas and new year holidays, with more businesses succumbing to the commercial pressure to open, which would increase the number of direct and indirect support staff who would eventually be required to work on Christmas day and new year's day. The SNP is keen to do anything that contributes to the much-needed constant improvement of living standards to which it is committed.

Mr Monteith: I hear what the member says about the SNP position. Has he consulted Sandra White?

Jim Mather: Yes, I have consulted Sandra White.

Bill Butler: Will Jim Mather give way?

Jim Mather: I ask Bill Butler to let me build another point before I take another intervention.

As with any move to improve the quality of life in Scotland, we are mindful of the current limitations of the Parliament's powers to improve living standards and the work-life balance in Scotland. The fact is that, if we want to deliver a decent and improving quality of life for the people of Scotland—and we do, because we know that it has fallen far behind that in the rest of the United Kingdom and the rest of Europe—we need the power to make Scotland more competitive. That is the only way in which we can deliver genuine economic and population growth, rising living standards, increased life expectancy and a better work-life balance. The bill is therefore a start that will need to be underpinned over time by more powers, including reclaiming for Scotland immigration policy and employment law and giving Scotland the ability to broker a real and authoritative agreement—

Bill Butler: I am glad to see that the SNP seems to have performed a U-turn. Is it disowning the position expounded by its previous representative on the Justice 2 Committee, Mr Stewart Maxwell—yes or no?

Jim Mather: This party does not dictate how members vote in committee, and it has reflected on the majority view in the committee.

We want to broker an open and authoritative agreement that goes beyond the bill, defending the right to work, the right to time off work and the right to trade, and ensuring that management, shareholders, staff and taxpayers all benefit from future economic growth. That would be much

easier to achieve if we were talking about Scottish businesses that were registered in Scotland, that paid their taxes in Scotland and that were interested in the overall well-being of Scotland.

That proposition has had an enormous boost in the past week with the Economic Research Institute of Northern Ireland producing a report on corporation tax. The report is a bombshell. It tells us that the current policy powers that we have here and that Northern Ireland has are unfit for purpose. It tells us of the criticality of our having more economic powers and makes the point—

Mr Monteith: On a point of order, Presiding Officer. Will you rule on the relevance of Mr Mather's speech to the subject under debate?

The Deputy Presiding Officer (Trish Godman): I call Mr Mather.

Jim Mather: I am talking about impact and the fact that, in a jurisdiction that is identical to Scotland, the analysis is the same as ours and puts wind in the sails of the people whom we are talking about—those at the bottom. The report tells us that the burden falls heavily on those who suffer lower wages. That is true in Northern Ireland and Scotland, and the only way to move forward is to give Scotland a proper basis, which means a full range of economic powers.

15:42

Murdo Fraser (Mid Scotland and Fife) (Con): Let me try to address the bill before us.

The bill is designed to prohibit large shops from opening their doors to the public on Christmas day and new year's day. The issues around the two days are separate, and it is unfortunate that we are being presented with one bill that deals with both days together as if the issues were identical.

I will deal first with the question of Christmas day. I am sure that no member, and few people across Scotland, would want Christmas day to become another normal shopping day. We have got used to shops being shut on Christmas day and to it being a day for families and for most people to have a holiday and, if they wish, to engage in Christian worship. That is worth preserving.

It is worth mentioning that the celebration of Christmas as a holiday is a relatively recent development in Scotland. For some of my parents' generation and certainly for my grandparents' generation, Christmas day was a normal working day. It is only in the past 50 years that Christmas day has become established as the holiday that we now recognise. Indeed, the celebration of Christmas as we know it, with Christmas trees, holly branches, decorations and all the rest, is largely an importation to Scottish culture from

south of the border and has happened over the past 50 years. It is as good an example of the anglicisation of Scottish culture as one can find.

Nobody passed a law to say that shops and other businesses should not open on Christmas day. Society changed, and as a result there was pressure on commerce to change too. We now have an established position in which Christmas day is a holiday for many people, and many Christians value the status that Christmas has as a religious holiday. That is not something that anyone would want to change.

Karen Whitefield's bill is weak in that regard, as there is precious little evidence of there being any demand from retailers to open on Christmas day. Paragraph 18 of the Justice 2 Committee stage 1 report on the bill quotes the Union of Shop, Distributive and Allied Workers, which admitted that there was no "hard evidence" to support the idea that larger stores wanted to open on Christmas day at the moment.

In any parliamentary democracy, it should be a basic rule that we pass legislation only when it is necessary to do so as a last resort and when all other non-legislative routes have been exhausted. In this case, it is hard to see where there is the demand for legislation affecting Christmas day. If the member in charge of the bill were able to make that case for protecting Christmas day, we would consider it sympathetically.

The position with new year's day is different. There is a clear demand, particularly from the tourism sector, for certain shops to open on new year's day. We have seen Edinburgh and Glasgow develop their tourism market over the Hogmanay and new year holiday period. As part of that, the city authorities, backed up by bodies such as the chambers of commerce, the Scottish Retail Consortium and the Scottish Tourism Forum, wish retailers to have the opportunity to open on new year's day, at least for part of the time.

I remember a few years ago there being no more depressing place in the land than Princes Street in Edinburgh on the afternoon of new year's day. It was full of bored tourists wandering up and down, looking forlornly in the windows of shops with "closed" signs on their doors. I cannot believe that that is good for our economy or our expanding tourism market. We therefore cannot support the proposal to compel large shops to close on new year's day.

Margo MacDonald: I find it hard to believe that anybody is ever bored in Edinburgh. The tourists could try Morningside, Bruntsfield, Stockbridge or any of the other villages in the city; they do not need to wander up and down Princes Street.

Murdo Fraser: I am sure that Ms MacDonald could offer personal tours of Edinburgh to bored

tourists on new year's day. The simple fact is that many tourists gravitate to the city centre and in the past they have found many of the shops closed, which does not present them with a happy experience.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Will the member give way?

The Deputy Presiding Officer: Mr Fraser is finishing.

Murdo Fraser: Thank you, Presiding Officer.

We on the Conservative benches are sympathetic to the protection for Christmas day, although we remain to be convinced of the necessity for legislation.

As far as new year's day goes, we are concerned about the adverse impact on the economy if the bill is passed. Accordingly, to be consistent with the view that our member on the Justice 2 Committee took, we cannot support the bill as it stands.

15:47

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I do not doubt the sincerity of the member in charge of the bill, who has worked extremely hard to get it to this stage. Other than in a few cases, such as workers who carry out essential duties, no one should be forced to work on Christmas day or new year's day.

My mother worked as a retail assistant for 17 years until her retirement last year, and this year—like many when I was growing up—my dad, who is an ambulance driver, is working on Christmas day. Therefore, I appreciate fully the need for worker protection. The issue for me is whether the bill as introduced would do what it is intended to do, which is to protect workers and the special nature of Christmas day and new year's day. The core of the argument relates to the statement in the policy memorandum that

"the intention is to maintain the special nature of Christmas day and New Year's day."

In evidence to the committee on 19 September, the member in charge said that the bill

"would give the majority of shop workers the right to two days' holiday, which would be of positive benefit."—[*Official Report, Justice 2 Committee*, 19 September 2006; c 2710.]

Would the bill, whether amended or not, maintain the special nature of the days, and would the majority of shop workers benefit from the right to two days' holiday? If we believe that that would not happen, we cannot support the general principles.

There are further questions. Why just shop workers? Why not delivery staff, warehouse staff, security staff or cleaners? The list could go on.

What about people who work in hospitality and other sectors? The bill is for one part of one section of our national workforce, which, in my view, is wrong. Would the special nature of the days be protected only if big shops did not open? Of course not. The argument is presented that, in the future, if large shops wish to open, small shops will follow. There is some logic to that, but why not exempt all shops now? Even then, that would still mean that only a minority of the workforce would be covered. We would not support employment law if it made such unfair distinctions. Therefore, in protecting workers, we would be better served by changes to wider-reaching employment law.

There is confusion about the genuine protection that would be offered. Emotive language is used to allow Santa to give an early present to—

Brian Adam (Aberdeen North) (SNP): Would Jeremy Purvis favour further devolution of powers to the Scottish Parliament so that we can address the point that he made about employment law as well as the other differences that exist north and south of the border?

Jeremy Purvis: I support the Westminster Parliament having another look at employment law, which covers the United Kingdom. This is not an opportunity to have pathetic arguments about the constitution. The issue is to do with whether the bill would make a significant change to the status quo. However, as the member in charge of the bill told the Justice 2 Committee, the bill

“will not make a significant change to the status quo”.—
[*Official Report, Justice 2 Committee*, 19 September 2006; c 2719.]

The committee's report on the bill shows that it was unable to determine clear evidence to support the assertions of the member in charge. That was disappointing. Paragraph 30 of the report says that:

“there is no reliable data available in relation to the number of employees that will be ‘caught’ by the Bill”,

and paragraph 32 highlights

“the lack of robust data available relating to the number of employees that would be affected by the legislation.”

I have considerable difficulty in supporting the bill. One of its intentions is to protect the majority of shop workers, but it would not have protected my mother when she worked in MacKays, and while it would protect my constituents who work in Matalan in Galashiels or Tesco in Penicuik, it would not protect other shop workers across my constituency. I find it difficult to agree with USDAW's campaign, as it would protect only a minority of workers.

The Deputy Presiding Officer: You should be finishing now, Mr Purvis.

Jeremy Purvis: Official figures that were given

to the committee by the Scottish Executive show that the bill would protect only a third of workers. If we are to protect the rights of the majority of shop workers and seriously protect the days that the bill is concerned with, we should have employment law that covers all workers, not just one section of one part of the workforce.

15:51

Mr David Davidson (North East Scotland) (Con): I will speak on behalf of the committee and—unusually—will not be taking a political stance. Accordingly, I begin by thanking the clerks, the Scottish Parliament information centre and others who supported the committee, the members of the committee who worked on the bill and the witnesses who gave evidence to the committee.

The bill was introduced in March 2006 by Karen Whitefield. The aim of the bill is to prohibit shops with more than 280m² of floor space from trading on Christmas day and new year's day. Any breach of the prohibition would be liable to attract a maximum penalty of £50,000. The committee anticipates that such a fine would be largely symbolic and that the damage to a firm's reputation would have a greater impact than the fine.

There are a number of exemptions to the bill's provisions: restaurants, pubs, takeaway food outlets, pharmacies dispensing prescriptions and so on.

The figure of 280m² was chosen as being the largest size of store that can be staffed by one person. The threshold is the same as that previously applied to Sunday trading legislation. The committee received evidence both in favour of this limit and against it. The then Deputy Minister for Justice, Hugh Henry, noted that unless a complete ban was to be imposed on all stores opening, there would inevitably be a degree of inequality. The committee acknowledged the rationale behind the choice of the threshold.

The committee received 27 written submissions from organisations, including unions, individual businesses, organisations representing the business sector, faith groups and tourism-based organisations.

The committee took oral evidence over three sessions and heard from unions, business representatives, tourism groups and faith groups, as well as the then Deputy Minister for Justice and the member in the charge of the bill. The committee especially thanks the individual retail workers and business representatives who were able to demonstrate how the bill would impact on them personally. If people read the report, they will see that those views were divided.

The committee received a number of divergent views. Some organisations, such as Deregulate, the Glasgow Chamber of Commerce and Kingfisher, opposed any legislation that would force shops to close. Others, such as Argos, HMV and Scotmid, supported the bill in its entirety.

The member in charge maintains that Christmas day and new year's day have a special nature and that on those days most people would expect to spend time with families and friends rather than work. Some faith groups argued that additional days such as Sundays and boxing day should be added to the scope of the bill. Other groups suggested that, in singling out those two days, the bill discriminated against those with non-Christian religious beliefs. USDAW, the Scottish churches parliamentary office and the Humanist Society all supported the idea that Christmas day and new year's day have special significance and that human values should take precedence over big business and retail interests on those days.

The committee acknowledged the evidence that Christmas day and new year's day are viewed as significant. Some suggested that different considerations apply to the two days and that they cannot be dealt with uniformly. However, the committee concluded:

"Despite receiving evidence on treating the two days separately the Committee acknowledges that an attempt to remove one of the days could be viewed as a wrecking amendment."

Bill Butler: Does Mr Davidson agree that the words

"could be viewed as a wrecking amendment"

are not a definitive view?

Mr Davidson: Absolutely. That was the view of the committee.

The Deputy Presiding Officer: Mr Davidson, you should be finishing now.

Mr Davidson: Having considered the other evidence, the committee acknowledged that there was more pressure on businesses to trade on new year's day than on Christmas day. The idea of a voluntary code could not be explored further because it was rejected by the Office of Fair Trading. Some of the other evidence has already been mentioned by other members in the debate.

In conclusion, by a majority of four to three, the committee agreed to recommend that the general principles of the bill be agreed to. Turning to the dissenters—

The Deputy Presiding Officer: Mr Davidson, you should finish now.

Mr Davidson: Stewart Maxwell and Jeremy Purvis dissented from the recommendation on the basis that the bill lacks robust supporting evidence

and that it fails to meet the objectives of the member in charge, which are to protect the majority of shop workers in Scotland and to retain the special nature of Christmas day and new year's day.

The Deputy Presiding Officer: I am sorry, Mr Davidson, but you must finish.

Mr Davidson: I dissented on a broadly similar basis. Those views are available in the report.

Finally, I ask the minister meet me to discuss the legal position on which her ad hoc ministerial group is based.

The Deputy Presiding Officer: A considerable number of members want to speak. I will keep members to a very strict four minutes. When I say to members that they have one minute remaining, that is exactly what they will have.

15:57

Mrs Mary Mulligan (Linlithgow) (Lab): I draw members' attention to my entry in the register of members' interests.

I am delighted to have an opportunity to support the bill. I congratulate Karen Whitefield on introducing the bill and on pursuing it so determinedly. On behalf of USDAW members—including the latest new member, my fellow MSP, Alasdair Morrison—I say that we appreciate her efforts.

I support the bill for a number of reasons. As a Christian, I recognise Christmas as a special holy day, but I believe that even non-Christians in Scotland recognise Christmas as a special day that should be spent with family and friends. In Scotland, new year's day has also been recognised as special. Traditionally, new year's day has been important. Will we really just drop that tradition and become like everyone else?

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Will the member give way on that point?

Mrs Mulligan: Let me get started.

One criticism of the bill is that it would affect business, especially tourism. Rubbish. As the Christmas and new year season has been promoted over recent years, the number of people coming to Scotland has increased without the need for shops to open. People come for the special atmosphere, the Princes Street hogmanay party and the natural attractions of the Highlands and Islands. They do not come for the shopping.

Those who argue that the bill would not prevent shop staff from having to work misunderstand the retail trade. A shop will pay staff only if they are simultaneously taking money at the tills. Shelves

will be restocked and sales prepared for while the customers are in the shop spending their money, not while the doors are shut.

Mike Rumbles: Will the member give way now?

Mrs Mulligan: I will do so briefly.

The Deputy Presiding Officer: Mike Rumbles must be quick.

Mike Rumbles: Mary Mulligan pointed out that Christmas is a special day for Christians. If that is her logic, does she recognise that the bill should also apply to a special day for Sikhs, Muslims, Hindus and other members of the multicultural Scotland in which we live?

Mrs Mulligan: I said that members of other faiths and of none recognise that Christmas is special. As Mike Rumbles will have heard, if members of other faiths approach USDAW, the union will be more than happy to represent them.

In response to the other criticism that was made by Brian Monteith, I point out the reality that, if big stores do not open, smaller ones will not open either. Why do major shopping centres such as the Gyle centre have an anchor store?

Mr Monteith: Will the member give way?

Mrs Mulligan: Not at the moment.

Why are chains such as the Edinburgh Woollen Mill, which has many stores that are smaller than 3,000 square feet and so would not be affected by the bill, so keen to allow big stores to open? The answer is that they rely on the big stores. Those smaller shops will not open.

Furthermore, it is important not to prevent small corner shops and family businesses from opening if they want to open. There is no question of staff in such businesses being coerced into working.

I recognise that some people will still have to work on Christmas day and new year's day. Doctors, nurses and ambulance drivers—I say that to Jeremy Purvis—will have to work because they provide an essential service. Shops are not an essential service. We do not need to shop.

Members have an opportunity to secure the status quo and make life a little more predictable for hard-working, low-paid workers. I hope that women members will bear it in mind that low-paid workers are predominantly women and recognise that we are not here to discuss only traditional women's issues, but to discuss anything that affects the lives of women, many of whom work in shops.

I am not surprised that the Tories have reverted to type. They are trying to be touchy-feely, but they are hard-nosed businesspeople who do not care about the potential effect of the proposals on

family life. However, I am pleased that the Scottish National Party supports the general principles of the bill.

The arguments for having a holiday on Christmas day and a holiday on new year's day are the same. I warn members that a holiday at new year cannot be sacrificed for a holiday at Christmas because retailers will be back in a few years' time for Christmas day, too. I ask members to do the right thing and support the general principles of the bill.

16:01

Mr John Swinney (North Tayside) (SNP): I was glad to hear from Mary Mulligan that Alasdair Morrison has joined USDAW. He must be starting to prepare for his working career after the elections in May next year by ploughing alternative furrows.

The important thing about the Christmas Day and New Year's Day Trading (Scotland) Bill that all members should remember is its limited purpose. The world will not come to an end if it is passed, as some people would encourage us to believe. It will do something within Parliament's limited powers to address issues that my colleague Jim Mather raised; it will address people's work-life balance and ensure that employees have protection that can be offered within the constraints and confines of Parliament's legislative powers and competences.

Members will understand that I would like to do a great deal more than has been proposed to protect employees in our society, but I accept the reality that Parliament's powers do not allow members to tackle employment protection issues in the fashion that my colleague Brian Adam mentioned. I am sure that members will reflect on such points in the debate. We should see the bill as a modest measure that will do something about people's work-life balance, which is perpetually being eroded in our society. I do not criticise anyone for eroding that balance; indeed, I help to erode it by shopping at unearthly times of the day and night in shops that are open for 24 hours. However, we should do something to protect people's work-life balance at special times.

The committee's report, which is thorough, tries to establish the possible economic impact of the bill, but that impact is difficult to quantify. There will still be opportunities for economic activities to take place. It has been suggested that there will be nothing for visitors to Edinburgh to do if big shops on Princes Street cannot open.

Margo MacDonald: There are emporia in Edinburgh.

Mr Swinney: There are plenty of fantastic small emporia in Edinburgh, as Margo MacDonald says, and in other parts of the country, to which people can travel. People could shop in them. The bill will not result in the shut-down mentality that has been suggested.

Jeremy Purvis: For clarification, should only employees who work in large stores have a work-life balance? The member is content for people who work in small stores not to be protected by the proposed legislation. Will the SNP therefore support an amendment at stage 2 that will make the bill's provisions apply to all retail staff in Scotland?

Mr Swinney: I will not speculate on what will happen at stages 2 and 3. What will happen then is for members, including my colleagues, to reflect on.

I return to my central point. We are talking about a modest bill. Its supporters do not claim that it will ensure that everybody will get the work-life balance that they are entitled to; the bill is simply a step in the direction of promoting a better work-life balance. It may also give some members comfort that the bill is a mechanism whereby we can bite back against the supermarkets, which dominate so many aspects of life. The bill might provide more opportunity for smaller stores to prosper against the all-encompassing supermarkets.

Karen Whitefield has consulted people from different religious denominations in Scotland, and the fact that the religious organisations have no problem with the bill gives me a great deal of comfort.

16:05

Marilyn Livingstone (Kirkcaldy) (Lab): I thank Karen Whitefield for introducing the bill—an initiative that has afforded us the opportunity to debate an important subject. I also thank the Justice 2 Committee for the hard work that it undertook on behalf of Parliament at stage 1. I hope that Parliament will support the general principles of the bill, in order to allow us to proceed to stage 2. Especially at this time of year, we all get caught up in the raging 24/7 consumerism that now exists in our society. I believe that the bill is significant and is intended to ensure a sensible work-life balance.

The bill has its origins in USDAW's recent campaign against large stores opening on Christmas day and new year's day, and I congratulate USDAW on the success of its campaign. Many retailers have supported the bill's proposals but have said that they will, if their competitors open on those days, have to open to protect their market share. There is a fear that, if legislation is not passed now, it could become

common for large stores to open on Christmas day and new year's day, which will result in a domino effect that would have no perceived economic benefit for stores but would incur the possible cost of the loss to shop workers and their families of two national holidays.

Those concerns are shared by the Scottish Trades Union Congress which—countering the argument that has been made by Tory members—says that

“if Christmas and New Year's Day were to develop into normal trading days in Scotland, the knock-on effect would be that subsequently more people will have to work—including cleaners, security staff, police, health and public transport workers, where there will be pressure for a full service.”

The intention of the bill is to maintain the special nature of Christmas day and new year's day, which are traditionally the two holidays in the calendar—especially in Scotland—when most of us hope to spend time with our families and friends. I believe that we should act to ensure that those important days are not undermined. That is especially significant for our most vulnerable women and children. I urge members to take that into consideration before casting their votes this evening.

Jeremy Purvis: What protection under the law should be provided to people who work in small shops?

Marilyn Livingstone: That question has been answered. I have only four minutes, and I would like to continue.

As a Labour and Co-operative MSP, I am pleased that the Co-op supports the broad policy proposals of the bill. The board of the Co-operative Group has taken the view that none of its UK shops—regardless of their size—should be open on Christmas day. Other co-operative societies that are trading in Scotland, including Scotmid, have also taken a policy decision not to trade on Christmas day. In addition, the Scottish Co-op does not believe that new year's day should be regarded as just another day, but that new year's day is a special day for the people of Scotland and is more culturally significant here than it is in England and Wales. It is, therefore, supportive of the bill and its detail. I am proud of the policy lead that the Co-op has taken with regard to fair trade and the positive stance that it is taking in supporting the bill.

An argument has been made against the bill on the ground that it would be to the detriment of the tourism industry, but no evidence has been given that that would be the case. The evidence that has been given by USDAW is that that is a myth, and VisitScotland has confirmed that it has no evidence to suggest that tourists regard retail

activity as an important part of their hogmanay experience.

I ask members to support the bill to keep these two bank holidays in Scotland. Moreover, they are two dates in the year that are considered by most people as special and as national holidays. By safeguarding the uniqueness of these days, we will send out a strong message that we support a commonsense approach to our country's work-life balance and the right of shop workers and their families to continue to enjoy these national holidays.

16:09

Colin Fox (Lothians) (SSP): The Scottish Socialist Party has supported the bill proudly since its introduction, when we were among its initial signatories.

Sitting on the Justice 2 Committee and listening to all the evidence, it became clear to me that shop workers are currently being coerced into working on new year's day and that they will face considerably more pressure if the trading rules are not regulated. One shop worker after another reported to the committee that it is extremely difficult to get time off to spend with their families during December. Retailers, perhaps understandably, reported that they are motivated by commercial imperatives. They can make high profits at that time of year, so they feel pressured into making their employees work. The bill will be an effective instrument for ensuring that wider considerations than retailers' profitability are taken into account.

The committee received no evidence to suggest that there is likely to be a desire for trading on Christmas day. The issue that is before Parliament is, as we all know, the high street retailers' desire to open on new year's day. The committee was advised that any amendment that would propose that retailers not trade on Christmas day but would allow them to trade on new year's day will be a wrecking amendment. I will use clearer language than that: to be frank, it would be a selling-out of shop workers if the Executive made such a move. Mary Mulligan was right—stores want to open because there is money in it.

As other members have said, if large department stores open, we will need car-park attendants, traffic wardens, bus and train drivers, emergency workers and other public sector workers to cater for the movement of shoppers. Before we know it, the whole country will have changed and the days will have lost their special identity—both will be just another day. As things stand, both days are family days that are special in the Scottish calendar.

Margo MacDonald: Will the member give way?

The Deputy Presiding Officer: Very briefly, Ms MacDonald.

Margo MacDonald: I will be brief. Customs have changed already; for example, there is so much online shopping that the big department stores might find that they do not lose much. Of course there is the other type of electronic shopping.

Colin Fox: I bow to the expert on online shopping.

It is inevitable that the intersection between culture and commerce has been thrown up by the arguments of the tourism industry, which argued that people who come to Scotland to spend their hard-earned cash want the fullest possible experience, of which shopping is part. It is certainly better that tourists should come here than go elsewhere, but Karen Whitefield rightly nailed the point when she said that there is a danger that we will strangle the goose that lays the golden egg. What will be different about coming to Scotland at new year if it is the same as everywhere else? That will just make the experience more common.

In giving its evidence, the Edinburgh Woollen Mill was anxious to stress that how Scotland appears to tourists is important. I agree with that. With that view in mind, that company should reflect on the view that tourists would take if they knew that the Edinburgh Woollen Mill paid its staff at Mackinnon Mills in Coatbridge just £3.29 per hour, which is £2 per hour below the national minimum wage. That firm is apparently fully conscious of its public image, but it refused to negotiate with its mainly female workforce, who have been out on strike for 10 weeks over a pay rise of 12p an hour. It is hard to believe that a company that has such an attitude does not coerce its staff to work on new year's day.

I will finish by talking about the politics of the matter. The Scottish Socialist Party supports the bill on principle. We voted for it in committee and we will vote for it again tonight. Unlike other members, Karen Whitefield has been gracious enough to admit that the Scottish Socialist Party's support at the Justice 2 Committee was crucial.

The Deputy Presiding Officer: You should be finishing, Mr Fox.

Colin Fox: Indeed. The bill would have been voted down at committee because the SNP, the Liberals and the Conservatives voted against it. They are prepared to allow workers to be coerced and to abandon the special character of new year's day.

The Deputy Presiding Officer: Mr Fox, you should be finished.

Colin Fox: There has been a fudge in this debate and it reeks. We will be sticking to the principles behind the bill.

16:14

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): It is a pleasure to be able to take part in this debate and to have the opportunity to support the general principles of the Christmas Day and New Year's Day Trading (Scotland) Bill. I congratulate Karen Whitefield—who, as some of us know, is a self-confessed shopaholic—on this bill and on remaining true to her principles. She was helped by the knowledge that she was doing the right thing.

Some politicians and some interest groups do not support the principles of the bill; as Colin Fox said, there is a minority who would be happy for the bill to be binned now. However, the vast majority of Scots, whether they are shop workers or not, support the bill because they, too, know that it is the right thing to do.

It is right to protect those two special days for family and friends—to protect the special nature of Christmas day, and to protect the significance of new year's day as a holiday in Scotland. I thank everyone who has supported the campaign, which has had an obvious effect on politicians in Parliament. I welcome their support. Karen Whitefield has demonstrated to Parliament and beyond that the bill has the overwhelming support of the Scottish public. Their support is important.

People acknowledge and are grateful for the sacrifices that are made at Christmas and new year by people who work in our emergency and public services and by people who work in the hospitality trade. Those people have a hard time: I can remember teary Christmas mornings when members of my family had to leave for work—not that I am old enough to remember Christmas day trading, in case anyone thinks I am. I remember sisters having to leave the house to go to their work as health care providers. They had to perform essential tasks, but I say to Parliament that it is not essential to have large shops open on Christmas day and new year's day. It is, however, essential that we take action to stop that happening in the future.

People who say that a voluntary code would work are kidding themselves: it would not, and to see an example we have only to look at the way Sunday trading has gone. The voluntary code did not work to protect shop workers. Smaller shops had to open to compete, even though shop workers were told that they would not be forced to work and that they would have a choice about whether to work on Sundays.

Mr Monteith: Will the member give way?

Cathie Craigie: I would be happy to.

The Deputy Presiding Officer: Very briefly.

Cathie Craigie: I am sorry. In that case I do not have time.

The Deputy Presiding Officer: Yes—you are in your last minute.

Cathie Craigie: Parliament should remember the women in Aberdeen who were sacked because they refused to work on a Sunday, and members should remember the subsequent need for legislation to offer protection.

Apart from letting shop workers know that they will not be asked to work on the two days out of 365 that will be protected, the bill will also offer a shield to me and my family. It will offer us all a shield in that on two days of the year we will not have to go to the shops as if it was just any other day.

To those in the tourist trade who foresee the end of the world as we know it if the bill is passed, I say that that is rubbish. I ask them to examine their own figures. Tourism in Scotland is on the up, which is great for all of us. Tourism is a major plank in our economy and we all wish to see continued growth. Major shops have not been open on Christmas day and new year's day, but we have seen tourism grow.

We should sell our country for what it is on those two special days—a place where people will always find a welcome. The bill will protect thousands of low-paid workers, most of whom are women, and it will give them certainty that will allow them to plan time to enjoy with their families and friends. I hope that everybody will support the bill.

16:18

Shiona Baird (North East Scotland) (Green): Green MSPs will support the general principles of the bill.

In arriving at our decision, we debated how much the bill would impinge on the freedom of people of different religious persuasions or of none. Our resolution was reflected most effectively by the Humanist Society of Scotland, which in its supportive evidence to the Justice 2 Committee said that

“there should be two days in the year when other human values are placed ahead of the commercial interests of big business.”

The Humanist Society continued on a theme that very much echoed my concerns and those of others in our group. It said:

“We feel that the whole run-up to 25th December has become a consumerist extravaganza and that this is one of the less pleasant aspects of our modern society in which

conspicuous consumption has become an end in itself."

There is no doubt that, on Christmas day and new year's day, most people expect to spend time with their families and friends. Those holidays give us the opportunity to offer the hand of friendship to those who live away from home or who have no close family, and to show that we have compassion and that we care about things beyond the commercial pressures in our lives.

During the Enterprise and Culture Committee's consideration of the St Andrew's Day Bank Holiday (Scotland) Bill, it became apparent that the number of bank holidays in the United Kingdom is among the lowest in Europe. That reflects rather badly on us—we have a societal acceptance of a much poorer work-life balance.

Mike Rumbles: Will the member give way?

Shiona Baird: No. I want to cover all my points, which refer to different matters.

Despite the fact that it clearly defines the real value of all that is worthwhile in our society, the concept of quality of life does not attract the support that it deserves. In fact, in its scrutiny of another major bill—the Bankruptcy and Diligence etc (Scotland) Bill—the Enterprise and Culture Committee heard evidence about the increasing debt burden on individuals. It appears that all is not well in respect of how we rank what is important in life.

I was interested to find that most commercial pressure is being exerted in respect of new year's day opening and that not so much pressure is being applied, as yet, to Christmas day opening. That flies in the face of Scotland's tradition of celebrating new year's day over Christmas and I have no doubt that the pressure is being applied by England-based stores, which have a different emphasis. It is important that we retain our identity and respect our traditions and culture.

Much has been made about how defining large stores by floor area might result in inequity. However, I agree with USDAW's comment that

"If one or two stores open, others will do so, because of the pressure and a snowball effect."—[*Official Report, Justice 2 Committee*, 5 September 2006; c 2605.]

Ensuring that the larger stores are closed will have a positive effect down the line.

I am also concerned at evidence on the watering down of the once-special nature of Sunday trading from USDAW and Deregulate, which confirmed that major retailers now offer contracts for five out of seven days and that the premium pay rates that most of us assumed applied to Sundays are no longer universal. If Christmas and new year trading were ever to be introduced, the implications would be obvious.

Moreover, we cannot ignore certain strong equal opportunities issues. The majority of retail workers are women who still play a major role in family life and child care. The bill will provide at least some protection for two important days to ensure proper emphasis on family-friendly policies and work-life balance.

The pressure to open on either of the two days must be resisted. In supporting the bill, we will send the clear message that we in Scotland recognise that there are more important things in life beyond opportunistic consumerism.

16:23

Cathy Peattie (Falkirk East) (Lab): I rise in support of Karen Whitefield's bill.

The arguments against the bill are short-sighted, particularly those that are motivated by profit. People have only so much money to spend and if they have not spent it all in the January sales—which, of course, start on boxing day—I am sure that they will manage to do so even if the shops stay shut on new year's day. People simply do not want to shop on Christmas day and new year's day. We need only remember the seasonal siege mentality that leads to the average household buying enough food and drink to allow them to survive for a fortnight if they get snowed in by blizzards.

However, if one big store opens, it puts pressure on other stores to open, on workers to work and—yes—on consumers to consume.

Tommy Sheridan (Glasgow) (Sol): Does the member agree that the principle behind the bill is that we should give workers a day off and that it is unacceptable that, even when stores are shut, workers should still be inside stocktaking, preparing shelves and everything else?

Cathy Peattie: Tommy Sheridan is absolutely right: the bill is about giving workers—mainly low-paid women workers—a day off.

To the big stores that want to open, I say, "Give it a rest." As for tourists, does anyone honestly think that people come to Scotland for our January sales? If people want to shop, other places can offer the same stores, better weather and—sometimes—cheaper prices.

People come to Scotland to experience our culture, and especially so at hogmanay. Our celebrations are famous throughout the world. We have given the world a theme song in "Auld Lang Syne", and we have given many a wee dram to go with it. However, shopping is not part of that experience. At new year, our hotels are full of people who want to experience the true Scottish hogmanay. For some, it is the spectacle that is important, and for others it is simply being here in

Scotland. As we heard, we have spectacular events such as street parties and torch-lit processions, and there is a spirit of good will. It is not just about a guid-willie waught, although for some folk being fou and unco happy is essential. Hogmanay is about our full tradition.

Throughout Scotland, Christmas and new year are a part of our culture and a time for family and friends to come together. They are not a time to shop. I urge members to make Santa's visit to the gallery worthwhile and to support the bill.

16:25

John Swinburne (Central Scotland) (SSCUP):

Back in 1947, when I first started work, I was amazed to find that Christmas day was not a public holiday. Strangely enough, new year's day was a public holiday. With hindsight, I realise that employers throughout the country at that time must have acknowledged that there was little chance of getting a sober workforce into their place of employment on new year's day. At that time, we had two weeks' holiday in July but we received only two days' holiday pay. Yes, indeed—those were the good old days. Aye, right.

In the ensuing 60 years, great strides have been made in most spheres of public life. The exceptions are in pensions, which lag decades behind reality, and the retail trade. Supermarkets are intent on misguided projects such as 24-hour opening, and public holidays are simply not on their agenda. To me, those who are so disorganised that they cannot survive without the shops being open on Christmas day and 1 January are simply beyond hope. Why should families be unable to enjoy a couple of days' break during the festive period just because employers are obsessed with dragging the last possible bit of profit out of the public? The main reason is the supermarkets' fear that their competitors will remain open and declare greater profits than they would then manage. They are frightened that, if they do not also remain open, their market share might drop.

Karen Whitefield's bill has struck a chord with the public, but there are all sorts of misguided objections to her bill. My answer to those who oppose this little bit of 21st century enlightenment is this: "if you think that people should work on these public holidays, feel free to set an example by putting your name forward as a carer for a couple of days and giving some respite to those who have to care 24 hours a day, 365 days a year."

It has been argued that many people, such as nurses, doctors, the police and firemen, do not have the benefit of holidays at Christmas and new year. However, such people are employed in

essential services that bear no resemblance to the services that supermarkets and other shops offer. In Parliament, we enjoy family-friendly hours, so it is incumbent on us to guarantee that those who elected us enjoy the same privileges when it comes to important holidays. It is on those days that families tend to get together and enjoy one another's company.

Christmas and new year are especially important to people of my generation. Any organisation that puts obstacles in the way of senior citizens being visited by members of their family on Christmas day or new year's day should be ashamed of themselves—although I would ask when shame ever prevented any organisation from trying to increase its profits.

It would be extremely churlish of us not to back the bill, which will be greeted throughout the country as a wee step in the right direction. At last, we will be seen to be making a little improvement in many families' lives.

16:29

Susan Deacon (Edinburgh East and Musselburgh) (Lab):

I love Christmas and new year and I love having time with my family. I am passionate on the subject of work-life balance. I greatly dislike the drift to consumerism in our society. I believe strongly in employee protection and I do not particularly like shopping. However, despite all that, I have concerns about the bill, and I know that others have concerns, both within the Parliament and beyond. Those concerns deserve to be considered fully both today and in any subsequent stages of the bill.

There is the question of how best to achieve effective employee protection. It is important that that is best done at the right time and in the right place. I disassociate myself from Jim Mather's comments in that regard. Many Labour members are proud of what has been achieved on these matters by a United Kingdom Labour Government.

Negotiation in the workplace is vital. It is a pity that, ironically, the bill largely covers workplaces that are organised as opposed to the many in the retail sector that are not and do not have negotiating machinery.

A precedent has been set in the way in which the bill has come about. USDAW has fought a fantastic campaign, for which it deserves congratulation. I muse for a moment that it would be interesting to see which other unions might consider going down similar roads and finding aspects of our devolved powers on which they could make similar arguments. For example, the National Union of Rail, Maritime and Transport Workers, Unison or perhaps even the National Union of Journalists might do so. Remember that

members of those unions do not provide essential services only—I certainly do not think that we are yet saying that newspapers are essential services, but who knows?

There are anomalies in the bill, in particular in relation to bigger and smaller workplaces. Those anomalies have been too quickly dismissed in the debate this afternoon. I do not want to repeat what has been said elsewhere and in copious evidence to the committee, but there are issues to do with garages, taxi firms, cinemas, cafes and smaller shops.

Another legitimate point is that as legislators we should be cautious about what we do that limits both consumer choice and employee choice. As the committee heard, for various reasons and in various sectors some people choose to work on public holidays, including Christmas day and new year's day. Often, one of the reasons why they choose to do so is that unions have negotiated enhanced rates. Let us be careful before we make too many blanket statements.

Mrs Mulligan: Does Susan Deacon accept that, although employers may say now that it is a matter of people volunteering to work on these days, as with Sunday trading, that will shortly not be the case? Subtle pressures will be put on workers to ensure that they attend.

Susan Deacon: A view that is widely shared, including by many who have expressed concern about the bill, is that measures should be put in place to avoid any compulsion and obligation. Time would be well spent in considering how best that can be achieved.

My final and perhaps main point is about new year and, in particular, the hogmanay celebrations. The issue that has been raised must be considered much more seriously than it has been and more evidence should be taken on it. Several of Scotland's cities have established a vital niche in the global tourism market through short city breaks centred on hogmanay celebrations. I think that some element of retail experience is a part of those overall packages to some extent—I believe that the evidence supports that point and I have heard many people in our cities argue it.

I have read the evidence, but I have also seen over many years how the Edinburgh hogmanay has grown and changed. Princes Street has gone from being a ghost town on 1 January to being a vibrant place, where visitors can spend the extra day and do a range of different things. I plead sincerely that as and when the bill progresses to the next stage—I suspect that it will do so—those issues are considered carefully. It is not only business organisations that are expressing concerns; I say to my colleagues that leading Labour councillors have also expressed concerns. We should take those concerns on board.

The Deputy Presiding Officer (Murray Tosh): You must close.

Susan Deacon: The bill has led to the issues being aired, which is important. I hope that we will take a proportionate and pragmatic approach in the weeks and months ahead.

16:34

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I believe that Karen Whitefield, caught the tone of the bill and the debate when she quoted Voltaire as saying that

"The best is the enemy of the good."

She also quoted Dickens, who said that Christmas is

"a kind, forgiving, charitable time".

She struck a chord around the chamber when she set out what we could get from the bill.

Johann Lamont set out the Executive's position, from which I and others take some comfort. She admitted that further evidence will have to be taken at stage 2 and she referred to the work that will be done by an ad hoc ministerial group. Brian Monteith's intervention on the minister was interesting, as he raised the issue of the big store that has smaller stores round it, but surely that is precisely the sort of issue that would be considered at stage 2.

Jim Mather used the expression, "the erosion of the Christmas and new year holidays", which I liked. I have some sympathy with what he said and admire and pay tribute to his adroitness—no matter what the subject of the debate, the member always manages to turn it round to his favourite subject.

Murdo Fraser began an interesting discussion that almost got into church history, which I might mention in a minute. He made the point that Christmas as our grandparents knew it—in the Highlands, at least—was somewhat different from the Christmas that I know now and which I knew as a child.

Jeremy Purvis, who made his own case, was correct to pay tribute to the sincerity that lies behind the bill. David Davidson summed up the Justice 2 Committee's deliberations nicely. John Swinney rightly drew our attention to the fact that the wider religious community is broadly supportive of the bill, which is an important point. Other members made valuable speeches in what has been a wide-ranging debate.

The debate has been not unlike the stage 1 debate on the St Andrew's Day Bank Holiday (Scotland) Bill, during which we learned as we listened. Listening enables us to progress. I pay tribute to the speeches of Marilyn Livingstone,

Colin Fox, Cathie Craigie, Shiona Baird, Cathy Peattie and others. In her speech, Susan Deacon dealt with the important issue of new year.

I put on record that I respect the sincerity of those colleagues whose views are not necessarily the same as mine or those of many members of my party, but the fact is that Christmas—both as I knew it as a child and as I know it now—is a special day. It is a day for the family, and I hope that it will remain so. John Farquhar Munro and I have had conversations with constituents who adhere to that old-fashioned Highland viewpoint, which is important to us.

Tricia Marwick (Mid Scotland and Fife) (SNP): Does the Member accept that, as recently as the 1960s, Christmas day was not a public holiday in Scotland?

Mr Stone: That may well be the case, although the situation varied throughout Scotland. The arrangements that prevailed in the Highlands were not necessarily the same as those that prevailed in the central belt. That was then and this is now, and I speak of now.

In the Highlands, it has been traditional for new year to be a holiday. I say this tongue in cheek, but in some cases it was rather longer than just one day, so if one wanted some work done, one might have booked it later in the week.

The Deputy Presiding Officer: One minute.

Mr Stone: In my family, the children work in their holidays from college—not in big superstores, but doing other jobs. On occasion, we would have liked them to have been with us at Christmas and at new year. There were times when they could not spend those days with us because they had to go to work. They were frightened that if they did not, they might not be offered the job at the next holidays. I promise members that, within the dynamic of a family, that was a genuine fear. I think that the bill seeks to address such situations.

On the basis of what the minister has said and the caveats that she has provided about going into more detail at stage 2, and notwithstanding the fact that we have yet to address the issue of new year, I and others in my party will take pleasure in supporting the bill.

16:38

Murdo Fraser: I begin by praising my colleague David Davidson, who is the convener of the Justice 2 Committee, and, to be fair, Jeremy Purvis for adopting a consistent approach throughout the bill's consideration. That is in contrast to the position of the SNP, which has flip-flopped on the issue. The arguments of Stewart Maxwell—who I note has learned from Jim Mather how to keep a diplomatic absence from the

chamber—seemed to be ignored by his party. I listened with interest to the SNP speakers in the debate and not a word of explanation was given as to why their view differed from that of Mr Maxwell, who is a member of the committee that considered the bill.

In addition to the arguments that I used earlier, there are two further reasons why I believe that the bill is flawed. First, although Karen Whitefield's intention is that the bill should protect workers' rights, it would do nothing of the sort. Tommy Sheridan made a point about that with which I agree. All that the bill would do is prevent shops above a certain size from opening their doors to the public, but as has been mentioned during the debate, a shop does not have to be open for it to employ staff, for example to replenish the shelves. Over Christmas and new year, when the so-called January sales are about to begin or are in full swing, there is a particular need for people to work to set up the sales. The bill would do nothing to prevent people from having to work even though the shop may not be open. I have sympathy with the argument of Jeremy Purvis, who said that the debate should be about employees' rights and with the idea that we should protect employees' rights on these days and others. However, that is a matter for Westminster.

Brian Adam: I put to Murdo Fraser the same question that I put to Jeremy Purvis. Does he favour devolution of employment law to the Parliament, so that we can protect employees' rights in the way in which he suggests?

Murdo Fraser: The answer to the question is no. We are debating important subjects and should not turn every debate in the chamber into a debate on constitutional issues, as the SNP tries to do.

The second serious flaw in the bill is that it creates an inconsistency. It will prevent large shops from opening and attempts to give some protection to workers in the retail sector. However, what is the rationale for protecting those who work in large shops and not those who work in the hospitality industry, for which Christmas day and new year's day are probably the two busiest days of the year? Why should those who work in the retail sector have protection that those who work in other sectors do not have? That inconsistency ran throughout the speeches that we heard from Labour members. When I challenged Karen Whitefield on the issue, she did not have an answer for me. In her speech, Mary Mulligan said that it was great to have an expansion in tourism and to have more people working in hotels, bars, restaurants and places of entertainment, but that it was bad to have them working in large shops. I cannot see the logic of the argument. Surely what is sauce for the goose is sauce for the gander.

We have heard a lot of emotive language, especially from Labour members. Once again, depressingly and unsurprisingly, the Labour Party has dismissed out of hand the genuine concerns of the business community. The honourable exception was Susan Deacon, who made some fair points. Cathie Craigie described the concerns of the tourism sector as “rubbish”. The true colours of the Labour Party are again on show.

Cathie Craigie: Will the member give way?

Murdo Fraser: I am sorry, but I am in my last minute. We have already heard what Cathie Craigie's views of the business community are.

Conservative members welcome the establishment of the ad hoc ministerial group to examine the issues relating to new year's day. There are serious questions to be considered. We will seek an amendment at stage 2 to exclude new year's day from the ambit of the bill. I am afraid that if there is no such amendment, the bill will be another bad piece of legislation to add to the pile that the Parliament has passed over the past seven and a half years.

16:42

Brian Adam (Aberdeen North) (SNP): I signed Karen Whitefield's bill and am pleased that it has reached this stage today. I am also pleased to support the general principles of the bill. There are undoubtedly concerns about the bill, but those relate to detail. In the parliamentary processes that are yet to come, we have the opportunity to resolve the difficulties one way or the other. If we cannot, those who wish to reject the bill will have the option of doing so.

I am in no way persuaded by the argument that some have deployed that if all workers cannot have the benefit of protection on the special days at new year and Christmas, none should have it. It is particularly galling that the principal advocate of that position is someone who continually tries to achieve what he wants by compromising his position in order to make what he regards as little advances. However, he now says that because we cannot give all workers the benefit of such protection, none should get it.

There are arguments surrounding the definition of big shops and small shops.

Ms Rosemary Byrne (South of Scotland) (Sol): Does the member agree that the bill is a small step towards giving workers better rights and that the Parliament could be taking similar measures to protect people who are working on fixed-term contracts in the electronics industry, for instance, and are forced to work shifts that they do not want to work? That would restore the

emphasis on the family and on family time, in particular.

Brian Adam: As I indicated in my interventions, I would welcome the opportunity to consider such issues. However, I recognise that that is not open to us at present. Karen Whitefield is to be commended for introducing a measure that is within our purview.

Jeremy Purvis: I suspect that Brian Adam was alluding to my position earlier. Will he give us a steer on whether the SNP would accept amendments to extend the scope of the bill? My view is not that we should withdraw rights; it is that the bill does not go far enough.

Brian Adam: I am delighted that the member's view is that the bill does not go far enough and that he does not have a closed mind on the issue. We will have to see what amendments are lodged, and listen to and participate in the debate. I assure him that the SNP will engage in the process.

There is no doubt that new year and Christmas day are special days. For someone of my age and background, new year has been the more important of the two. I do not accept the view expressed by some that we should respect only the Christmas day part of the bill. By targeting the legislation at bigger shops—which the bill rightly does—what exactly are we preventing people from doing? Are we preventing folk from going to the supermarket to stock up on food? Cathy Peattie dealt rather well with that issue. Are we preventing folk from buying furniture in the sales? I do not think that our tourists are coming here to buy furniture in the sales. That whole argument is fallacious. Some shops specifically relating to tourism might need protection—that can and ought to be teased out as part of the parliamentary process. The SNP, particularly those members who signed the bill in the first instance, welcome the opportunity to support the general principles of the bill and look forward to engaging further in the debate as the bill proceeds.

16:46

The Minister for Justice (Cathy Jamieson): It is perhaps unusual for the Minister for Justice to be standing up to focus not on offences, penalties or whether people will end up in prison, but on issues concerning the principles of the Christmas Day and New Year's Day Trading (Scotland) Bill. As someone who, every now and again when I am particularly pressed, takes tips from Margo MacDonald on where the best online bargains are to be had, I would not claim to be as experienced as the bill promoter, Karen Whitefield—the self-confessed expert shopaholic.

On a serious note, this has been an opportunity for an important debate. It is good that we have

had the time to consider the position of shop workers and indeed those who work behind the scenes in the retail sector—whether it is in the stores or on the distribution side—and to give some thought to those people whom we quite often take for granted. That is why I welcome this opportunity to speak. Karen Whitefield outlined her arguments coherently. Clearly, there are different opinions—I want to say something about that—and I thank the Justice 2 Committee for its work in trying to balance a range of different opinions over a fairly extended period.

Murdo Fraser seemed to suggest that the business community had spoken with one voice and that the Executive—or perhaps more specifically the Labour benches—was entirely opposed to that opinion. I preface my remarks by saying that the Executive does not need to take any lessons on employee rights from the Conservative and Unionist Party, after what it did in 18 years in government. The Executive is working with the Westminster Government to ensure that more people have the opportunity for employment and are able to take up those rights.

To return to the point about the business community, my understanding from the evidence, including that which the committee considered for its report, was that the Federation of Small Businesses, the Scottish Grocers Federation and a range of other organisations were not speaking entirely with one voice on the matter, nor indeed were the interests representing the tourism trade. It was recognised that there are different issues at stake for the larger stores and the smaller stores. Those are among the issues that we need to tease out further during the progress of the bill—*[Interruption.]* Did I hear someone trying to intervene?

The Deputy Presiding Officer: Murdo Fraser.

Cathy Jamieson: With due respect to Mr Fraser, I thought that I heard someone behind me. If I did not, I stand corrected.

The Deputy Presiding Officer: It is unusual to give way to someone when you do not know who it is, but I think that you intended to give way to Cathie Craigie.

Murdo Fraser: Oh, for goodness' sake.

Cathie Craigie: On the points that Murdo Fraser made, does the minister agree that the business community, particularly the tourism industry, defeated its own argument in providing the tourism figures for the Christmas and new year period, which in fact show that tourism is booming at that time?

Cathy Jamieson: Despite Mr Fraser's rather petulant outburst, I am prepared to consider an intervention from him. I acknowledge Cathie

Craigie's point. Paragraph 39 of the committee's report states:

"the committee was unable to come to a view regarding the impact that the Bill would have on tourism due to the lack of robust evidence relating to the relative importance of shopping as a tourist activity and the average length of stay for visitors to Scotland at New Year."

Issues arise that need to be debated further and scrutinised properly. The correct way in which to do that is to let the bill proceed to stage 2 to allow that consideration.

I am happy to take an intervention from Mr Fraser.

Murdo Fraser: I am grateful to the minister. Does she believe that it is helpful to the debate to have a Labour member dismissing the concerns of the tourism industry as "rubbish"?

Cathy Jamieson: It is important that members are free to express their opinions in the debate. Indeed, the opinions that Mr Fraser and some of his colleagues have at times expressed would not find favour in the Parliament either, but that is exactly why we are here—to debate the issues and to consider how to proceed and get the best possible legislation for Scotland. The Executive has a responsibility to ensure that we make progress with the debate, listen to all the arguments and do more work to engage with the various interest groups, including the tourism sector. We need to listen to the economic arguments and the views of the trade unions and employees who gave evidence to the committee. That is exactly why the Executive believes that we should support the bill's principles but engage in further work during stage 2.

Margo MacDonald: Will the minister give way?

Cathy Jamieson: I will give way to Margo MacDonald.

The Deputy Presiding Officer: There is not really enough time, so be very quick, Ms MacDonald.

Margo MacDonald: Will the minister also please consider with an open mind the comments that have been made about holistic legislation on workers' rights being the Parliament's responsibility?

Cathy Jamieson: I hope that I have said that we will consider the issues with an open mind.

I want to refer to one point that the Justice 2 Committee convener raised earlier. I do not want to pre-empt anything that you might say, Presiding Officer, or necessarily to follow up anything that you said earlier, but the committee convener asked for a meeting with me to discuss the legal advice that I received in relation to an ad hoc group. There is perhaps some confusion on the matter. It is for the Executive to decide to set up

an ad hoc group on the issue, and that is not necessarily related to any legal advice that the convener may receive on amendments at stage 2. As I understand it, the admissibility of amendments is entirely for him to decide on.

16:53

Karen Whitefield: The debate has been interesting and stimulating and I welcome the opportunity to respond to some of the points that have been made. I welcome Cathie Craigie's support, and I reassure members that the motivation for introducing the bill had nothing to do with giving my credit card a rest, but was very much about protecting shop workers' rights and the special nature of Christmas day and new year's day.

I am particularly pleased that the Scottish National Party has finally got off the fence. Brian Adam, Sandra White and one or two other SNP members have supported the bill from the start. However, it says something about the party that claims to be the Government in waiting that it had to wait to see what the Executive was going to do before it could show any leadership. I welcome the SNP's support, no matter how late it is, and I am sure that Scotland's shop workers will welcome it, too.

Murdo Fraser seemed to ask, "If it ain't broke, why fix it?" but the point of the bill is that it is pre-emptive. We have given careful consideration to the current reality and to future indicators. Members do not just have to take my word for it because, in 2003, the Department of Trade and Industry stated that it believes that it is

"necessary to act now to avoid a gradual process of opening by large stores, for example as a result of perceived competitive pressure"

and that

"legislation is the only way to ensure that large stores will remain closed".

I say to Murdo Fraser that it is nonsense to suggest that Labour members are opposed to the business community and do not listen to it. The reality is that many members of the business community support the bill. Aldi, Argos, HMV, Scotmid, Waterstone's, Ottakar's and Habitat have all indicated their support for the bill, so it is not true to suggest that the retail industry in Scotland is speaking with one voice on it.

I will now turn to the Parliament's own man at C&A. Jeremy Purvis has suggested that, because the bill does not protect everyone, we cannot possibly protect anyone. It is quite ridiculous to suggest that, because the bill will not protect every worker in Scotland, we should give no one access to Christmas day and new year's day holidays. He is clearly wrong.

Jeremy Purvis also failed to recognise USDAW's claim—which was made in the evidence that was given to the committee—that the bill will protect 72 per cent of workers in Scotland. The figure that the Executive uses is a minimum of 31 per cent of workers, but the reality is that, even if we accept that the true figure lies somewhere in the middle, the majority of the 252,000 retail workers in Scotland—a substantial number of workers—will benefit from the measures in the bill.

Karen Gillon (Clydesdale) (Lab): Does Karen Whitefield agree that, if we took Mr Purvis's argument to its logical conclusion, the Parliament would not have introduced protection for emergency workers because not all workers in Scotland are covered by the Emergency Workers (Scotland) Act 2005?

Karen Whitefield: Absolutely. Sometimes, arguments about red tape and bureaucracy are used in an attempt not to do anything and to negate our responsibility to offer protection wherever we can.

Some critics of the bill have suggested that it is yet another example of red tape for business. I must have missed the meeting at which that was shown, because the bill largely reinforces the status quo and requires no extra bureaucracy save the enforcement provisions that would be implemented if large shops chose to break the law.

We have heard much about tourism, about which Marilyn Livingstone, Cathie Craigie, Murdo Fraser and Cathy Peattie all raised issues. Some people have made unhappy noises about the possible impact on tourism if large shops are not able to open on new year's day. The reality is that, in Scotland, many shops do not open on new year's day—in fact, only Debenhams opens at the moment—but the tourism occupancy rates in Edinburgh have increased from 50 to 93 per cent. Ninety per cent of hogmanay tourists come from other parts of the United Kingdom, where the shops open on new year's day. They come in the knowledge that our shops are not open. Perhaps they want to do something a little bit different. I am reminded of the old Marx Brothers line:

"There ain't no Sanity Clause!"

Let us ensure today that Santa and sanity both prevail.

Shiona Baird raised a number of issues on shop size. I support the argument that 280m² gets the balance right. That is the right size. It is a well-known figure and one that the retail industry in Scotland and the rest of the United Kingdom is used to. It would work well.

Before concluding, I would like to thank all those who have helped me to reach this point. It has

been a long process. I begin by thanking John Hannett, Bruce Fraser and all of USDAW's staff, without whom I could never have progressed the bill. They have provided practical and, more important, moral support from the thousands of their members who have written to me and my colleagues to support the bill.

I also thank Rodger Evans and members of the non-Executive bills unit for their tireless support and advice, both during the consultation process and in the preparation of the bill. I thank David Fagan, Marion Kirk and Daniel Orders from my office, who have also assisted.

Last, but by no means least, I would like to thank the 6,000-plus shop workers who have bombarded colleagues in all parties with postcards calling on them to support the bill. The general secretary of USDAW hosted a hogmanay party in the Parliament last week. He apologised for the extra work that the campaign had put on MSPs, but he rightly pointed out that it had showed the strength of feeling on the issue.

We have heard a wide range of contributions during today's debate, and I am pleased that many members support my proposals to help protect the special nature of Christmas day and new year's day. I hope that members will agree that it is not too much to ask that Scottish shop workers should have two days every year that they can spend with their friends and families.

As I am sure that members know by now, the bill is popular with the Scottish public, and I ask all members to support its general principles. Remember: Santa is watching!

Business Motions

17:02

The Deputy Presiding Officer (Murray Tosh):

The next item of business is consideration of business motion S2M-5203, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 29 November 2006

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Final Stage: Glasgow Airport Rail Link Bill

followed by Parliamentary Bureau Motions

followed by Stage 3 Proceedings: St Andrew's Day Bank Holiday (Scotland) Bill

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 30 November 2006

9.15 am Parliamentary Bureau Motions

followed by Stage 3 Proceedings: Bankruptcy and Diligence etc. (Scotland) Bill

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—
Finance and Public Services and Communities;
Education and Young People,
Tourism, Culture and Sport

2.55 pm Conclusion of Stage 3 Proceedings:
Bankruptcy and Diligence etc.
(Scotland) Bill

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 6 December 2006

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Executive Business

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 7 December 2006

9.15 am Parliamentary Bureau Motions
followed by Stage 3 Proceedings: Adoption and Children (Scotland) Bill

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—
 Health and Community Care;
 Environment and Rural Development

2.55 pm Conclusion of Stage 3 Proceedings:
 Adoption and Children (Scotland) Bill

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business.—[*Ms Margaret Curran.*]

Motion agreed to.

The Deputy Presiding Officer: The next item of business is consideration of business motion S2M-5202, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for legislation.

Motion moved,

That the Parliament agrees that consideration of the Schools (Health Promotion and Nutrition) (Scotland) Bill at Stage 1 be extended to 26 January 2007.—[*Ms Margaret Curran.*]

Motion agreed to.

Parliamentary Bureau Motions

17:03

The Deputy Presiding Officer (Murray Tosh): The next item of business is consideration of two Parliamentary Bureau motions. I ask Margaret Curran to move motions S2M-5200 and S2M-5201 on the approval of statutory instruments.

Motions moved,

That the Parliament agrees that the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 3) Order 2006 be approved.

That the Parliament agrees that the draft Personal Injuries (NHS Charges) (Amounts) (Scotland) Regulations 2006 be approved.—[*Ms Margaret Curran.*]

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

Point of Order

17:03

Rob Gibson (Highlands and Islands) (SNP): On a point of order, Presiding Officer. This concerns a meeting of the Environment and Rural Development Committee on 15 November. After a vote in which Richard Lochhead, Eleanor Scott and I voted one way and the majority the other, Alasdair Morrison directed across the room the comment, "All the fascists."

I called for an immediate apology and withdrawal of the remark by Mr Morrison, but the convener claimed that she did not hear the remark. As the remark is noted in the *Official Report*, I raised a further point of order with the committee convener, Sarah Boyack, this morning, when she ruled that civil language ought to be used as per standing orders.

That comes on top of an incident raised in a point of order in the chamber on 24 February 2005 by Mr Morrison himself. He claimed that another MSP had, from a sedentary position, called him a fascist. Mr Morrison said:

"Presiding Officer, do you agree that this use of intemperate and highly inappropriate language is reprehensible; is to be deplored and is worthy of censure and referral to the Standards Committee for its deliberations?"—[*Official Report*, 24 February 2005; c 14823.]

Presiding Officer, could you advise the Environment and Rural Development Committee convener that an apology from Mr Morrison is in order and that the nasty slur made on me and my colleagues on 15 November must be withdrawn? Will you agree that such language unbecomes a member of the Parliament?

The Deputy Presiding Officer (Murray Tosh): I am grateful for the advance notice of the point of order. Curiously, we had points of order earlier this afternoon that raised another matter, but in a similar vein. My ruling is the same as it was earlier this afternoon, which is that when a committee is in session, in essence the judgments and rights of the Presiding Officer are exercised by the convener of the committee. I judge, from the account that Mr Gibson has given of the exchanges, that the committee convener gave the only ruling that I would have been able to give, which is that members ought at all times to be courteous in their dealings with one another. I am happy to offer that general advice to everybody, but I am not in a position to tell the convener of any committee how that committee should handle its business, because it is clear that, under the standing orders, that is the responsibility of the committee convener. I hope that members will bear in mind that general advice at all times.

Decision Time

17:06

The Deputy Presiding Officer (Murray Tosh): We come to decision time. The first question is, that motion S2M-5043, in the name of Tavish Scott, that the Parliament agrees to the general principles of the Transport and Works (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Transport and Works (Scotland) Bill.

The Deputy Presiding Officer: The second question is, that motion S2M-5176, in the name of Mr Tom McCabe, on a financial resolution in respect of the Transport and Works (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Transport and Works (Scotland) Bill, agrees to any expenditure or increase in expenditure of a kind referred to in Rule 9.12.3(b)(iii) of the Parliament's Standing Orders arising in consequence of the Act.

The Deputy Presiding Officer: The third question is, that motion S2M-5169, in the name of Karen Whitefield, that the Parliament agrees to the general principles of the Christmas Day and New Year's Day Trading (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Canavan, Dennis (Falkirk West) (Ind)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)

Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kane, Rosie (Glasgow) (SSP)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Campbell (West of Scotland) (Ind)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Sheridan, Tommy (Glasgow) (Sol)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)
 Wallace, Mr Jim (Orkney) (LD)

Watt, Ms Maureen (North East Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Smith, Iain (North East Fife) (LD)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

The Deputy Presiding Officer: The result of the division is: For 99, Against 4, Abstentions 18.

Motion agreed to.

That the Parliament agrees to the general principles of the Christmas Day and New Year's Day Trading (Scotland) Bill.

The Deputy Presiding Officer: If no member objects, I propose to put a single question on motions S2M-5200 and S2M-5201, on statutory instruments.

There being no objection, the question is, that motions S2M-5200 and S2M-5201, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, on the approval of statutory instruments, be agreed to.

Motions agreed to.

That the Parliament agrees that the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) (No. 3) Order 2006 be approved.

That the Parliament agrees that the draft Personal Injuries (NHS Charges) (Amounts) (Scotland) Regulations 2006 be approved.

Farepak Response Fund

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-5107, in the name of Elaine Murray, on the fund for Farepak victims. I ask members who are leaving the chamber to do so quietly. The debate will be concluded with any question being put.

Motion debated,

That the Parliament welcomes the setting up of a fund by the Department of Trade and Industry to recompense Farepak victims, such as those in Dumfries; notes that retailers are being asked to make contributions; notes also that MPs are being asked to contribute a day's salary to the fund, and considers that MSPs should do likewise.

17:09

Dr Elaine Murray (Dumfries) (Lab): Farepak Food and Gifts was a company supplying Christmas vouchers and hampers to the public, who purchased them over a period of up to 10 months. The company ceased trading on 11 October and went into administration on 13 October. An estimated 140,000 families across the United Kingdom lost their Christmas savings, sustaining a combined loss of around £40 million.

From my experience of the constituents who have contacted me, it seems that most of the savers were women. Most were on low incomes, were in part-time work or were pensioners. These were people who wanted to save for Christmas, not take out a loan or use a credit card. It was because their family incomes were low that they saved for Christmas in this way, putting aside money month by month that could not be touched if the kids needed new trainers or cash was needed for a family holiday. That is why they did not save using a bank—various people have asked me that. They wanted to be sure that the money would be left untouched until it was needed for Christmas.

Unknown to them, however, European Home Retail, Farepak's parent company, was touching their money and using it to prop up other parts of its failing business empire. It has been suggested that that was going on from the beginning of this year. EHR told the stock exchange in June that it had problems and that it would run out of funds by the autumn unless further funds were made available. In August, HBOS advised that it would make no further funds available. The Hamper Industry Trade Association asked EHR to ensure that Farepak customers' money was ring fenced and would be available to customers at Christmas. EHR refused to do so and continued to encourage its customers to make payments for the period until 31 October. Companies House reckons that between £17 million and £23 million of Farepak

customers' money—money that was carefully set aside by low-income families to provide for Christmas—was paid out by Farepak to EHR.

There is no doubt who the villains are in this unhappy Christmas carol—they are the Farepak directors: ultra-wealthy individuals such as Sir Clive Thompson, Nick Gilodi-Johnson and William Rollason, who used the hard-earned cash of Farepak customers to try to bail out their failing enterprises. Their bankers, HBOS, deny any responsibility. Shane O'Riordain, the general manager of group communications for HBOS, advised me last week in a letter that

"HBOS stood behind its customer, EHR, through its financial difficulties for as long as we could. We believe it was the right thing for the bank to stand behind its customers. We have behaved honourably throughout."

However, it is a pity that Farepak did not stand behind its customers. Further, if HBOS had pulled the rug out from under EHR during the summer, those customers would have lost less and would have had more time to make arrangements for Christmas.

HBOS has also stated that it will not donate any more than £2 million as that might, somehow, imply responsibility. However, with profits of £2.9 billion, I suggest that HBOS could do more without prejudice.

What is being done and what can be done to help the families that have been affected and to reassure people that this will not happen again and that, if possible, those who are responsible for their plight will receive some form of just deserts?

Some families—those whose agents paid by credit card—will have been able to reclaim their contributions. Indeed, some have already been repaid. I am pleased to say that the first constituent who contacted me has received her money back because her agent paid by credit card. However, many will not be repaid. The Farepak Response Fund was established under the auspices of the Family Fund—which, fortuitously, has a reception in the garden lobby of the Parliament tonight. The Family Fund was established more than 30 years ago in response to families that were affected by thalidomide and has supported families affected by disability ever since.

The Farepak Response Fund is not a compensation fund. It will distribute goodwill payments to customers, via their agents, in the week before Christmas. Because of that deadline, the fund was due to close on Friday. However, today the deadline was extended to 6 pm next Wednesday. I am hoping to use this debate as a plea to businesses and banks in Scotland and to individuals who have not yet made contributions to make donations to the fund in the next week. As of

this morning, almost £4.9 million had been donated, including £144,000 from individuals. However, I ask members to bear it in mind that, as around £40 million has been lost, that sum represents a recovery of only about 8p in the pound.

Argos, Alliance and Leicester, Asda, Boots, Business Performance, Co-op, Debenhams, Findel, HMV/Waterstones, Jessops, John Lewis, Halfords, Marks and Spencer, Morrisons, Park Food, PKF, Ryman stationers, United Norwest, Tesco, Fifth Business, W H Smith and Woolworths have all pledged or made payments to the response fund—now we know who the good guys are—but many banks and businesses out there have still not made any payments. Indeed, some banks that have a high profile in Scotland have yet to contribute. Of course, I hope that fellow MSPs will donate, too. I point out that the response fund can claim back, through gift aid, the tax that someone has paid on a donation, so it will be worth more than the actual amount that is given.

It would be great if enough cash came flooding into the response fund to enable everyone to get their money back, but that is unlikely, so families may well have to borrow. The credit unions are keen to help. They can make loans available to new members while charging considerably less interest than do major credit providers. However, many of their existing members will also want to take out savings or loans to cope with the expense of Christmas. Therefore, I ask whether the Executive can help by providing some sort of security for the credit unions to help tide them over so that they can offer loans to Farepak savers.

On the issue of just deserts, the companies investigation branch has already started an investigation into Farepak. It is possible that there could be criminal investigations thereafter. The Office of Fair Trading is looking at the need for legislative change to prevent such an event from happening again.

I end by repeating my plea to colleagues, businesses and Scottish citizens to make a donation so that we can help these families to have the enjoyable Christmas that they deserve. We know who the Scrooges are. I hope that we will all act as the Ghost of Christmas Past, the Ghost of Christmas Present and the Ghost of Christmas Future by putting pressure on our colleagues and on businesses to help these families have the Christmas that they deserve and make Santa come for their children. *[Applause.]*

The Deputy Presiding Officer: A considerable number of members wish to speak in the debate. I remind those in the public gallery that it is not appropriate to applaud.

17:17

Richard Lochhead (Moray) (SNP): I congratulate Elaine Murray on securing this important and timely debate. Like many members, I have been contacted by dozens of constituents who have been affected by the crisis. Friday 13 October was an unlucky day for hundreds of my constituents, as it was for thousands of people throughout Scotland who were customers of Farepak, because the company went into receivership on that day.

In many communities in my constituency, Farepak recruited agents who, in turn, recruited their families, neighbours, friends and people in their workplaces. It is galling to see that the front page of the brochure that was given to agents and their customers a few months ago states:

“GIVE YOUR FAMILY THE BEST EVER CHRISTMAS”

and

“Start saving now for Christmas 2006”.

As members know, many families now face a disappointing Christmas unless we pull out the finger and do what we can to help make up for the loss that they face.

The Farepak scheme was especially helpful to families that went out of their way to budget and, as Elaine Murray said, it was particularly pertinent for many low-income families in Scotland. That is certainly the case in my constituency. To give some idea of the scale of the impact area, members should know that, in many of our smaller close-knit communities where people know many other people, agents signed up their families, neighbours, friends and workplace colleagues. I received an e-mail from one workplace in Elgin that said:

“From our office alone we have lost nearly £5,000 in store vouchers between 14 members of staff and their families, and we are all aware of others in the Moray area who have lost large sums of money. ... Sir Clive Thomson who was the Chairman of Farepak was given a knighthood for services to industry in the 1990s but has been allowed to basically steal this money from us with no intention of providing goods or service.”

I have received similar e-mails from other small communities. An e-mail from Lossiemouth states:

“I am an agent for Farepak (or was!) and my customers including myself have lost £4,000 of voucher orders.”

An e-mail from the small community of Rothes says:

“My wife is (or was) a agent of farpak whose personal loss is £850.00 but her clients total loss is £3100.00”.

Another e-mail from Lossiemouth says:

“My family has lost £730 through vouchers I ordered through Farepak freedom2shop. Freedom to be fleeced more like.”

I am sure that those stories are reflected throughout Scotland.

As Elaine Murray said, it was particularly galling that Farepak accepted money from agents right up to the last moment. I have spoken to constituents who sent in cheques on the Monday that were cleared on the Friday when the company went into receivership. As things stand, those constituents have lost every penny of that money, which is despicable. Financial problems were known about as long ago as July, but the company continued to take money. Customers gave it money in good faith until the moment it went into receivership.

It is unfortunate that the people who are involved in the crisis—the former bosses of Farepak and HBOS, for example—have had many arguments. We must help Farepak's customers, who are stuck in the middle. It is all very well for former bosses of the company and other companies to have a big public battle, but the United Kingdom Government and the Scottish Government must pull out their fingers and do what they can to help the victims of the crisis. We must bring those victims some Christmas cheer in the next few weeks.

I congratulate *The Press and Journal*, which has started a campaign to help the 10 families in its circulation area that have been most affected by the crisis. It has appealed to businesses throughout that area to give donations. I am sure that members support what it is doing.

Thousands of Scots have been affected by what has happened. We must do what we can to help low-income families in particular, agents and the families, friends and workplace colleagues of agents through the crisis and ensure that we bring them some Christmas cheer.

17:21

Margaret Mitchell (Central Scotland) (Con): I welcome the opportunity to discuss the fund for Farepak victims and congratulate Elaine Murray on securing a debate on such an important issue.

Farepak Food and Gifts ceased trading on 11 October; administrators were appointed two days later. As a result of the company ceasing to trade, hundreds of families and individuals throughout Scotland—not only in Dumfries, but in central Scotland and East Dunbartonshire and in Coatbridge, Airdrie, Hamilton, East Kilbride, Motherwell, Wishaw, Shotts, Falkirk and Kilmarnock—discovered that their savings had been lost and that they faced a bleak Christmas. The victims had one thing in common—rather than choosing to borrow and enter a spiral of debt, they had acted responsibly by planning ahead and making provision for the financial demands of the festive season.

Farepak, which was established in 1969, had a well-tested track record. Many self-employed agents, who encouraged friends and families to save, had been with the company for more than 20 years and were savers themselves. Some people—including employees in private firms and local authorities—saved with agents through work connections. There was no reason to doubt the company's viability.

However, there was a very different story behind the scenes. Farepak's parent company, European Home Retail, which is a listed company, took decisions that meant that its liabilities exceeded its assets for more than two years. A time bomb was waiting to explode; it finally exploded when Farepak and EHR called in the administrators, which left the victims—among them some of the poorest and most vulnerable families in Scotland—devastated.

As Elaine Murray pointed out, some people have been quick to point the finger at HBOS following the collapse of Farepak. However, doing so is unjust. The bankers tried to support the struggling company for as long as they could, but they could not support it indefinitely. Like Elaine Murray, I have absolutely no doubts about who the real culprits are. The blame lies firmly on EHR's directors, managers and family shareholders, who tried to trade their way out of trouble rather than consolidate before things got totally out of control.

The setting up of the Department of Trade and Industry fund to help victims is welcome. Any contributions must be voluntary, and people should not be too prescriptive. As Elaine Murray said, numerous companies and individuals have already contributed to it, and I hope that others will be encouraged to do so. I would certainly welcome Scotland's local authorities being encouraged to spread some Christmas cheer by donating the revenues that they receive from a week's parking fines. If they did so, they might even make people feel good for once about getting one of the dreaded parking tickets that local councils and the blue meanies diligently deliver.

17:24

Shiona Baird (North East Scotland) (Green): Elaine Murray is to be thanked for bringing the debate to the Parliament and giving us the opportunity to air the many disturbing issues behind the collapse of Farepak.

Next week, the Parliament will debate stage 3 of the Bankruptcy and Diligence etc (Scotland) Bill. In the evidence that was gathered by the Enterprise and Culture Committee, real concern was expressed about the level of individual debt, which is now estimated to be £10,000 on average. I was particularly concerned when I heard evidence from

a witness who suggested that the mantra for many is, "Buy now, file later." That underlines the saddest part of this collapse, which is that it has affected so many people who are struggling on low incomes but who had the sense not to go down the debt route. They thought that they were doing their best for their families by saving throughout the year for Christmas. What sort of message is being sent out now?

Those people losing so much in doing what they thought was the responsible thing contrasts markedly with the totally irresponsible actions of the chairman and board of Farepak's parent company, EHR. They took in the weekly contributions under a scheme in which they could use the money for their own purposes without even offering interest to their savers. In the process, therefore, they did not come under the regulation of the Financial Services Authority.

Such unregulated banking must not be allowed to continue, especially when we have a much more acceptable method of saving in credit unions. Credit unions provide easy and safe savings routes for people. Crucially, all the money that is saved in credit unions is protected by the Financial Services Compensation Scheme and, as financial co-operatives, credit unions exist only to serve their members. That is the clear message that must be sent out if we are to continue to encourage saving.

The motion, however, is more about the fund that has been established to support those who have lost so much. I heard today that HBOS—the banker for the parent company—has been able to recoup £28 million from the company's total debt of £31 million. That means that it is receiving 90p in the pound. The investors, who have lost so much more in relative terms, will be lucky to get 4p in the pound. There is no equity or fairness in that.

According to Polly Toynbee, in an article in *The Guardian* of 14 November, the Farepak chairman, Sir Clive Thompson, was taking £100,000 a year for his part-time job while earning £894,000—sorry. I beg your pardon; I am losing my noughts—£894,000 is right. Sorry. I have been sitting in the chamber too long. He was also taking £894,000 as the deputy chairman of an investment company. Meanwhile, one of the directors, Nick Gilodi-Johnson, the son of Farepak's owner, had an estimated share dividend from EHR of £445,000 on top of his pay—no, £44,500. Sorry. It was £445,000. The figures are so amazing, it is hard to get one's head round them. Anyway, he also stands to inherit £75 million. As Polly Toynbee pointed out, if he is as gutted as he says, the family has the money to repay the savers. So does HBOS, which cannot absolve itself of its corporate social responsibility towards those thrifty savers.

At least HBOS has given £2 million to the fund. Has NatWest, the banker for Farepak?

It is to be welcomed that individuals are willing to give voluntarily to the fund, but the ultimate responsibility must remain with those who misused the funds for their own ends. It remains their shame, although that is little comfort to those who trusted them. Nevertheless, they have time to make amends and to right this unacceptable wrong. I hope that they do.

17:29

Bristow Muldoon (Livingston) (Lab): It is appropriate that this debate should take place on the same day that the Parliament has recognised the special nature of Christmas in our society. Of course, much of the legislation that governs the regulation of companies is reserved to Westminster, and I welcome the contribution that MPs have made in raising the issues relating to Farepak at Westminster. However, it is important that the Scottish Parliament lends its voice in support of the many families—our constituents—who have been hurt by the collapse of Farepak, and that we look to ourselves to see what we can do to alleviate that hurt and avoid it happening again in the future.

I pay tribute to the many Farepak agents and customers who have come together in a determined and dignified manner to campaign to ensure that they are recompensed for the losses that they have suffered, and for action to be taken to ensure that such a scandal is never allowed to happen again. In particular, I praise the work of Suzy Hall, who has been ably leading the campaign in Scotland. A number of the campaigners are here in the gallery; I welcome them to the Scottish Parliament.

I will address two main points. First, what can we do about this Christmas? Elaine Murray's motion welcomes the establishment of the fund to recompense Farepak customers and calls for contributions to the fund from MPs and MSPs among others. I agree with that call and hope that we respond to it. I urge any individual outwith the Parliament who can afford to do so to make a donation to the fund.

Although individuals can make an impact by donating to the fund—symbolic though that impact might be—the only thing that would make a substantial difference to the families that have been affected by the Farepak collapse would be if many of the major, highly profitable companies in Scotland, such as the banks and major retailers, made substantial donations.

Many references have been made to HBOS and time will tell about the extent of its culpability. I urge HBOS to use some of the massive profits

that it enjoys, as outlined by Elaine Murray, to increase substantially its donation of £2 million. I echo other members' calls for other major clearing banks and financial institutions that enjoy healthy profits in Scotland to look to their consciences and donate as a matter of good will.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Will the member join me in condemning Lloyds TSB, which has reneged on its decision to refund any contributions made by Farepak customers who went into the bank's premises to make payments using their debit cards? The bank believes that it has nothing to do with the problem.

Bristow Muldoon: I agree with Margaret Jamieson absolutely. Some customers have managed to get some of their money back because they used credit and debit cards to make their payments, and I urge all banks, including Lloyds TSB, to fulfil their obligations to their customers.

Beyond the banks, the major retailers should be looking to make substantial goodwill donations. Many retailers have benefited from the vouchers that Farepak customers have saved up for. Retailers make substantial profits out of people all year round, but most of all in the run-up to Christmas. Again, I urge every major retailer on the high streets of Scotland to make a contribution.

My second and final point concerns the future. I would like the role of credit unions to be improved in Scotland. The people who saved with Farepak have proved that they can save to plan for Christmas. They are reliable savers, so for the future, we should try to ensure that Farepak customers and others who want to save—for Christmas or for other purposes—are aware of credit unions and are encouraged to join a safe, reliable and regulated means of saving. If we can do that, hopefully people will have their money at Christmas.

The most important thing that we can do now is help families to have a good Christmas this year. I therefore urge individuals and companies in Scotland to give generously to the fund.

17:34

Murray Tosh (West of Scotland) (Con): I congratulate Elaine Murray on introducing this topic for debate, and on the forceful and fluent way in which she opened the debate. She expressed the anger that I am sure we all feel about what this company and the company that stands behind it are responsible for.

Farepak appears to have been operating as a form of bank—although obviously not a

comprehensive one—by collecting money from people, holding it for them and then giving them vouchers at the end of the year. It strikes me that that is a pretty good business for the company. As I understand it, the company pays no interest.

Also as I understand it, the customers are very restricted in what they can buy with their vouchers. They lose the opportunity to scout around for good competitive prices as the rest of us who deal in cash can do. Why would anybody put themselves into that position? I think that Elaine Murray gave the answer. By and large, the people who have dealt with Farepak are people whose circumstances are such that they cannot trust themselves not to touch the money during the year. It can be hard for us to understand that; we all command good salaries and cannot imagine ourselves in such circumstances. However, if we start from that understanding, we can gain some sense of the depth of the injustice and the wrong that has been done to people. Those people had little choice but to put themselves in a position where they were vulnerable to such exploitation. Farepak and its parent company have exploited them.

As Bristow Muldoon said, there will be an investigation into what has happened, and the culpability of other parties—particularly HBOS—will be looked into as well. Briefing material that we have received this week suggests that the parent company has been struggling in some ways for a number of years. Questions may have to be asked about that.

I do not know the answer to those questions, but I suspect that the legal position will be that HBOS had little option because of the duties of its directors but to recover the money. However, I suspect that the directors had the option of being rather more generous than they have been in the way in which they can disburse the moneys that they have at their disposal. They could dig deeper into their pockets and I hope that they will.

We should all contribute to the fund, but the principal lessons must be for Westminster. I agree with what has been said about credit unions but, although credit unions offer better protection for funds, they will not be in a position to say to people in September, "No, we are not going to give you your money back even though you say you need it." Credit unions would have to give people the money. Therefore, there is still a market for the Farepaks of this world.

The answer has to lie in some form of regulation. Whatever the definition or the category used, the people who regulate banks and banking activities have to acknowledge what has happened. There is a loophole. A company has slipped through the net and the regulatory regime must ensure that that kind of thing can never

happen again. If the regime can do that, it will allow people to save for Christmas in the knowledge that they cannot touch their money before December, that they will definitely get their money, and that they will get a fair return for the money that they have put away during the year.

Evil has been done and—morally at least—a crime has been committed, but I hope that in the long run the reactions at political, parliamentary and governmental level will ensure that people who need this kind of service will know that it is being better regulated to give them the protection that they deserve.

The Deputy Presiding Officer: I am minded to accept a motion without notice for an extension of up to 15 minutes.

Motion moved,

That, under Rule 8.14.3, the debate be extended until 6.11 pm.—[*Dr Elaine Murray.*]

Motion agreed to.

17:38

Mr John Swinney (North Tayside) (SNP): I congratulate Elaine Murray on securing the debate, which gives us all an opportunity to reflect on an issue that has affected many of our constituents. Like other members, I have been approached by constituents who to a man—or, should I say, to a woman—are all from low-income families.

The tragedy is that people on low incomes have taken what they thought were responsible decisions to safeguard the money that they were saving, each week or each month, for Christmas. The impact of what has happened to those families is very serious—not just because of their loss just now, but because of the grave financial peril that some of them have since got into in their desperation to ensure that their children have a memorable Christmas.

Bristow Muldoon and others have said a lot about credit unions, which are excellent institutions. However, there are some rogues out there who would happily cause a great deal of misery for people who are trying to get out of the financial situations they find themselves in. I hope that the minister is able to say some more about how the Executive can support the delivery of good financial advice to individuals who find themselves in this situation.

When a person makes a contribution to a bank—Murray Tosh made a very apposite point in this respect—they are entitled to depend on certain constraints, rules, regulations and commitments. For example, if they put £5 into a deposit account, they should be able to get that £5 out whenever they want to. Similarly, the people

who invested with Farepak felt that, after putting money in during the year, they should be able to get it back at the end.

The tragedy is that the regulatory framework has simply not protected the investment that was made by low-income families in Scotland and the rest of the UK. Indeed, their money has, in effect, been used as a cash cow for a series of failing businesses within the European Home Retail group. I hope that the UK Government's investigation will carefully consider that matter. After all, if people are to have confidence in such savings schemes, such a loophole must be closed.

This issue will affect a large number of low-income families and it is incumbent on everyone to do what they can to help out. Individuals have contributed to the fund; some corporate entities have made substantial contributions; and various private sector operators have contributed to the debate and proposed solutions. However, I feel that everyone could do a little bit more. If people are willing to ensure that this fund is of a reasonable size, we might be able to find a way not only of giving people some money to fund their Christmas activities and support their families at that time of year but of helping a lot more people to avoid getting into financial peril in the months and years to come.

17:42

Euan Robson (Roxburgh and Berwickshire) (LD): I, too, congratulate Elaine Murray on securing this very timely debate.

The latest figures that I have for the Scottish Borders show that, as a result of Farepak's collapse, at least 378 people have lost a total of just under £100,000. Those figures have been collated from correspondence sent and questionnaires returned to my colleague Michael Moore MP following his special Farepak surgery last week in Melrose and from prior contact that he and I had with Farepak agents and customers. Indeed, Michael Moore said recently in the local press:

"These figures reveal the stark reality that huge sums of money have been lost by people in the Borders."

Obviously, the same is true elsewhere in Scotland and the UK.

Because Farepak's business was based on networks of local agents, close-knit towns and villages in my part of the world have been hit massively. In some cases, a number of people living in the same street have lost hundreds of pounds. As Elaine Murray said, agents and customers were doing all the right things to cover the expense of Christmas.

Apart from the misery that it has inflicted on families, the collapse has a broader economic impact. For example, some of our shop local initiatives for Christmas have been severely blunted because of the loss of spending power in the local economy.

I want to quote from a letter that is representative of the correspondence that I have received on this matter. The lady in question said:

"This year I served a total of 19 customers and placed a total order of £5880. Farepak had taken payments totalling £5287.57. This order was all for vouchers.

I personally have lost a total of £450 worth of vouchers, and also the commission of £204 that I would have earned. Being on my own with a 6 yr old son, Christmas will be a real struggle this year.

I only wrote to you to ... add my figures to the rest. Hopefully something positive will come out of this in the end. I doubt very much though that any of us will receive any compensation from the administrators."

I will not repeat the many points that colleagues throughout the chamber made eloquently, but I agree that the banks could and should do more to help. The Government's investigations must identify where the fault lies so that, if at all possible, there is no repetition.

The joint administrators, who say that 4p to 5p in the pound might be available, have highlighted an important point. Ian McCartney, the Minister of State for Trade, Investment and Foreign Affairs at the Department of Trade and Industry, ought carefully to examine the preferential creditors' take from Farepak's assets and consider whether it can be moderated to some extent.

17:46

Colin Fox (Lothians) (SSP): Like other members, I congratulate Elaine Murray on securing this important debate. It is a measure of the disgust that is felt throughout the Parliament that this is a relatively well-attended members' business debate, although I know that some members have had to leave. Given the strength of feeling on the matter, the Deputy Minister for Enterprise and Lifelong Learning and the Executive might want to consider raising it in a debate in normal time, so to speak.

Anyone who looks at the issue will be struck by the miserable situation that Farepak customers and agents find themselves in through no fault of their own. We all share the sense of shame—that word is not sufficiently strong—when we see the owner of Farepak, European Home Retail, walking away with £75 million of people's money. Shiona Baird mentioned Nicholas Gilodi-Johnson. We also see Sir Clive Thompson jetting off to a holiday in South America this winter. That is in stark contrast to the customers Farepak was supposed

to serve, who have lost everything. The public feel so angry because, in essence, business has ripped off honest, hard-working people—men and women in the street—yet again.

When the situation was drawn to my attention, I could scarcely believe that a company such as Farepak could lose money. The business was almost a licence to make money. People paid into a savings scheme for 10 months, after which they got either a hamper or vouchers for high street stores to the value of what they paid in. No interest was paid on their money and no discount was given through the vouchers, despite the fact that Farepak clearly got a discount from Marks and Spencer, HMV, Woolworths and so on. How could a company like that fail? The situation strikes me as absurd.

Of course, it failed because the big high street retailers demanded that Christmas clubs paid the money up front before they got the vouchers. Farepak also failed because the bank foreclosed on its outstanding loans—not those of Farepak, which was profitable, but those of its parent company, European Home Retail. Frankly, this is the unacceptable face of big business. I have seen various estimates, but if there were 150,000 customers, and if we take all those customers' families into consideration, the company's failure might impact on 1 million people. It is a shocking scandal of enormous magnitude. Those affected include workers in the national health service, factories, offices and clubs throughout the country. People clubbed together, but they lost the lot.

Who is to be held to account? I am sure that all members agree that Farepak's 150,000 customers are entitled to more than crocodile tears. We have all been contacted by people who are affected. When there were similar collapses of holiday companies, the Association of British Travel Agents bond was set up so that compensation could be made available to people. As the minister knows, I wrote to him and asked him to approach the DTI and the Office of Fair Trading to examine whether the bond route could be considered for Christmas clubs, although clearly that would be after the event.

What about the here and now? I believe that Farepak's customers and agents are entitled to full compensation, but the question is, from whom? I have nothing against the idea that MSPs, MPs and the public should make donations, but surely we have to ask why the guilty get to walk away scot free. It was HBOS that foreclosed on the loans and took £40 million of the money that customers paid in. We should remember that HBOS is a corporation that has made between £5 billion and £8 billion in profits this year.

Like other members, I am attracted to the credit union route, which I hope people are encouraged

to go down. However, we have to ask ourselves why Farepak customers did not go to a bank in the first place. It is because the banks are talking about charging people £10 a month for a current account unless £1,500 a month is paid into it. How many Farepak customers have £1,500 a month going into their current account? The same banks charge people £30 if they are a penny overdrawn. That is why Farepak customers do not go to high street banks in the first place.

I know that Elaine Murray has been under pressure from HBOS not to call for a boycott of its accounts. That is her concern, but I agree with Jim Devine, Mick Connarty and others that a protest should be made. We should all be outside HBOS on the Mound on 11 December. Should it be having a champagne reception when it has taken £40 million from perhaps 150,000 families? Not in this city, not this Christmas and not at any time. I hope that everybody will go along. I certainly intend to be there and I encourage others to come along.

Like Bristow Muldoon, I pay tribute to Suzy Hall and all the unfairpak campaigners. I know that some of them are in the public gallery. They are entitled to enormous credit, because they have kept the issue in the news when it threatened to go away. One of them said to me that in America people could go to jail over what has happened. In Britain, people should be going to jail over what has happened. They should be held to account for letting down so many people in this scandalous situation.

17:51

Ms Rosemary Byrne (South of Scotland) (Sol): I congratulate Elaine Murray on securing this important debate. I also take the opportunity to congratulate the individuals and groups in communities throughout Scotland on their strong response and on the organisation that they have put in place to keep the issue in the news. Like other members, I pay tribute to Suzy Hall. She has kept in touch with MSPs by e-mail about what has been happening and has helped to publicise the issue.

On Monday 15 October, I was contacted by constituents in New Cumnock. I went over there and met a group of people who were devastated at the news that they had read in the Sunday papers. That was their first inkling that the money for Christmas that they had been saving all year was gone. They were stunned and shocked. The agent was afraid to leave her house, because she felt that people would blame her. Of course, everyone understood the circumstances and no one blamed her, but she was initially terrified to leave her house, because she felt so responsible.

She had banked money on the Friday and it had been accepted. That is outrageous.

It is a terrible situation, but the people in New Cumnock got themselves organised, as many people have done in communities throughout Scotland. I will read to members a notice that they put out and the response that they received. The title of the notice is "Un-Farepak" and it states:

"Last Sunday, many people within our village lost a great deal of hard saved money. Sir Clive Thompson's company called 'Farepak' went bust and in turn robbed 174,000 citizens in the U.K. of approximately £68,400,000. All those affected by the actions of the multi-millionaire should have instructed their agent to make contact with the administrators to register their loss. This is all that can be done at present—or is it?"

The notice goes on to say that people can do nothing or "Try to achieve something".

They chose to try to achieve something. They have achieved an agreement with a credit union to provide loans, which does not help in the long term but it helps in the short term. I encourage people to consider and get involved with credit unions. We have a responsibility to encourage people in all our communities to get into credit unions and to ensure that they are accessible to everybody. That is important.

Shiona Baird and others are right to say that HBOS has a responsibility and that it should be inputting more to the fund. I say that we—or Westminster—should also be making moves to secure the funds from Sir Clive Thompson and others by seizing their assets. Why should they be sitting in their multimillion pound mansions while others are sitting at Christmas with nothing?

I will again quote from the notice, which tells us a little bit about Sir Clive Thompson, the owner of Farepak:

"When he was chief executive director of Rentokil he was earning approx ~ £589.00 per hour: 24hrs per day: 7 days per week, while the workers at his factory earned under £3.00 per hour. He lives in a £2,000,000, 8 bedroom mansion and recently received a £13,000,000 pension payout."

That is the reputation of the man who owned and ran Farepak. I have another comment about him, which I hope is correct. According to the leaflet, he said that he loved dealing with trade unionists because they were like parasites. That is the kind of man we are dealing with. He should be brought to account and made to pay for the damage that he has done to the affected people and communities.

The Deputy Presiding Officer: You should be finishing now.

Ms Byrne: We can encourage businesses to raise money and we can contribute money but, at the end of the day, the directors of Farepak are responsible and should be made to pay.

17:55

Roseanna Cunningham (Perth) (SNP): I, too, congratulate Elaine Murray on giving us the opportunity to debate Farepak and the aftermath of its collapse. The extensive coverage of those events leaves a question hanging in the air. With a few honourable exceptions, the totally unregulated nature of Farepak and similar businesses has gone completely unreported and unrecognised. Treatment of the subject has been confined largely to columns in the business and financial pages of the papers, such as Lesley Campbell's in the *Daily Record*. In fairness, we should acknowledge that she had been writing about the issue long before October. I concede that the form of saving in question was largely unknown to me. As we say in Scotland, "Ah ken noo." All of us have learned a lesson about what families have to cope with in their lives.

I have no doubt that the regulation issues will be closely scrutinised at Westminster. Cries of "Too much red tape!" usually emanate from certain business quarters, but it is a fair bet that most of them will keep quiet this time. Sooner or later, legislation will be introduced to bring such firms under a regulatory umbrella and the DTI will no doubt proceed with its investigation. I find it unbelievable that people in my constituency were allowed to make payments to Farepak on Friday 13 October.

None of that will help people who are out of pocket. I have already heard of people who have resorted to moneylenders to get them through the next few months; I feared as much. The discussion of a charitable fund reminds us of the impact that the collapse must be having right now. Investigations and possible future regulation are all very well, but they will not help the people who are struggling in the run-up to Christmas. Regardless of how generous the public are—I note in passing that Sir Clive Thompson has shown no generosity so far or, for that matter, any evidence of shame—we know that many families face an extremely bleak Christmas. As I have said, some people have already resorted to using moneylenders. It is a disaster waiting to happen.

As I made clear recently at First Minister's questions, I have major concerns about the response of various public bodies to what is an all-too-predictable outcome for many people. Today, I have written to all the housing bodies that operate in my constituency to ask them what action they can take to identify people who have lost money because of Farepak and whether they can provide any form of support that will help to ensure that their tenants do not get into even worse financial difficulties than they are in at present. Early intervention can help to prevent financial problems from spiralling out of control. I very much hope that

organisations will adopt a proactive stance to help their tenants avoid such problems.

Along with other members, I met representatives of HBOS today to discuss their part in the debacle. I am sure that the DTI investigation will come to a view on that company's actions, but in the meantime I have some advice for it: any planned so-called champagne reception at Edinburgh Castle in December should be cancelled. At the very least, HBOS should increase its £2 million contribution to the charitable fund by however much that reception would have cost.

17:58

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): A constituent's e-mail to me begins:

"Jamie, The recent collapse of the Farepak Christmas Hamper Club has caused a lot of distress among ordinary working class people. My wife ... had been an agent for the last six years and to be fair never had any trouble with the organisation. To cut a long story short over five thousand pounds went down the drain this money belonged to family, friends and work colleagues. The people themselves have actually been brilliant as they understand that"

my constituent's wife

"had nothing to do with this, but the damage that has been done to"

her

"is tragic she is a different person and takes personal responsibility for the loss of the money. We will survive as we are working but what about the other people throughout the country the Pensioners, single parents, low income families. How will they survive when they have nobody to help them".

I am talking about people who live in Caithness, in the very far north of our country.

I will be brief because the minister and colleagues have waited long enough.

Sir Clive Thompson has been mentioned. If a board of directors that has been given certain responsibilities trades when it knows that its assets do not meet its liabilities, it is in breach of the United Kingdom Companies Act 1985. As I understand it, that is the law of the land. I sincerely hope that the investigation will get to the heart of the matter. If a board trades when its assets do not meet its liabilities, that is nothing short of fraud. In this case, the highest penalties should be imposed. I do not know whether those penalties can be directed at the people who have lost, but one hopes that they can.

As others have said more eloquently than I can, this is a tragedy for people in the poorest situations in life. It is a self-evident truth that it is hardest to save when one is poorest. However, these people have not peed it against the wall—to be blunt—but have put money aside for their

bairns for Christmas. That money is gone. Besides being a tragedy for them, that is corrosive of the notion of saving. As others have said more eloquently than I can, there remains a test for us as a society. Surely one of the greatest things about our society in the past was that those who were wealthiest gave to those who were poorest; I hope that that is still the case. The test is, can we as a society—MSPs, MPs, companies, corporations and everyone else—pay off the debt in full, as nothing less will do? What is £45 million in the greater scheme of things, against the entire Scottish Executive budget? What is it against the cost of many of our services, Scottish and national?

If we fail the test, we will undermine the notion of saving, of thinking of the future and of trying to make a better life for our children and giving them memories that they will treasure for the rest of their lives. I whole-heartedly commend Elaine Murray for bringing this debate to the Parliament. I hope that in our small way we can set an example to other people. Let us hope that the banks will put their hands far deeper into their pockets and that every other business in Scotland and the UK, as well as some of our wealthy friends in the Scottish diaspora across the world, will look into their hearts and help some of the poorest people in our society.

18:02

The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson): Ordinarily I would apologise for repeating what has been said in the chamber, but it is important for me to put on record the fact that the Scottish Executive shares the sentiments that members of all political parties represented here have expressed. I congratulate Elaine Murray on giving us the opportunity to debate this important issue. On members' behalf, I pay tribute to Suzy Hall and the other former customers of Farepak who have spearheaded the campaign for their fellow savers. Their determination and energy are inspirational, and I am glad that some of them are able to join us for today's debate and for the meeting that will be held afterwards with representatives of the Family Fund.

I want to issue two clear calls to action around which the chamber can unite, which I hope will be picked up by the news media outlets. Journalists from the *Daily Record* were here earlier and others will be watching the debate remotely. First, I call on those individuals who have lost out through Farepak but have not yet come forward to register a claim with the administrators BDO Stoy Hayward to do so. Secondly, I call on companies and individuals who want to help those who have lost out but have not yet pledged a contribution to do

so before the extended deadline of 6 pm next Wednesday. The deadline has been extended to accommodate an encouraging last-minute surge in donations.

Much reference has been made to the media stories that we have all seen about what happened and who is to blame, and to comments about the directors, but we can be clear about one thing—the facts have still to be established. It would be inappropriate for me to speculate today on the reasons for the collapse of Farepak. The administrators are still investigating the circumstances of the collapse and, unfortunately, that process will take time. They have established a dedicated call centre to handle customer enquiries and have taken more than 24,800 calls so far. In addition, they are dealing with substantial volumes of post—in excess of 35,000 pages so far. They are receiving 80 faxes a day and have received more than 33,000 e-mails.

More important—as has been mentioned, most recently by Jamie Stone—the DTI's companies investigation branch is conducting an investigation into the company under section 447 of the Companies Act 1985. That report will go to ministers and potentially to the regulators and prosecuting authorities.

Richard Lochhead: Agents in my constituency tell me that although the administrators promised them, through the media, an update on the situation, as of yesterday they still had not heard from them. Clearly, they need those updates as soon as possible. Will the minister look into that?

Allan Wilson: I would be pleased to look into that for the member, and indeed for the agents and their representatives.

I have been in contact with the DTI. Colin Fox said that, for well-documented reasons, getting concrete evidence from the remnants of the collapse is difficult. However, we should do all that we can to ensure that we are as well informed as possible about the scale of the collapse and the necessary response. I would be pleased to do anything I can to assist that. Once the investigations have been completed, we will have a much clearer picture of what happened. It will be for the DTI to act on the findings and, at the request of the First Minister, my officials and I have been in contact with the DTI.

The calls, repeated this evening by Murray Tosh and others, for greater regulation of this type of business are under consideration by the Minister of State for Trade, Investment and Foreign Affairs, who has met John Fingleton, chief executive of the Office of Fair Trading, and asked that the OFT work with the DTI and the Financial Services Authority to consider the regulatory framework in which Farepak operated and options to address any issues raised.

Given the unsuccessful attempt to engage the British Retail Consortium—I sought to engage the Scottish Retail Consortium—I welcome the fact that the DTI has secured the assistance of the Family Fund, a registered charity with 30 years' experience of grant making and providing assistance to families, including the large-scale distribution of vouchers.

Murray Tosh: I welcome what the minister is saying. I wonder whether, in addition to establishing a regulatory regime, it would be possible to consider the value-for-money aspect of companies working in this sector. There are suspicions that Farepak was a bit of a money-making machine, which did not give its customers a fair return on their investments throughout the year.

Allan Wilson: I wholly share those views. In fact, I did not come to this issue late. As a union organiser in hospitals, I had seen the scheme operating and, like Murray Tosh, had misgivings over a period about the potential return to the so-called savers who participated in it. I wholeheartedly subscribe to Mr Tosh's view and will make representations to that effect to the DTI.

As Elaine Murray mentioned, the Family Fund is working closely with the administrators. The DTI has set up the Farepak response fund, which will operate temporarily and distribute goodwill payments in the form of vouchers directly to the agents. Importantly, it will be independent of all agencies and will accept donations from all sectors. It is important that the fund is able to distribute vouchers to those affected prior to the festive season so, as I mentioned, it will close next week. I am pleased to note that there have been some sizeable donations, but we would like a lot more to be made. I agree with colleagues who have encouraged companies that had a relationship with Farepak and its customers to set a particular example by making an appropriate contribution. MPs were called upon to contribute a day's wages. It is for individual members of this Parliament to decide whether they would like to follow suit, but I will be doing so and I believe that the First Minister has already done so. Everyone who is in a position to contribute should do so.

Looking to the future, I recognise—as Bristow Muldoon said—that there will always be people who want to put away a little money regularly for a special occasion such as Christmas, but who do not have a bank account. Credit unions, which many members have mentioned, provide a safe way to save. Traditionally, they provide their members with access to low-cost loans, based on savings built up over a number of weeks. Like other members, I commend them. Credit unions are also diversifying into new products that offer more options for members: savings accounts;

budgeting accounts; and flexible credit. All of those offer options for the future.

Although I am happy to promote the role and use of credit unions, I am aware that they are not necessarily the right solution for everyone. We have a thriving financial services sector with a wide range of savings products.

The most fundamental point is that, as Farepak customers are examples of good financial practice in saving and not borrowing beyond their means for future expenditure—as several members have said—it is surely the ultimate condemnation of the company that those people should be penalised rather than reimbursed for following the accepted fiscal rules. Like Murray Tosh, I would like a low-income saver scheme that provides real and tangible benefits to savers to arise out of the ashes of the Farepak fiasco, so that there is no recurrence of the tragedy and so that future savers are rewarded for their prudence as well as protected.

I reiterate that it is important that individuals who have lost out through Farepak but who have not yet come forward, do so and register a claim with the administrators. It is also important that companies and individuals who want to help people who have lost out but have not yet pledged a contribution should do so before the deadline of 6 pm on Wednesday 29 November.

Last, but by no means least, it is important that the Parliament acknowledges the hard work and determination of the representatives of those who have lost out and wishes them every success in their campaign.

Meeting closed at 18:11.

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