

MEETING OF THE PARLIAMENT

Thursday 15 November 2007

Session 3

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Scottish Parliament

Thursday 15 November 2007

[THE PRESIDING OFFICER *opened the meeting at 09:15*]

Scottish Legal Services Market

The Presiding Officer (Alex Fergusson):

Good morning. The first item of business today is a debate on motion S3M-847, in the name of Kenny MacAskill, on competition, regulation and business structures in the Scottish legal services market.

I invite members who wish to speak in the debate—and perhaps even those who do not—to press their request-to-speak buttons. We have a little time in hand, so I am happy to be flexible with opening speakers. We will see how the debate goes.

09:15

The Cabinet Secretary for Justice (Kenny MacAskill): I appreciate that the level of excitement about today's debate is not quite on all fours with the anticipation for Saturday's 5 pm kick-off at Hampden Park, but I am grateful to all members who have agreed to participate.

In a democracy, the rule of law is often said to be so fundamental that it is the most important matter that a Government can deliver. Clearly, a regulated, appropriate and integral legal profession is a fundamental aspect of that. For that reason, whatever view some might have about a debate that is very much related to legal matters, the issue is fundamentally important. Therefore, I welcome the opportunity to introduce today's debate on the structure and regulation of the Scottish legal profession.

As many members know, I was proud to serve in the legal profession for 20 years, but I have now moved on to another calling. Some might call that jumping out of the frying pan into the fire given that, in a 2004 poll, politicians were ranked higher than lawyers—somewhere between public relations agents and reality television show contestants—in the list of most hated professions.

Joking apart, the profession has served Scotland well. Alongside the church and the education system, the legal profession has formed one of the fundamental pillars of Scottish identity within an incorporating union for more than 300 years. It is perhaps not going too far to say that, were it not for the strength and independence of the Scottish legal profession, we would not be

having today's debate. That immense debt will not be forgotten by the Scottish Government.

The debt is not just historic. In the budget document that we published yesterday, we set out our strategic objectives for Scotland. Two of our most important objectives are that Scotland should be wealthier and fairer and that it should be safer and stronger. A flourishing and independent legal profession is a fundamental underpinning of both those objectives.

The legal profession is a key part of our institutional framework, not just as a point of constitutional theory but because it does vital work. Lawyers help people at times of crisis and bereavement, they protect the rights of the vulnerable, and they support business and economic growth. When people buy their first house, get into matrimonial difficulties or become involved in the criminal justice system, lawyers and the legal profession come to their aid. Therefore, I will defend the legal profession against those who malign and misrepresent it. The Government will work with the profession to ensure that the challenges of the future can be met within a reformed and improved legal system.

Reform and improvement are needed because the world is changing—fast. An ordinary family today faces legal issues that would have been unknown to our grandparents' generation. Such issues include advice on financial services, resolving disputes with education authorities and taking action against antisocial neighbours. In addition, businesses may not use Scottish lawyers or the Scottish courts if they can get a faster and better service elsewhere. We need to address that. I know that Scottish lawyers can deliver excellent services in new areas of law as well as old and that they can compete with the best in the world. We need to ensure that they are not held back by inappropriate restrictions and regulations that do not meet modern needs.

The United Kingdom Parliament has just passed the Legal Services Act 2007, which creates a new legal services regulator, opens the door to mixed practices of lawyers and other professions and allows third-party ownership of law firms. That is an English act, but it has fundamental effects on Scottish firms.

Our major law firms compete internationally—it is good for Scotland that they aspire to reflect, and go above and beyond, the daily practice of other sections of Scottish business such as financial services and accountancy—and Scots have always been prepared to think big and to think globally. One of the world's biggest accountancy practices—Ernst & Young—still bears the name of Arthur Young, the Scot who set up the practice a century ago. Today, we can be proud of the success of businesses such as the Royal Bank of

Scotland, which proves that we can compete with the best. We must not hold back those in our legal profession who aspire to similar success.

The pressures of change affect not only the big commercial firms but our high street firms. Many of them find it difficult to recruit trainees or to pass on their business to new partners. Firms that offer a broad range of legal services struggle to compete with firms that specialise in high-value work such as corporate business or high-volume work such as remortgaging. Many of the core business activities of law firms are not restricted to solicitors, so alternative providers and English firms are entering the market.

I can understand why some in the profession might feel concerned about the changes and that the profession is under threat, but that is not how I see it. As I told the Law Society of Scotland conference, I was impressed by how Bob Ayling, of British Airways, warned a group of travel agents some years ago that the internet was coming and that only those who adapted to it would survive. I know that many in the industry heeded that advice, developed new products—in specialised in-bound and out-bound tourism markets, for example—and prospered as a result. For me, the issue is not to wonder whether alternative business structures will change things but to respond to the changes that are already happening.

The debate is already under way. In 2006, the previous Administration published its “Report of the Research Working Group on the Legal Services Market in Scotland”, which identified the need for further policy development by the Scottish Government, working with interested parties. In July, the Office of Fair Trading published its response to the super-complaint that Which?—the Consumers Association—had submitted. The OFT report argues that many of the current restrictions on business structures that affect solicitors’ firms and advocates should be lifted.

Currently, all solicitors’ practices operate under a partnership model. Only solicitors can be partners and no one else can own a firm of solicitors that offers services to the public. All advocates operate as sole traders and cannot enter into any form of partnership with solicitors or other professionals. There are restrictions on advocates taking instructions directly from clients and on their appearing with solicitor advocates in the same case. The OFT believes that lifting those restrictions could offer consumers a better choice and has asked the Scottish Government to set out a policy statement before the end of the year.

Pauline McNeill (Glasgow Kelvin) (Lab): The Law Society of Scotland has suggested that, in its assumptions about the Scottish legal system, the

Consumers Association made a number of errors, which the OFT has replicated. Will the cabinet secretary confirm whether the Government was consulted before the OFT produced its response to the Consumers Association?

Kenny MacAskill: We have been in regular contact with the OFT. We have always been at pains to point out that we accept the need for consumers’ rights to be preserved and protected. As I made clear at the Law Society conference, which the convener of the Justice Committee also attended, we also recognise that, at the end of the day, we are not simply consumers but part of a community, so we must also bear in mind our responsibilities in that regard. Our position is that we are happy to continue to liaise with and speak to the OFT. On the particular issue that the member raised, I will come back to her at a later stage. If I do not, I am sure that my colleague Fergus Ewing will mention the issue.

We are considering carefully everything that the OFT has said. We agree that change needs to happen, but I have no intention of adopting a model that is unsuited to our needs as a country. Our geography, demography and topography are different from those of England. We are a country of small towns, islands and archipelagos rather than a series of large urban metropolitan areas. The English bar has 14,000 members, whereas the Scottish bar has 470. An SNP Government will do what is right for Scotland. We will not preside over any diminution in the quality and integrity of the Scottish legal profession.

In September, I set out a challenge to the profession to lead the debate on how reform should be taken forward in Scotland. I am pleased to report that it has responded to that challenge. Two weeks ago, the Law Society published a consultation on alternative business structures. The Faculty of Advocates has also initiated a debate within the bar about how its rules might be amended. I pay tribute to the Law Society for the leadership and courage that it has demonstrated. It is difficult for a membership organisation to lead its members through radical change, especially when no clear or consistent view prevails among an overwhelming majority of its members.

However, the Law Society’s consultation rightly makes clear why the status quo is not an option and sets out a timetable for rapid change. The society aims to present detailed proposals early in the new year, following the conclusion of its consultation on 31 January. I anticipate that the bar should be able to match and even improve on that timescale.

That urgency is not a response to a timetable set by the OFT, but a response to the practical issues faced by the profession and, even more important, by those who use our legal services.

We cannot build a wall against specialisation, commodification or competition from outside the profession—they are already happening. Senior and respected figures in the profession are already identifying how reforms might create new opportunities. At this stage I do not intend to limit their thinking, but I will set out the tests that I will apply to determine whether the proposals that come forward meet Scotland's needs.

In short, it is our ambition that everyone in Scotland should have access to good-quality legal services when they need them. The word quality is fundamental—the right level of service at the right price. The badge of Scottish solicitor or advocate has always carried an assurance of professionalism, which I am determined to maintain. A key test for me will be whether our large financial institutions, which are able to choose where to take their legal business, increasingly choose to do that business in Scotland. There is something fundamentally wrong if key players in the Scottish economy choose to litigate in another jurisdiction. It is fundamental that we ensure that they make their home jurisdiction their jurisdiction of choice.

As well as ensuring quality, we need to expand access. That means maintaining viable legal services in local communities. New business structures may be helpful—for example, if they allow a firm to offer a wider range of services. However, there are dangers in moving in a single step to a wholly open market, and we should not allow new entrants from outside the profession unless access and quality can be maintained.

We need to deliver quality and access, and we will be able to do so if we strike the right balance between competition and regulation. If we act quickly, we can get ahead of the game. England's reforms are massive and will take several years to implement. As a small country, we can do what any good small business would do—we can be flexible and innovative, test out new ideas quickly and build on those that have potential.

Of course, there are things that we must safeguard and difficult issues that we must resolve. I strongly believe in the value of an independent referral bar and will do all that I can to help the high street firms that offer vital services to our local communities. We need to ensure that the core values of the profession are not diminished and to consider how reform might affect important consumer safeguards such as the solicitors guarantee fund. I look forward to hearing Parliament's views on those issues, which will inform the response that we make to the OFT later this year.

I hope that members will support our motion, but I am happy to accept the amendment that Pauline McNeill has lodged. In this and previous debates, I

have indicated that, although this may not be the most flamboyant or interesting subject for members, the general public or the press corps—representatives of which are entirely absent today—it is fundamental. I pay tribute to those who are participating in the debate and those on the Opposition front benches who are addressing the matter constructively, to ensure that the Parliament gets it right.

We accept that this is a difficult time for our legal profession. That is understandable when people are afraid for their livelihood, because they fear that change may undermine their situation and damage their economic position. The Law Society is doing an excellent job of trying to allay understandable fears, at the same time as making it quite clear that the status quo is not and cannot be an option—not because the desire for change is driven from here in Scotland, but because there is change in our society and elsewhere in the world. We must adapt. If we do so, the profession that has served us well, not only through 300 years of an incorporating union but over the centuries prior to that, will be able to deliver.

We are at one with Pauline McNeill in the desire to enhance justice at grass-roots level, through new forms of provision, where appropriate, and through continued support for those members of the profession who have served local communities over the years, often for modest rewards. We will remain a candid and supportive friend of the legal profession, helping it to continue to serve Scotland well in the years to come.

We will doubtless have to return to the chamber on the issue. Whether there will be greater interest on the part of the media and others is a matter on which we will have to comment at that stage, but the issue is fundamental. Today's debate is taking place at an early juncture, but we can lay out what we envisage for the legal profession. It must maintain quality of service, continue to assure value, through regulation, and continue to ensure, as the Labour amendment makes clear, that it serves not only itself and those who have the appropriate financial means, but all our communities in as many ways as it can.

The way in which the law serves its community is changing. The changes in our society mean that the legal profession must change substantially. Today we are taking a significant stride forward. I pay tribute to all members who are participating in the debate, which will be on-going and cannot simply be left to the legal profession. Given the importance and pivotal role of the legal profession in our society, everyone in our community—especially those who have been given the privilege of speaking in the chamber—should participate in the debate.

The Law Society has also taken a significant stride forward, and we should support it in its efforts. I hope that when we return to the chamber on the issue, the profession will be united on the direction that it wishes us to take. Ultimately, it is the Government's desire to work with the Law Society to deliver the appropriate legislative changes that the society wants, rather than to impose directions. We are making it clear that the status quo cannot be retained and that there must be change, because of matters beyond our or the profession's control. Together we can ensure that a legal profession that has served us well continues to do so and, as Pauline McNeill has rightly said, continues to serve our communities. However, as a Government with ambition for Scotland, we also look forward to firms that aspire to compete pan-UK, if not internationally, being able to do so, as we are now in a global world.

I move,

That the Parliament notes the Office of Fair Trading's response to the super-complaint by Which? on restrictions on business structures and direct access in the Scottish legal profession and the Law Society of Scotland's consultation on alternative business structures; believes that the regulatory and business structures of the Scottish legal profession should reflect Scottish circumstances and support improved access to high-quality legal services in a competitive and appropriately regulated market in accordance with competition law, and notes the Scottish Government's approach of working closely with the legal profession to secure reforms that will allow the Scottish legal profession to compete internationally while enhancing access to justice in local communities.

09:32

Paul Martin (Glasgow Springburn) (Lab): I note that at your request, Presiding Officer, the minister extended his speech. I hope that you do not receive a fee note for that, given that he previously worked as a solicitor.

We are entering into a debate—not just today, but in the future—that will take some time to reach a conclusion. We know that a number of aspects of the legislation relating to business models in England and Wales will not be implemented for some time. We have time both today and in the future to develop a model that will improve the quality of the services that the legal profession provides.

We welcome the Government's commitment to working closely with the legal profession to ensure that we deliver reforms. It is right for any Government to work with the profession to deliver a business model that can compete internationally. That is true of any business, not just the provision of legal services. Any successful Government—or any Government that wanted to be successful—would make the same case for any business model. At the same time, the Government must be

more specific about how it wishes to enhance the services that are delivered at local level. As with John Swinney's budget statement yesterday, the devil is in the detail.

We welcome the fact that the cabinet secretary has accepted the amendment in the name of Pauline McNeill, but he must be clearer and more specific about how he will ensure that local access to legal services improves. Labour and, I am sure, other members have seen that in many of our communities access to justice is patchy and must be improved; many back benchers will have had experience of that. We must make clear how improvements will be made, and Labour will bring forward proposals in that area. Pauline McNeill's amendment is intended to ensure that the issue is debated in greater detail.

Many aspects of today's motion were influenced by the Which? super-complaint. Although the complaint refers mostly to the advocate-client relationship, it offers us an opportunity to modernise the legal profession to ensure that we improve the service that the consumer receives. Whatever the chamber's views about the Which? super-complaint, we need to recognise that it was the result of a detailed analysis of the consumer experience. The Government needs to work closely with consumer organisations to ensure that, whatever business model is developed, the consumer experience is improved. Although I do not expect any disagreement about that from the Government—the minister might wish to intervene, however—I seek assurances that the Government will work not only with the legal profession but with consumer organisations to ensure that we—

Kenny MacAskill: I intervene at Mr Martin's request. We accept that although the Law Society and the Faculty of Advocates each perform a pivotal role for their professions, they do not operate in isolation. Consumers groups are also important, as are individuals who are not represented by them and whose complaints have to be picked up and aired in the chamber by MSPs. We will listen to all those people.

The member can rest assured that we will not simply process what comes through from the Law Society; our input into the changes that the profession makes to its fundamental structures will be pivotal. I give the member a complete assurance that we will listen to input from anywhere to ensure the provision of the legal services that we need in a changing world. It is not simply the legal profession that is changing but the nature of our communities, and that has to be factored in. We are more than happy to give the member that undertaking.

Paul Martin: I welcome that commitment from the cabinet secretary and agree with that way forward.

A number of key issues are worth raising today, some of which were mentioned in the Which? super-complaint. We must recognise that we live in the age of the one-stop shop. It is evident that consumers want commodities to be available at one point of contact, and I do not think that anybody would advocate that we should change an arrangement that consumers have demanded. The idea that solicitors, accountants, surveyors and others operate to a new business model that makes them available at a single point of contact is appealing. The majority of consumers out there would probably welcome such a model and the opportunities that would arise from a much clearer pricing policy and a more tailored service.

There is a need for caution, however. The merging of services in such a business model could allow the integrity and independence of solicitors to be questioned. How solicitors would interact with other professions would need to be made clear. Unlike some members I am not legally qualified, but as a lay person, I am well aware of the high value that is attached to the independence of solicitors when they go about their daily business. That is why that proposed business model should be interrogated carefully.

Moreover, a number of press and media reports—I do not know whether there is other detailed intelligence—have told how members of the criminal underworld take the opportunities offered by that business model to infiltrate legal practices. Such concerns were raised about the situation in England and Wales. I welcome the clear commitment from the minister to deliver a Scottish model that is based on the Scottish legal system. He rightly sets us apart from other parts of the United Kingdom because of the demographics of our communities. That point should be given serious consideration. Let us not be distracted by the model that has been delivered in England and Wales, although there might be opportunities to learn from experience there.

We need to balance our approach to the proposed model with listening to some of the concerns that have been raised by legal professionals. A concern that has been raised with me is that people who are not qualified in the legal arena are providing legal advice. Under any new business model, we must be clear that anybody who provides legal advice must have a legal qualification. I seek assurances from the Government that it will deal with that genuine concern from legal professionals about unqualified people on the periphery of the legal arena.

Another concern that was raised in the Which? super-complaint was about competition. Most of us would argue that competition is a good thing for consumers. We all like a bargain—whether it is Pauline McNeill on her many visits to Buchanan

Galleries in Glasgow or people who trawl through the price comparison sites on the internet to find a cheap holiday or cheap insurance. I am not sure whether there will ever be a price comparison site for legal services—perhaps there already is one, or perhaps somebody has thought about developing one. Although I am not legally qualified, I argue that comparing prices on the internet for legal advice is probably more complex than comparing Asda's grocery prices with those of Tesco and others.

We must ensure that competition works in the consumer's favour and that our communities benefit from it. Although many of the arguments for the proposed business model are probably well meant, that model might not provide genuine competition. A number of sole traders provide a valuable legal service and we must ensure both that they are able to continue to do so under any new arrangements and that competition remains.

In the cabinet secretary's speech to the Law Society, he said that Tesco already has internet advertisements for a £199 conveyancing service in England and Wales. Perhaps the price appeals to the consumer, but will they get the same quality of service? Another concern is that many public limited companies with aggressive and robust business plans would not want to be involved in some of the more detailed work that sole traders carry out, which could lead to cherry picking. Perhaps some sole practitioners already cherry pick—I am not sure—but we must interrogate such arguments carefully.

In conclusion, the Law Society said in its consultation document that, of course, there will be rigorous debate on the subject in the Law Society. There is always rigorous debate in the Law Society—what better people to have such debate than legal practitioners? That is a good thing. Although today's debate is perhaps undersubscribed, when we reach the more detailed stages of the debate on the proposed business model for the legal profession and various organisations have made their representations to Parliament, there will be more rigorous debate in the chamber.

We welcome the fact that the Law Society has said that the status quo is not an option. That is a mature way to approach the debate. It is also a welcome response to the various reviews that have taken place and to the Which? super-complaint. The legal profession has a responsibility to take the issue forward.

The Presiding Officer is gesturing that I can go on for as long as I like, which is unusual, but I will finally conclude by saying that we need to have a rigorous debate in the Parliament. It is important that whatever model we deliver makes a genuine difference in communities throughout Scotland.

For far too long, many of our communities have not enjoyed the access to justice that they should have enjoyed and we must ensure that the legal profession provides a high-quality service in that respect.

I move amendment S3M-847.1, to insert at end:

"and considers that this approach should also widen choice, provide easier access to legal services and create the conditions for more affordable services so that social justice will be at the heart of future changes."

The Presiding Officer: I call Bill Aitken. Mr Aitken, as you have picked up, you basically have as long as you like.

09:46

Bill Aitken (Glasgow) (Con): Gee, thanks.

The Cabinet Secretary for Justice and I have exchanged some harsh words this week, but he will no doubt be relieved to learn that that is highly unlikely to happen this morning because practically everything that he had to say was common sense and was in line with what he said at the Law Society conference that he and I attended some weeks ago.

Scotland has been well served by its legal profession and any debate on its regulation must be had against that background. However, as the cabinet secretary and Paul Martin have already said, that does not mean that change is not necessary.

An examination of the Scottish legal profession's current format is interesting but, at the same time, demonstrates why such change may be necessary. There are 1,247 legal firms practising in Scotland at the moment and I was astonished to discover that 46 per cent of those are sole practitioners. The rest vary from two-partner firms to mega-sized operations with partnerships that sometimes extend to 80.

The private legal profession contributes £1.2 billion to the Scottish economy. Obviously, against that background, we must be careful with what we are doing because we do not wish to prejudice that contribution in any circumstances. It is to be hoped that, if we play our cards right, we could greatly expand on that £1.2 billion and bring in much-needed resources from elsewhere. I am sure that the legal profession will be keen to go down that route. With every threat, there is an opportunity.

David Whitton (Strathkelvin and Bearsden) (Lab): Okay, so the legal profession contributes £1.2 billion to the Scottish economy, but is Bill Aitken saying that legal fees should go up instead of some way being found to make law more affordable?

Bill Aitken: No. Mr Whitton will be relieved to learn that I am saying that we should expand the market and bring in more business. As a good public relations man, he should realise that that does not necessarily mean that the per capita fee will increase because, if there is a bigger volume of customers, more money will come in. I am sure that he would applaud that.

We have great variety within the Scottish legal profession—from the small high street solicitors in country towns to the large, almost multinational conglomerates in the cities of Edinburgh and Glasgow. Against that background, we need to consider how our legal profession needs to change. To do that, we should also consider what we expect of legal practitioners. We naturally expect integrity. Also, they should always act in the client's interests, confidentiality is vital and practitioners should always be available.

Any alternative structure must not move away from those basic tenets and I am sure that no one would wish it to. I accept that it is early days for the debate but I am a little bit worried that, if we are to have alternative business structures that enable non-legal practitioners to play a role in legal firms, ideas that other people might wish to introduce at some stage might not be consistent with some of those tenets, particularly confidentiality. We must consider that.

To some extent, our discussions have been pre-empted by the fact that the UK Legal Services Act 2007 has been through the parliamentary process down south. Like every other piece of legislation, parts of that act are eminently sensible and others are a little bit questionable but, in general, it was not a bad piece of legislation. We would have broadly welcomed the act had it applied in Scotland as, indeed, we would broadly welcome changes that may come about here. However, although we recognise that the increased flexibility that the act allows is of benefit, the down side is that the legal services board will be appointed by the Lord Chancellor as an oversight regulator. That puts me on inquiry as to whether, if we were to implement a similar structure in Scotland—obviously with an august body other than the Lord Chancellor involved—there might be some interference in the legal profession's independence. We would have to oppose that.

Change that is imposed upon one is hard to take, but change in the legal services market is necessary. The way in which the Scottish legal profession has recognised the necessity of change has been encouraging. Although it is not committing itself to any specific direction at this stage and the matter is one for consultation, the legal profession is due considerable praise for the way in which it has adapted. It is to be congratulated on making a virtue of the necessity

of proceeding as the Parliament would wish it to proceed. However, if some members of the profession think that there are threats, I stress the opportunities of attracting further business from previously untapped markets.

Scottish lawyers have an excellent reputation. Members of the Law Society, such as Douglas Mill, have contributed to the International Institute of Law Association Chief Executives. That is indicative of the way in which Scots lawyers are regarded elsewhere. Other distinguished members of the Law Society staff have played international roles, which is to be encouraged.

As the process of change continues, I have little fear that there will be anything other than a genuine attempt to recognise the changing business world in which we all—not only the legal profession—operate and that what will emerge at the end will be eminently sensible and totally acceptable to the Parliament. It is early days and we need to think everything through. We do not wish to rock a particularly stable boat that has served Scotland well over generations and centuries. However, alternative business structures must be considered closely.

Sometimes, consumers feel that there is great duplication of services. For example, a lawyer is obviously necessary in the purchase of a house, as is a surveyor. Sometimes, a financial adviser is also necessary to fix the mortgage and the financial payments that have to be made. The public asks why that cannot all be done under one roof, which is a difficult question to answer satisfactorily. We must consider to what extent alternative business structures can resolve the public's disquiet, if not unease, at being asked to pay fees to three or four individual businesses when doing everything under one roof would be cheaper and would provide a more cohesive service.

I am confident that this debate is going in the right direction. There is unanimous will in the chamber to ensure that whatever emerges at the end of the day will be acceptable to the people of Scotland and to those who work in the legal profession and, indeed, will satisfy the differing political approaches that those in the Parliament inevitably take. As a result, I do not think that there is anything in the motion that should divide the chamber.

The Presiding Officer: I now call Mike Pringle, to whom the instructions that I gave Mr Aitken also apply.

09:55

Mike Pringle (Edinburgh South) (LD): That is probably a first.

Although this subject is important, the English 2007 act that covers these issues does not become effective until 2011, so we are discussing a long-term process. Earlier, Mr MacAskill mentioned the budget. The time set aside for this debate—important though the subject is—should have been used to debate the budget and the time that we had for yesterday's budget debate should have been used for this one.

This is the second debate in only three weeks on an issue that, for practical reasons, I will sum up—using the Government's own words—as “access to justice”. Although a short phrase, it holds more meaning than one might discern at first glance. Justice has historically been and must remain a core principle on which society is constructed and by which it is governed. The previous debate was on alternative dispute resolution, which is essentially a commonsense approach to reducing pressures on our legal system. The mechanism is simple for the consumer and requires little regulation; it represents a win-win situation for Scotland's citizens and legal services.

Former Associate Justice of the United States Supreme Court, William O. Douglas, once said that common sense makes good law. That is not always true. Would that common sense always prevailed—indeed, would that it were always capable of prevailing—but, as we all know from experience, that is simply not the case. Instead, we have a highly specialised and developed legal services industry to deal with disputes. It is necessarily heavily regulated, although we cannot hide from the information that the Which? super-complaint has uncovered. Indeed, it is unquestionable that, as far as accessibility is concerned, Scotland's legal system is failing consumers. However, we must not allow the pressing need for accessibility and the almost inarguable need for reform to taint the integrity or dilute the quality of the legal profession.

There are three questions at the crux of this complex issue. First, how can we provide a widely accessible legal service to the people of Scotland? Secondly, how can we ensure that the standard of the service remains consistent and well regulated? Thirdly, what structure is best suited to fulfilling those conditions? My question to the Parliament is whether we have three answers to those questions and, indeed, whether we can move forward without them. Because those questions remain unanswered, I welcome today's debate.

As the three questions are intrinsically linked, I will look at the first: how we can provide a widely accessible legal service to the people of Scotland. Initially, the answer might appear to lie in the opening up of legal services, as advocated by Which?, to pave the way for a multitude of

alternative business structures such as legal disciplinary partnerships, as favoured in Sir David Clementi's report on the regulatory framework for legal services in England and Wales; multidisciplinary partnerships, which would allow a wider range of services; a shareholder option; or the complete opening-up of our legal services to the private sector in what has notionally been termed Tesco law.

All those proposals come with advantages and pitfalls. Of course, any structure that is open to competition raises several pertinent questions about consumer protection. For example, what would become of the guarantee fund that at the moment not only finances part of the legal system's stringent internal regulation programme but protects consumers against legal fraud? All lawyers pay into the fund; indeed, my family lawyer told me that each of the partners in his legal firm pay £600 per annum to cover the very rigorous inspections that the Law Society of Scotland carries out on every legal firm every two years.

Lawyers also face the costs of any claim on top of that payment. I believe that there is a small fund for such eventualities, but it will not cover claims made against a particular lawyer. What would happen to the insurance that is currently provided by the master policy, which is the compulsory professional indemnity insurance arrangement that covers all Scottish solicitors working in private practice? The Law Society arranges the master policy for professional indemnity insurance; claims are handled by the master policy insurers; and the insurance itself provides cover of up to £1.5 million for any one claim.

How would an MDP be regulated? Under a deregulated system that included MDPs, what would happen to the guarantee fund that at the moment helps clients who claim against solicitors? Would the fund still exist? Would non-solicitors be forced to pay into it? Can several different professionals be regulated by their individual bodies and would they be subservient to the legal regulations that govern the principal function of the practice?

As for Tesco law, in Wednesday's *Scotsman* Mr MacAskill said that alcohol should not be available for purchase in shops like a

"pint of milk or packet of tattie scones".

Setting aside the rights and wrongs of alcohol licensing, I wonder whether we want our legal services to be sold in the same way. I suppose that the answer, to a certain extent, is yes; the Liberal Democrats are committed to and will continue to work towards a freely accessible legal structure. However, I question whether any regulatory structure exists at the moment to

ensure that anything provided under Tesco law can maintain the high standards that are currently enforced by the legal services' internal practices. The idea of a super-regulatory commission might appear sensible but it is untested and has not been thoroughly examined.

This remains very much a question of consumer rights; we must seek to provide not just access to the legal system, but access to justice. To continue the supermarket analogy, we must avoid having a watered-down legal system—or what might be described as a "Sainsbury's basics" legal structure—that is torn between the citizen who pays for it and the shareholders who seek to make a profit from it.

At the Law Society conference, Kenny MacAskill gave an assurance that the SNP would not preside over a diminution in the quality and integrity of the legal profession. I am sure that he will hold to that promise. However, I was more worried by his comment that, if we could complete our reforms by 2011, we would beat England to it. I know that we all enjoy a victory over England—I will for the moment put to one side the upcoming match with Italy—but I do not believe that this matter can or should be rushed.

Kenny MacAskill also said at the Law Society conference that if the legal profession came up with the right solution the Government would back it. I say to him that if the Government comes up with the correct bill to deal with this issue, my party will back it. However, in order to provide access to justice, any such legislation must carefully examine all the options and maintain the Scottish legal system's integrity and high standards.

10:03

John Wilson (Central Scotland) (SNP): I congratulate the Cabinet Secretary for Justice on the motion and Pauline McNeill on her amendment. The Scottish Government is clearly attempting to develop a realistic approach to the Scottish legal services market. I certainly welcome this debate, as some people might be under the impression that this issue has raised its head only in the past couple of months, especially if the letters pages of some of our older newspaper titles are to be believed. That is not the case. The issue, in fact, goes back to the first session of Parliament, when the Justice 1 Committee held an inquiry into regulation of the legal profession.

Sir David Clementi's report on business structures and legal services in England and Wales advances the prospect of legal organisations raising external capital in order to expand. Although Sir David has in certain quarters been demonised for stating that it is perfectly acceptable for Tesco, for example, to gain entry

into the legal services market, the fact is that his report, which was published in December 2004, argued that the fit to own test should be applied to any company that seeks to move into the legal profession.

Although I do not hail from a professional legal background, I have some knowledge of legal issues with regard to the modern workplace—in particular, employment law—and to housing law.

There is an issue about the provision of legal services, and I would argue that, in certain cases, people who are not professionals can deliver legal advice.

On the main issues identified with regard to competition in and regulation of Scottish legal services, some hold the view that any change in the current structures will lead to a dumbing down and dilution of services, which will strike at the heart of the unique Scottish legal system. Others might say that there are vested interests and restrictive practices at work in modern Scotland.

Part of the reason for today's debate is the fact that the OFT received a super-complaint from the Consumers Association—more commonly known as Which?—on 8 May 2007. The super-complaint arose from the commencement of the Enterprise Act 2002, section 11 of which allows a designated consumer body to raise a matter that it thinks harms significantly the interests of the consumer. In its role as super-complainer, Which? asked the OFT to consider whether certain restrictions were preventing consumers from getting the legal services that they needed.

"Consumer" is not an abstract term; it means all of us in the chamber and people in wider society in Scotland who are provided with legal services by the two professional bodies, the Law Society of Scotland and the Faculty of Advocates, which regulate the legal profession. I confess that one of my oldest friends is an advocate, although I did not seek counsel from him on this debate—nor did he offer any. At least my bank balance is higher than it would have been if I had asked for his opinion.

As other members have said, the Law Society does not allow non-lawyers to own or be a partner in a legal firm. It prevents solicitors from forming a legal partnership with non-lawyers, such as accountants or engineers, with a view to offering professional services.

The Faculty of Advocates compels its members to practise as sole traders; it prevents them from working in partnership with other advocates, solicitors or others to provide legal services. Rules of the faculty mean that individuals cannot instruct an advocate without first instructing a solicitor. Some might argue—perhaps validly—that consumer rights are therefore limited. As a

consumer, I cannot instruct an advocate directly and have to go through a solicitor acting as a middleman.

Which? stated clearly that it felt that the interests of the consumer were being harmed. It thought that the present arrangements prevent lawyers from introducing innovations to meet the needs and aspirations of their customers. More to the point, service providers are unable to use new business structures to become more efficient, which could lead to lower prices in the legal services market.

Restrictions can be removed without the need for new legislation, although Which? acknowledges that allowing non-lawyers to get involved in Scottish legal services would require new legal frameworks to be introduced.

Which?, in its role as the consumer champion, has said that a new Scottish legal services board, which is independent of the legal profession and Government and which has responsibility for regulating the legal services market, should be established.

The OFT, in its response of 31 July 2007 to the super-complaint, made recommendations to the present Government broadly supporting the complaint that restrictions are a feature of the legal marketplace in Scotland and that action is needed to remove them. Furthermore, the response indicated that efficiency gains and more innovation are required in the provision of legal services in Scotland. Kyla Brand, the OFT representative in Scotland, said that individuals and businesses are hugely important to growth prospects because "they underpin economic success".

There are practical examples of how the present system is failing the consumer. For instance, people are sometimes loth to get legal representation if they are working because the benefits taper kicks in and they are unable to get legal aid, so they have to pay for services. Some say that they are not getting value for money.

Alistair Morris, chief executive of Pagan Osborne, has criticised the Scottish Government's approach as "protectionism" in the desire to buck the market over Tesco law. Others have said that we should set our face against choice and change, such as allowing third-party entries into the market place, as that would lead to cherry picking of the best customers.

There is a growing demand for change from within the legal profession, as Richard Henderson, president of the Law Society of Scotland, acknowledges.

Change is inevitable. The alternative is that in future the market will be introspective, with the usual suspects dictating to the consumer.

As Bill Aitken said, in 2004 the bill for Scottish legal services was almost £1 billion and it has now increased to £1.2 billion. Modernisation should be welcomed. The commodification of legal services is already a factor in the marketplace structure. If anyone goes for a mortgage or a remortgage these days, the banks and building societies usually include a legal panel for conveyancing purposes.

I welcome the motion and the amendment. I look forward to the additional opportunities for the legal profession to raise finance to ensure that our existing legal firms have the capacity to grow.

The global environment is tough and business structures within the legal marketplace are changing, whether by design or stealth. That is typified by the recent example of Australian law firm Slater & Gordon, a class action specialist, which was floated on the Australian stock exchange in May 2007 and which is now valued at 150 million Australian dollars, which is £62 million.

The motion is about the delivery of Scottish solutions for Scottish problems.

In no debate on the legal services market in Scotland could we fail to mention legal aid. Under the Legal Profession and Legal Aid (Scotland) Act 2007, the Scottish Legal Aid Board's work will include registering advisers and agencies other than lawyers and ensuring that they meet the code of practice.

There were 119,293 grants of civil legal assistance in 2006-07—a reduction of 7 per cent—although within that total, the number of civil aid grants rose by 3 per cent, reversing the trend in the past three years.

We should introduce innovation and access to new finance to assist existing legal structures to expand, but that must not be at the expense of the provision of legal advice at the point of need for the majority of the population. All concerned must see this is an opportunity, not a threat.

10:11

Rhoda Grant (Highlands and Islands) (Lab): When we are debating legal structures, it is important that we focus on the people who require access to the legal system. Their needs must inform our decision making.

The legal system is here to protect and serve the public and must be fit for purpose. People must be able to access the system for their own protection and we need to take this opportunity to remove barriers for them.

The previous Government recognised the need for fair access for all. It recognised that people in rural areas had difficulty finding a defence solicitor

funded by legal aid. To widen access, it set up the Public Defence Solicitors Office, to provide legal assistance and representation to those who faced criminal charges and who were eligible for legal aid.

In rural areas it is much more difficult for people to access solicitors who will undertake legal aid court work. That is because travelling time can mean that solicitors are limited to undertaking one case a day. Therefore, it is not financially feasible for a solicitor in private practice to provide the service because the cost to their business is not covered. In contrast, a court solicitor in a city can undertake several court cases on the same day. For example, a solicitor working in Inverness would be reluctant to deal with a case that would be heard in Portree sheriff court because that would take them away from their office for the time taken to deal with the case and an additional five or six hours travelling time. Although payment is available for travel time, it does not truly reflect the cost to the practice.

People in rural areas seeking civil legal aid face the same situation. The previous Government's decision to build on the good practice of the Public Defence Solicitors Office by initiating a public civil office to provide civil legal aid services in a similar manner was, therefore, a welcome development. The first such office will be set up in Inverness and will be hugely valuable to the surrounding rural areas. I am glad that this Government has continued to progress the development and is now appointing staff for the office. That will make it easier for people in rural areas to access civil legal aid services.

The lack of access in rural areas causes a great deal of inconvenience and harm to people who cannot afford to pay for their own legal services and to people who need access to family courts or interdicts to protect them from abusers. I therefore urge the minister to roll out other such offices in rural areas to ensure that everyone has access to civil legal aid and to provide equality of access to legal services regardless of where people live.

Kenny MacAskill: I am grateful for the points made about civil legal aid. The Government's position has always been that we are happy to provide facilities for civil legal aid. In Inverness, we did so with the consent of the profession. Is the member suggesting that we should expand civil legal aid into other rural areas even if the profession says that it is capable of providing legal aid? The Government's position has been that we should expand into areas where the profession admits that it cannot provide legal aid. We should move only at a pace that has the consent of the profession.

Rhoda Grant: I understand the minister's point, but we have to consider the consumer—the

person who needs the service. If they are saying that they are unable to access services, we need to listen to them. The profession may say, "Yes, we are able to provide services at that rural court, if enough cases come up"—but we still have to consider how people can access those services.

If there is provision in a particular area, I am not suggesting that the Government should provide it. However, in Inverness and the surrounding areas there was no provision and people really struggled to get access. That was why services were set up. I therefore urge the Government to ensure that people in other rural areas also have access to services. If they do not have access to services, the Government should step in to provide them.

We need to go further than public civil offices to ensure access to legal services. We need to look at the financial barriers. Civil legal aid is means tested. People who wish to get an interdict to protect them from abuse can apply for civil legal aid, but they are often prohibited by the means test.

The Government acknowledges that abuse can take the form of financial abuse. It accepts that the abused person can often have no access to their own funds. If, on paper, a person appears to have an annual income exceeding the amount set down in the regulation, they cannot access civil legal aid. That means that one aspect of their abuse prevents them from getting assistance and then protection from the other aspects of their abuse. We need to allow anyone who is applying for an interdict with power of arrest against an abuser to qualify automatically for civil legal aid. Anything less would not work. How can a person prove that they have no access to funds when those funds are controlled by somebody else? How could the person access proof if their life has changed dramatically because they have had to flee abuse? In some cases, people have left their home, job and family. Their annual income may exceed the limit, but they no longer have any income because they have had to give up their job.

Claiming civil legal aid has the added complication that the applicant's opponent can object to the application and to the granting of legal aid. In cases of abuse, that provides the abuser with another route to continue their abusive and controlling behaviour. The abuser can appeal against the victim receiving civil legal aid. We need to stop that happening.

The counter argument to extending civil legal aid to all who need an interdict to protect them from abuse is that it would open the floodgates for other such cases. However, that would not happen, because this type of interdict is unique. It is the only civil action that, if breached, leads immediately to arrest and criminal proceedings,

meaning that the offender can access legal aid while the victim cannot.

Another anomaly of the system is that some benefits are taken into account when calculating income. Benefits should never be counted as additional income. It is anomalous to take account of them in that way, regardless of the reason why legal aid is sought. Some benefits are available to everyone, regardless of their income. For example, child benefit is specifically for the child; it is not for seeking any legal representation.

I ask the minister to address the following points. He should ensure that benefits are not calculated as part of income; he should roll out a series of public civil offices so that everyone in rural areas has equality of access to civil legal aid; he should remove the right of objection from opponents whose victims are fleeing abuse; and he should give an automatic right to civil legal aid to all those who require an interdict to protect them from abuse.

10:19

Stuart McMillan (West of Scotland) (SNP): I am sure that many members in the chamber are as delighted as I am at being dragooned into being here this morning.

Scotland has a unique situation regarding law and the legal profession, and for that reason the large-scale liberalisation of the English legal services market is not really appropriate for Scotland. The focus on large cities and dense urban areas in England does not really apply to Scotland's geography and small-town communities, as has been highlighted by the cabinet secretary this morning. For example, England has a mass of legal services in Temple Bar in the west of London. That accumulation works well for the 7 million people in the London area, but what about the other 45 million people in the rest of that country?

Having said that, restraining legal firms would be counterproductive when we consider expansive legal services and their positive impact on the economy. Our challenge is to encourage the large firms in Scotland while ensuring that individuals who require legal services are not ignored. That is why I am happy that the Scottish Government will continue to work with the industry to develop a distinctly Scottish regulatory approach that recognises specific Scottish needs, while balancing the need for small communities to have access to justice and while enabling large firms to compete at the international level, much as the Royal Bank of Scotland Group is currently doing. Allowing the free market to have complete control of the legal services market would be devastating

to many organisations and individuals in our communities.

Access to justice means ensuring that those who live in Scotland can expect fair and equal access to independent legal advice, regardless of their ability to pay and their location. As the debate about centralising larger firms persists, we must always keep in mind what access to justice means.

Several organisations currently provide legal advice or services to individuals who seek assistance. Although citizens advice bureaux, welfare rights advisers and community law centres provide services and assistance, many Scots still miss out. The reasons why people do not use those organisations and services vary, but people's lack of exposure to them certainly persists. People may often be unaware of the services that are available to them until it is too late.

Ignorance of the organisations and services can, unfortunately, be at the root of many very sad stories. Just the other day, I dealt with a constituent who was about to be evicted from their home. Many problems surround the eviction, some of which appear to relate to the housing association. Although various reasons lie behind the impending eviction, one burning question remains: what would have been the situation had my constituent received accurate information and assistance much earlier in the process? Without even considering all the specifics, it is obvious that the situation would probably not be the same as it currently is. It is therefore extremely important that the current free legal services unit of the Faculty of Advocates—which provides free advice and representation through Citizens Advice Scotland—is widely known about, but that is not the case. Information simply was not available for my constituent.

I have never been about to be evicted from a property that I stayed in. I am sure that everyone in the chamber agrees that no one should have to endure that situation. If assistance is available, people should have the opportunity to receive proper legal advice, so that evictions can be prevented.

Let us assume that the constituent was a council tenant and had obtained early legal assistance from a community law centre, which had received funding from the local authority. The local authority would then be paying for the defence of the tenant who was threatened with eviction, while at the same time trying to evict that tenant. If such a case were to reach the courts, how would the local authority sort out the paradox? *[Interruption.]*

The Deputy Presiding Officer (Trish Godman): Excuse me, Mr McMillan.

I do not know how many times I have to say this to members, but phones have to be switched off. Off.

Stuart McMillan: Of course, funding problems are not solely related to community law centres. The Scottish Legal Aid Board's legal funds have been significantly drained thanks to criminal cases. I welcome the fact that normal citizens can obtain legal aid, but I am sure that everyone in the chamber feels as I do when they pick up a newspaper and read about big-time crooks obtaining legal aid. That money funds their defence, instead of funding the normal citizens whom we represent. There is a big argument to be had about that, and we will have to look into it during the coming four years.

On another aspect of legal aid, we must recognise that legal aid funding has increased by 7 per cent.

To conclude, I reiterate the importance of legal advice and of service organisations in supplying information to individuals. However, we need to focus on raising awareness of such organisations. Helpful organisations are effectively stripped of their power to assist the public when individuals do not know that information and support exists. On that note, as I highlighted a moment ago when I mentioned a paradox, local authority funding for such organisations should be examined. When a local authority helps to fund both the prosecution and the defence, more than an eyebrow is raised. I hope that we will be able to resolve those issues and provide the Scottish public with the services and access to justice that they require. I welcome the motion, and I welcome the amendment in the name of Pauline McNeill.

10:26

David Whitton (Strathkelvin and Bearsden (Lab): I speak to the amendment in the name of my colleague Pauline McNeill, with particular emphasis on widening choice and on easier access to more affordable legal services. I will confine my remarks to one particular aspect, which is the implementation of sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, which abolish the ban on non-lawyers applying for rights of audience in Scotland's courtrooms.

While it is all very well to debate the merits of major law firms forming alliances to compete in a national or global marketplace, we must work out how the law can help the ordinary man or woman in the street who needs legal representation but cannot get it or, indeed, afford it. Is there really a desire in Scotland to end the monopoly that is enjoyed by members of the Law Society of Scotland and the Faculty of Advocates over paid

advocacy in Scotland's courts? I ask the question because an inquiry that the previous Scottish Executive instigated decided that it was time to end that monopoly. However, the monopoly has not yet been broken.

It falls to the current Cabinet Secretary for Justice to make that decision, along with the Lord President. However, I fear that Mr MacAskill's mind may already be made up on the issue. As he reminded us today, he is a former practising solicitor, so at one time he was a beneficiary of that monopoly for paid advocacy. Indeed, in an article in *The Scotsman* in February 2006, Mr MacAskill commented on sections 25 to 29 of the 1990 act, saying that he was

"yet to be convinced that the move would benefit the legal service, rather than make the situation worse".

He went further, adding:

"There are good reasons for having a monopoly-regulated profession; otherwise, how do you regulate those not part of the organisation?"

As he is fond of football analogies, he finished by saying:

"If I watch a football match I want the referee to be SFA-standard, not Joe Smith from off the street."

I am sure that the cabinet secretary will take the opportunity to tell us whether his views on that issue have changed since he took up his present position.

Kenny MacAskill: No, they have not. What the member says seems rather to contradict Mr Martin's points. Is Mr Whitton telling the chamber that he supports Tesco law?

David Whitton: I support the move to make the law more affordable and more accessible to ordinary people in the street. One of the reasons why people want to introduce what Mr MacAskill describes in a derogatory fashion as "Tesco law" is that it would allow that to happen.

If, as Mr MacAskill has just said, he has not changed his views, perhaps he should let someone else in his department make the decision on the matter, for he is obviously prejudiced against it. He is saying on the one hand that we cannot build a wall against competition, and on the other that he will not allow new entrants access unless quality can be maintained. However, there is no point in relaxing the rules at the top end of the market when—crucially—at the bottom end people are finding that access to legal representation is being priced out of their reach.

I raise these points because of a long-running campaign that has been conducted over many years by a constituent, who is the current chair of the Association of Commercial Attorneys. The association's application for paid advocacy rights was submitted in July. My constituent and the

association have been trying for many years to win such rights in Scotland's courts.

The enactment of legislation to free up the advocacy market has lain dormant on the statute books for 17 years. Sections 25 to 29 of the 1990 act abolish the ban on non-lawyers applying for rights of audience in Scotland's courtrooms. At the time of the legislation's passage, ministers said that they would not implement those sections until other reforms in the 1990 act, such as the introduction of solicitor advocates, had been given time to settle. Mr MacAskill will be well aware that legal services in England and Wales got rid of that legal closed shop many years ago, so why the delay here in Scotland? His predecessor as justice minister, Cathy Jamieson, wanted that to happen, but it has not.

Guidance notes for those wishing to apply for advocacy rights were issued in March, but they seem subsequently to have got lost. It is certainly true that the wheels of the legal profession grind slowly, but the Law Society and the Faculty of Advocates, whose members currently enjoy the benefits of the monopoly situation, say that they are relaxed about ending their unique position, providing that non-members who are allowed to represent others in court are subject to the regulatory safeguards. However, section 25 of the 1990 act clearly states that a code of practice will be imposed on those who wish to exercise the right to conduct litigation.

As my colleague Rhoda Grant highlighted, it is well known that accessing legal aid for civil cases is particularly difficult. Getting legal representation if one happens to have a dispute with another solicitor is nigh on impossible. Allowing a qualified third party to break the monopoly can only assist the legal process and make Scotland's courts more accountable and accessible. I urge the cabinet secretary to put aside his earlier prejudice, think again about the issue and give the people of Scotland the affordable choices that are enjoyed in the rest of the United Kingdom.

10:31

Aileen Campbell (South of Scotland) (SNP): Like previous speakers, I welcome the debate. It gives the Scottish Government the opportunity to respond to the super-complaint from the consumer group Which? and the Office of Fair Trading's findings. I sincerely hope that it will allow us to develop and kick-start further discussions on ways to improve Scotland's legal system.

As has been mentioned by other members, including John Wilson, Which? believes that removing the restrictions on solicitors providing joint services with advocates would provide a much better service to consumers, with savings on

overheads and better economies of scale being passed on to those consumers. In general, Which? believes that multidisciplinary practices would enhance services and bring costs down for clients.

Whether or not there is agreement on the Which? proposals, it is clear that there is a need for change, but we must ensure that any change is carefully considered. As we move forward to do that, it is important that the Parliament and the Government work with industry to ensure that we find a regulatory framework that is fair and appropriate to Scotland's specific circumstances, as has been acknowledged by the cabinet secretary. Indeed, in its response to the Which? complaint, the OFT—despite regarding the current regulation of legal services as restrictive—said:

"the OFT notes that the legal services market in Scotland is different from that in England and Wales. The OFT also considers that it is important to develop an appropriate Scottish solution to any perceived problems ... the OFT has not assumed that the changes currently being made in England and Wales will be automatically suitable for the Scottish market."

Of course, the debate is not just about ensuring service delivery, or whether there should be regulation. As Pauline McNeill's amendment shows, it is about the kind of regulation that we should have and equal access to justice, especially for those who need it most and those who would be most at risk of losing that access in an unregulated market. As highlighted by Rhoda Grant, with her experience of the Highlands and Islands, that is particularly important in rural communities. It is also true of the areas that make up the South of Scotland region. We must not leave the industry to the whims of the free market, as that would be bad not only for practitioners but for consumers.

I spoke to a local solicitor in Carlisle, who told me that, like every other industry, solicitors have witnessed a lot of changes to their working practices over the years. I was told that it is becoming increasingly difficult for rural offices to recruit new trainees—and to recruit people, full stop—and that more and more small, individual firms are being merged and amalgamated. The Law Society of Scotland concurred with that when it said:

"Rural practices report difficulty in attracting staff and family law practices may be withdrawing from legal aid provision."

In addition, when small firms try to concentrate on and specialise in specific areas, such as conveyancing, there is a latent fear that, eventually, the bigger, amalgamated firms will take away their business. Given that that is the fear now, the situation can only get worse, especially if the free market is allowed to prevail, so careful consideration must be given not only to supporting

small firms but to allowing bigger firms to use their expertise to compete in a growing international arena. At present, Scottish solicitors work in 44 countries throughout the world. It is clear that a balance needs to be struck.

The situation demonstrates the importance of ensuring that any regulations are appropriate, that they meet the particular needs of our dispersed communities, and that they recognise the distinctiveness of the Scottish legal practice and its growing international influence. However, no one is saying that the status quo should remain. That is the view not only of the small firm in Carlisle but of the Law Society of Scotland, as expressed in its consultation on alternative business structures. The consultation is a useful document that excellently and thoughtfully gets across what we must strive to obtain from people in the legal world. The Law Society acknowledges that things need to change, but it urges us to be mindful that change must never come at the cost of quality or of the much-cherished independence of our legal system. Independence is one of the most important elements of the system's operation; the independence of advocates and of solicitor firms is fundamental to the legal profession.

I am no legal expert, but I know what I do not want as a consumer: I do not want to be ripped off or given legal advice that discloses confidential information about me or that is not in my best interest. Instead, I want any solicitor whom I hire to respect me and the rule of law, and to behave with honesty and integrity. It is encouraging that the Law Society's council shares those views and is conscious that any changes in business delivery models must protect not just the core values but the client.

Smaller Scottish legal practices should have the opportunity to expand and innovate in a way that provides communities and individuals who have recourse to the law with the access that they need.

We must protect our legal system. I think that there is agreement that while the quasi-liberalisation practices that have recently been endorsed in the UK's other legal jurisdictions—England and Wales—may be suitable for those countries, they are certainly not suitable for Scotland. We need only look at what is happening to the Post Office to realise what happens when industries that provide vital and specialised public services are forced to deregulate and open up to the wrong kinds of competition. Thousands of local post offices are being closed or are proposed for closure, and the range of services that is provided by the few, increasingly centralised, branches that remain is being reduced.

We can learn lessons from such an approach to regulatory reform. I have no doubt that the

Scottish Government will listen carefully to the points that have been made in the debate and will work closely with the Scottish legal profession to ensure that it is in the best state to serve 21st century Scotland.

10:38

Nigel Don (North East Scotland) (SNP): In the context of an extensive debate, I will address one specific issue that has not been mentioned much—advocates. The argument is made that it is uneconomic for advocates to be self-employed. I struggle to see why that should be the case, and so do advocates. The argument goes that if they worked in partnership, either with each other or with solicitors, it would be more economical. I do not see the logic in that, and neither do they.

I am not an advocate, as members will appreciate. It appears to be the case that advocates' overheads are very small, because of the highly specialised nature of what they do. Essentially, all that an advocate needs is a good clerk, an office and time in court. I have been told that the overheads amount to less than 10 per cent of the total fees and contribute to collective activities that might comprise 15 per cent of their costs. I am also told that solicitors have to run an overhead of about 66 per cent—they are doing very well if they can beat that. Given such numbers, it is extremely difficult to see how advocates could possibly benefit by merging with each other, or how the legal profession in general would benefit if they were to join solicitors in partnerships.

Although the OFT might take the view that there are economies to be made, I get the impression that it has simply not looked at the numbers. It would be useful if someone looked at the numbers and demonstrated what has not yet been demonstrated—that there are indeed efficiencies to be made. My analysis suggests that there is no such scope for efficiencies.

Advocates are not barristers not simply because they work in different jurisdictions, as we all know, but because the Scottish and English legal systems have different histories. Historically, in England solicitors never had a right of audience, although they have acquired some such rights; only barristers had a right of access to courts. Proportionately, there are far more barristers in England than there are advocates in Scotland. We have somewhere between 400 and 500 advocates in Scotland. The cabinet secretary suggested that the figure is 470. I will not argue with that. The precise figure depends on how many of the people on the list are retired, and we are not sure about that.

Advocates are specialists. The huge advantage of having a referral bar of specialists is that they

can take part in proceedings from different sides of the argument: one week they can appear for the defence, and the next they can appear in a different case for the prosecution. Their specialist skills can be deployed by either party in a case, depending on the circumstances. If advocates were to join a firm of solicitors or were contracted to a public body, they would necessarily always be on one side of a case. It is difficult to see how that would benefit the profession, the development of law or justice.

On the basis of my analysis over the past few days of what advocates do, how they see themselves and how the system works, it does not seem that their being able to form partnerships with each other or with solicitors would bring much benefit. Although it might be fair that they should be able to form such partnerships, it seems that their doing so would not help much. The only effect of the proposal would be to restrict the number of advocates who were available for referral, which, on balance, is probably not a good thing, given how few advocates we have.

However, it seems that a few restrictions might need to be eased, or perhaps even removed. The restrictions that prevent movements by qualified advocates and qualified solicitors between different branches of the profession could and should be removed. I appreciate that the debate is about what the issues might be, and that we are not really looking for answers, but I am an awkward soul, and I will bung in one of the possible answers: the restrictions—in both directions—should be removed as rapidly as possible.

I also suggest that it is probably no longer appropriate for advocates to say that they should not be on the same team as solicitor advocates. Quite frankly, that seems to be restrictive and a tad difficult to defend, so it might be better if the advocates simply get rid of that rule before someone forces them to do so. Leaving aside the restrictions on drift between the solicitor and advocate sides of the profession, which should be lifted, the existing system works well.

It has been argued that citizens should have direct access to advocates. In principle, the present arrangement for relationships with advocates seems to be restrictive but, again, I am struggling to see where there is a difficulty. Advocates are good at taking the legal issues and facts that have been teased out by solicitors and applying their skills and experience to what are often specialist cases. They can provide advice and, if necessary, appear in court. If everyone were to have direct access to advocates, advocates would simply have to develop the wide-ranging skills that solicitors already have, which would dilute their specialisation. The result would

be that we would simply have one amorphous profession, and it is difficult to see how that would benefit anyone.

I understand that professionals such as surveyors have direct access to advocates, which is perfectly reasonable. It is not obvious why any professional who can work out precisely what the issues are should not have direct access to advocates. I hope that there are no restrictions on that but, if there are, I suggest that they be removed promptly. However, the suggestion that the public—even those of us who have law degrees or similar qualifications—should have direct access to advocates does not make much sense. Of course, it is incumbent on solicitors to ensure that if the teasing-out process is short and sweet, it should be undertaken swiftly and at little expense.

The problem with multidisciplinary partnerships is regulation. Conceptually, there seems to be no problem in having a regulator for the individual professionals in a partnership. For example, chartered accountants have a regulatory body and surveyors have a regulatory body. If, in some specialised markets, the relevant professional happens to be an engineer like me, they have a professional body. The Law Society regulates solicitors.

Any amalgamation of the professions in a multidisciplinary partnership would not incur a problem with regulating individual partners, but it is plain that the difficulty would be in regulating the total firm if its partners were not all lawyers. That question must be addressed. It does not have a simple answer, but we need to sort it out. A legal services board to cover everything might be the only way to go, but I am not sure whether that would be a good answer. Making the Law Society responsible for all the other professionals might be better—they would just have to sign up to the same confidentiality rules. That might be the way to go, but I offer no suggestion. Regulating whole firms would be the issue, as individual professionals would not be difficult to regulate.

I toss in the fact that lawyers currently have personal responsibility for their staff. Confidentiality applies not merely to lawyers but to everybody who is involved in the business train that deals with legal information, so, conceptually, it is difficult to see why other members of staff should not be bound by similar rules.

I have covered the two issues that I wanted to deal with, so I will stop there.

10:47

Christopher Harvie (Mid Scotland and Fife) (SNP): Presiding Officer, I crave your indulgence for my late arrival in the chamber.

We are sentimental about the law because the law and the office of Lord Advocate were the devolved Government of Scotland for so long. Law is one of the nation's great estates and its temporal power has outlasted the formal union. Not long ago, all the leaders of the Scottish political parties—Donald Dewar, Malcolm Rifkind, Gordon Wilson and David Steel—were lawyers. I wrote about that in a *Scotsman* essay, in which I quoted Sir Walter Scott—the arch lawyer—who called the law “the most mighty of goddesses.”

As a deal-making nation, we have always needed lawyers commercially. The circumstances of the present day might mean that lawyers, as well as lay people, have qualms about the economic future. Perhaps that justifies non-specialists such as me participating in the debate, which has got me thinking.

I am not altogether reassured, as I once was, by the name *Which?* The publication did great things in the days when local oligarchies of retailers and other worthies held communities in ransom, but its market-driven image of reform was the supermarket, which is not very comforting. We can imagine the impact on the local solicitor who has handled the local store's business in a Scottish rural town when the inevitable occurs and the big supermarket moves in offshore, so to speak. What happens to the solicitor's business and to the middle-class element of small and medium-sized legal industry?

The legal profession was part of the glue that held small-town Scotland together. It held the Liberal Party together—in a way, the fall of the local solicitor contributed after the first world war to the fall of the Liberals. We now know that the notion of Tesco justice—of coming out of the big store with a legal opinion in a shopping trolley—has its downside. I would worry about asking Tesco for legal advice, because slotting in its customer card involves an intelligence system that makes Big Brother look like a boy scout doing his espionage and intelligence badge.

The issue is not just the big store's dominance. Another problem is that the legal profession, possibly as a reaction, is greatly involved in house purchases and sales. Recent years have been great for the housing and retail-driven economy, but I do not think that that will be the case for much longer. At the other end of society, lawyers often find themselves compromised in the policing and regulation of areas of a country that has a huge drug problem—it is three times the European average—and a commensurately large black economy.

In that context, is the professionalisation of the legal system into joint bodies that sell specialist services a welcome approach? It has attractive elements and precedent exists in housing. Law

might be combined with urban planning, conservation and housing provision. However, we must remember that on the continent, those professional specialisations usually answer to specialised administrative courts, which is not the case in this country. The problem always exists that a corporate, oath-driven and oath-commanded profession will conflict with the market. One of the less attractive sides of Scottish 18th century society was that some lawyers took an overtly political line: one recollects the expressions of opinion from Lord Braxfield that caused Charles James Fox to say, "God help the country that has such lawyers in it."

There is the difference between what the American social philosopher Jeremy Rifkin calls the third sector—for which we are aiming—in which we collaborate voluntarily to extend public good, and his fourth sector, which is driven by criminal greed and to which I have referred. It was slightly strange that immediately after the heist of the century—the theft of the Buccleuch Leonardo—a member of the legal profession had his shoulder tapped by the boys in blue. I can think of not a few places in Scotland in which such a black economy is the whole economy.

Another aspect to address is the very large law firms. It is interesting that two of the biggest firms in London—Hetheringtons and Linklaters—bear Scottish names. If we added in Peat Marwick, they would be predominantly Orkney names. In the scenario that I have described, where are such firms? They are huge and their reputation runs back 100 to 150 years. They are not new phenomena—in the 1880s, the huge expansion in Scottish overseas investments, particularly in the United States, was driven by Charlotte Square as much as it was by Dundee jute barons. There is ambiguity when big business is international, because it often tends to take its political morality from the further extensions of globalisation.

I draw members' attention to a book that is worth reading, which appeared in the same year as did the "The Red Paper on Scotland"—I suppose that the Prime Minister has been seen going round the bookshops of Edinburgh trying to buy the remaining copies of that book, to cover his radical flaming tracks. However, a much more interesting book that was also produced in 1975 is "The Crime Industry" by the late John Mack, a sociologist at the University of Glasgow, and my Tübingen colleague Hans-Jürgen Kerner. It concentrated on the extent to which tax havens, globalisation and computers could totally blur the distinction between sharp business practice and outright criminal activity. It involves a huge amount of transactional money, which has been valued at \$1.3 trillion—it is probably more, if we allow for the dollar's depreciation in recent years. For the corporate legal sector of Scotland, which can be of

enormous use to us—particularly in securing the legal framework for tasks such as extending renewables production and enhancing that globally—we must think of a regulatory body that is sensitive not just to domestic activities, but to complex international and European facts.

We must also think of the relationship with Europe that we will enjoy in the future. We should not have a defensive attitude—we should find out what we can learn from, for example, the notariat system in Europe as a means of simplifying domestic law.

I thank members for their indulgence in listening to me.

10:55

Margaret Smith (Edinburgh West) (LD): Again, we have had an interesting debate. It has been interesting listening to colleagues trying to fill not only their time, but that of other members. I enjoyed Paul Martin's speech in particular. He used the words "finally" and "in conclusion" so many times and made so many final conclusions that I thought that we were watching "Paul Martin: The Director's Cut".

I welcome the cabinet secretary's assurance that, in responding to the OFT by next month, the Scottish Government will take on board the comments and views that have been expressed in the debate. I am also reassured by his saying that proposals will fit Scotland's needs and focus on quality.

In recent years, issues relating to competition, regulation and business structures in the legal services market have been considered on a number of occasions north and south of the border, as we have heard. That consideration led earlier this year in England to the passage of the Legal Services Act 2007.

We have heard that the OFT's interest in Scottish legal services this time around has been driven by a super-complaint by Which?, which stated that there had been a distortion of the market that had had an adverse impact on consumers. It wants deregulation of the market in order to open up services, and it has asked ministers and the legal profession to suggest how restrictions could be lifted. The passage of the legislation in the south and the OFT's request to the Scottish Government to publish a statement that details its policy views on regulation of legal services and how restrictions can be lifted clearly mean that change is on the way. The status quo is not acceptable—indeed, I do not think any member has said that it is. As Bill Aitken said, the situation must be seen as much as anything as an opportunity for the legal profession in Scotland.

Many members, including David Whitton, outlined the restrictive practices that are currently in place. The Law Society of Scotland does not allow non-lawyers to own legal firms and the Faculty of Advocates does not allow its members to take direct instruction from clients as opposed to through instructed solicitors. I share the view of many members that the aim of increasing access to justice for the people of Scotland should be at the heart of deregulation and should be a guiding principle behind any changes to the legal services market.

However, I also agree with Mike Pringle that we must not lose sight of the core values of legal services provision. We need quality legal services, however they are structured and regulated, and Scotland's people must be confident about the independence and integrity of those services, wherever they are found. Modernisation must not mean deterioration. The core values that clients have come to expect from Scottish legal services, such as confidentiality, independence, avoidance of conflicts of interest, safeguarding of assets, support for the rule of law and duty to the court, must remain central to services. The Government and Parliament should not support any solution that compromises those core values.

Members have been right to congratulate the legal profession on the approach that it has taken. We welcome the fact that the Law Society, the Society of Writers to Her Majesty's Signet and the Faculty of Advocates are consulting their members on the best way forward. I am pleased that the cabinet secretary has had meetings with professionals and that he has given a reassurance that he will take on board consumers' views. However, if Scotland's law firms are to compete in the UK and the wider world—which is important—it seems clear that deregulation to some degree is necessary.

I support the view that to relax restrictions could have benefits, but at issue is the extent and form of such relaxation—many comments have been made about that. There could, for example, be advantages in allowing the formation of legal disciplinary partnerships of solicitors, advocates and others so that they would practise in the same firm. Nigel Don made a good job of advocating on behalf of advocates in relation to the economies of that approach, the development of legal judgments and the number of advocates who would ultimately be available. However, some people argue that the rising numbers of solicitor advocates means that such an approach would be unnecessary for consumer choice.

From experience, I know that one-stop shops for multiple professional services already exist in many firms and that they are being sought out by clients. I chose a solicitors firm recently not only

on the basis of access to legal services but on the basis of the financial advice that it provides. Benefits for consumers in time and cost savings could be and are being realised as a result of different professionals sharing facilities.

However, a company's ability to attract and, crucially, to retain quality multidisciplinary professionals may be impeded at present by the lack of freedom to enter them into partnership and ownership of the firm. It could be argued that it is likely that consumer demand for such a convenient approach will lead to the expansion of such operations without legislative changes being needed. In some rural areas, for example, such an approach may well make a firm more viable to solicitors or others by introducing economies of scale. Aileen Campbell's comments on recruitment issues in rural practices were well made, as was her point about post offices post deregulation. We should bear in mind what she said. However, concern exists that one-stop shops that merge legal and other services could become monopoly shops, which would directly contradict the aims of deregulation by removing competition in certain areas.

As we have heard, opening up partnership and ownership of legal companies raises issues relating to how regulatory bodies would deal with such entities. MDPs that are made up of professionals who are all subject to their own forms of regulatory control might be a good way forward but, as Nigel Don said, doubt has been expressed about whether, for example, the Law Society would continue to regulate firms overall as it currently does, and whether there should be percentage limits on the number of partners who could be non-lawyers.

Mike Pringle highlighted a crucial question. What would be the impact on the master insurance policy and the guarantee fund, which currently give comfort to clients if solicitors have been negligent or have done a bunk with their money, for example? Would the guarantee fund cover a non-lawyer? It seems that that would be unlikely. Proper regulation is vital to safeguard consumers in such a complex industry and to provide them with assurances of a certain standard of service that are enforceable by sanctions.

There is an issue about how we can satisfy the need to have people who own law firms continue to face fitness-to-own tests. In that regard, Paul Martin was right to mention money laundering, for example. It might be more difficult to satisfy that need if shareholding were to be allowed among non-lawyers in the so-called Tesco law model. England and Wales have gone down that route, although it seems to me that they have done so without having worked through in advance much of the detail on multidisciplinary regulation. We

know that the Government is keen to move quickly—given its ability to get a step ahead of England, which I would never discourage—but I urge it to ensure that we get things right. We must ensure that enough time is taken to get the model right.

A new market structure could lead to the end of many small community lawyers and local firms and could leave in place mainly large legal services corporations. A concern that is related particularly to the Tesco law scenario is that large businesses will choose to take on only the most profitable legal work but will leave less lucrative cases behind. It is true that certain aspects of law lend themselves more easily to being treated as another commodity for sale at a supermarket check-out or online. I share Christopher Harvie's concern about the prospect of asking Tesco for legal advice, although, given its success at getting stores built throughout Scotland, asking it for planning advice might be worth while.

In respect of some services, prices for the customer might be expected to come down and access could be made easier, but we must ensure that people still receive quality services, given the importance of many of the issues that are covered, such as probate cases, making of wills, remortgaging of homes and personal injury cases. It is crucial that financial considerations for shareholders or whoever do not become the sole priority for service providers at the expense of consumers' legal needs.

I am sure that the larger Scottish firms have made the case for being able to access outside capital so that they can compete in the international marketplace. It is entirely reasonable that they do so, and the scenario in question no doubt appeals to them and the Government. However, I urge the Government to make access to justice for the average member of the public central to its thinking.

Many members, including Rhoda Grant, have said that legal services professionals are turning their backs on legal aid cases because of financial concerns. The Law Society of Scotland's research has indicated that the number of solicitors who are prepared to undertake civil legal work is falling, and it is not hard to see that that willingness could diminish further in a more deregulated market. I shared my limited research with colleagues a couple of weeks ago: I found recently, when I tried to make representations on behalf of a client in a tragic case, that only three law firms in Edinburgh that undertake civil legal aid work were prepared, without having had regard to the case itself, to take on a civil legal aid case. We hear all the time about the difficulties that many people face in accessing representation in, for example, family and matrimonial cases. Let us try to ensure that

whatever structure is chosen delivers greater access, not less.

Legislation needs to be carefully considered in the context of Scots law. We must increase access to justice while maintaining the essential elements and core values that underpin the work of our legal professions. If we get it right, consumers could get greater choice and cheaper services; if we get it wrong, it could have a devastating impact on the professions and the protections that currently underpin the relationship between lawyer and client. I am sure that we are all committed to finding the commonsense solution that Mike Pringle seeks and to taking the process forward. As many members have said, it is early days in the debate—although anyone who has listened to this morning's long debate might feel otherwise.

11:06

John Lamont (Roxburgh and Berwickshire)
(Con): I declare an interest as a member of the Law Society of England and Wales. I was a practising solicitor with Brodies until June 2007.

Like many others who have taken part in the debate, the Scottish Conservatives congratulate the Law Society of Scotland on recognising the need for change in an increasingly competitive environment. We—as is the Government—are attracted by the idea that Scotland could market its legal services on the world stage. Scots law and Scottish lawyers have a sound international reputation, so there are definite grounds for thinking that such moves would be successful.

However, we must recognise that the existing business structures would not necessarily be conducive to that in all cases. It has also been noted that smaller and, in many cases, well-established practices have no desire to go down that particular route. Any legislation would need to recognise that a one-cap-fits-all approach would be doomed to failure.

The Scottish Conservatives support the existence of an independent Scottish legal profession that is effectively regulated and which provides good-quality and effective services to clients throughout Scotland. As Rhoda Grant and others do, we support the principle that a free democratic society can flourish only if its members have access to independent legal advice, especially on issues involving Government or that require Government procedures or decisions to be challenged. That will not happen if people have restricted access to such advice or if the providers of the advice are under the control of the Government.

As we heard from Bill Aitken, the legal sector is an important part of the Scottish economy—it

contributes £1.2 billion to the national economy. There is also great variation in the characteristics of the legal market: for example, some areas—financial services and tax sectors, residential conveyancing and commercial law, for example—demonstrate a high level of competition, while other areas, such as family law, welfare debt and housing matters, demonstrate a low level of competition.

The focus of today's debate has been on alternative business structures as a means of freeing up the Scottish legal market. However, there are other controls that restrict the legal market in Scotland, notably the restrictions on individuals who want to enter the profession, on which I will touch briefly. As Clementi noted in his report on the regulatory framework in England and Wales, setting entry standards requires a careful judgement between setting the standard too high and restricting entry and setting the standard too low and not maintaining proper levels of competency. That is the challenge to the legal profession and the Government, and it must be a concern with the prospect of Tesco law.

In Scotland, as in England, the legal profession has grown substantially in recent decades. That has been most evident in the dramatic rise in the number of law school places. The normal route to becoming a Scottish solicitor is to complete a bachelor of law degree, followed by a diploma in legal practice. There is then a two-year training contract that includes further competency courses. Advocates go through a similar process, requiring the diploma, a five-week foundation course and a six-month pupillage. Minimum standards of quality are enforced during that training process, but there are no specific statutory or other regulatory barriers to entry. However, as anyone who has been through the system will know, there are bottlenecks in the system that work in a similar way to barriers to entry. Whether it be in gaining a place at university, a place on the diploma course or a training contract, at every stage potential solicitors and advocates have difficulty getting into the profession.

Another barrier that I have come across is that which restricts the ability of solicitors who are not qualified in Scots law to come to Scotland to practise. Despite the fact that I held a University of Glasgow law degree and qualified in London, I had to sit several meaty examinations to become a qualified solicitor in Scotland. It felt as though it would have been easier for me to become qualified in New York state than in my home country. That differs greatly from the situation in England, where Scots-law qualified solicitors do not face the same barriers to becoming qualified as English solicitors. I urge the Government, as part of its reform package and review, to examine such barriers to entry to the Scottish legal

profession. Unless our legal profession can be accessed by the most able lawyers from throughout Scotland and around the world, we will not fulfil our ambition to enable our legal profession to compete on the international stage.

A number of members, including Aileen Campbell, talked about business structures. There are several restrictions on the ways in which Scottish legal firms can organise themselves. Advocates must be sole practitioners: they cannot form partnerships with anyone, not even other advocates. The justification for that—a point that was made by Nigel Don—is that it allows advocates to focus entirely on the work of advocacy and frees them from other demands. However, there could surely be significant advantages, through economies of scale, if that restriction were relaxed. Removal of the restriction would enable advocates to spread risks more efficiently and, potentially, to take advantage of economies of scale by meeting a range of clients' legal needs within one firm.

In relation to solicitors' practices, non-lawyers are not allowed to own legal firms and employed solicitors are not allowed to act for any third party. That is justified on the ground that it avoids any conflict of interests, maintains lawyers' independence and continues to respect client confidentiality. Although reform is required in that area, there must be some concern—as we heard from Paul Martin—that big businesses would muscle their way on to our high streets and cherry pick the most profitable legal work. We have heard throughout the debate that smaller local law firms that offer a wide range of services are vital in many communities.

In the light of recent initiatives, the Scottish Conservatives acknowledge the need for a change in the legal services profession in an increasingly competitive environment—the idea of marketing Scotland's legal services internationally, for example, is definitely appealing. In addition, although Scots law and Scottish lawyers have a respectable international reputation, it is important to note that existing business structures are not in all cases conducive to that. In order for Scotland to maintain its international reputation, the legal services market must recognise that a one-cap-fits-all approach will not be attractive. The Scottish Conservatives support the existence of an independent Scottish legal profession that is effectively regulated and which provides quality services to all clients throughout Scotland. We are happy to support the Government's motion and the Labour Party's amendment.

11:13

Pauline McNeill (Glasgow Kelvin) (Lab): I declare an interest in that my husband is a

practising advocate. However, competition, regulation and alternative business structures are not often the subject across the dinner table.

Why are we debating this issue this morning? My theory is that, after Kenny MacAskill has had a hard week, we have a debate such as this to cheer him up, as we did a couple of weeks ago. However, we are really here because it is an important debate following a trigger super-complaint to the OFT by the Consumers Association and the OFT's response. So what should our terms of reference be? I make it clear that the Labour group is not setting out policy positions—in fact, I do not think that anyone in the chamber is setting out a policy position. Rather, we are exploring the complex and important issues arising from the debate.

From what I have heard, there is consensus that the status quo is not an option and that there might be business advantages in change but that we must strive to ensure that any changes benefit the ordinary person, and that quality and regulation, over which the Parliament has control, are maintained.

We in Scotland should continue to take our own approach. It has served us well in the past and, although the procedure that we have been talking about might have provoked the need for change, our response should be distinctly Scottish. An independent regulatory framework that lies within our democratic control and not just market control will mean that we can balance the interests of firms and businesses with those of the consumer and of standards.

I agree with Kenny MacAskill that the balance should be between competition and regulation; that is the right approach. We need the right level of competition to achieve what is sought. We must not improve access just hypothetically; we must demonstrate that we can improve access for the ordinary person in the street. The language of the super-complaint is not strong enough in saying that change must result in better services.

Our starting point is that the previous Government has presided over substantial change. Indeed, we went beyond the Law Society's wishes in the way in which we dealt with regulation and professional conduct. It must be recognised that there has already been quite a lot of change.

To summarise what other members have said, the issues raised by the super-complaint include direct access to advocates; multidisciplinary practices that involve more than one profession; legal disciplinary practices in which lawyers and advocates work together in the same firm; third parties owning law firms, thereby removing the bar that only lawyers can own practices; and changing

the definition of a solicitor's services so that it is not distinguishable from that of another person who provides advice.

The Law Society set out its response to the super-complaint. Although it is a very lengthy document to read through, it is important because it sets out what the Law Society believes are inaccuracies about the Scottish system, as well as some fundamental errors. The Law Society response says that the OFT did not consult the Law Society before it arrived at its conclusion and also suggests that the OFT did not consult the Government, even just to check that its understanding of the Scottish legal system and the regulation of the Scottish system was correct. I would therefore welcome clarification from the Cabinet Secretary for Justice of whether he was consulted before the OFT arrived at its conclusion, although I understand that he is in regular contact with the OFT. I would like to think that the OFT would have checked that its understanding of our regulatory system was correct and that it was using the correct language.

Protecting the public means that we have to ensure standards and quality. That is Parliament's job regardless of who uses the system.

John Wilson eloquently outlined the process: the Clementi review in England; the Consumer Association's super-complaint; the OFT report; and the Law Society's response. The process culminated in the Cabinet Secretary for Justice's speech in July, which signalled that there would be no status quo. However, I fear that we might be being pushed into a timescale. Although this morning's debate has given us a chance to air the issues, I whole-heartedly agree with Mike Pringle's call for us to proceed at our own pace. The most important issue of the debate is that we should be allowed to take our time to get through this complex issue. The Law Society also points out that the change cannot be enacted under the powers of the enterprise legislation; it can be enacted only under the devolved powers of the Scottish Parliament.

Social justice issues and widening access for consumers should be at the heart of the debate. I will mention some of those issues. Transparency in legal fees is very important. We forced the Law Society to make changes to ensure that when its members discuss the terms of a case with a client, they issue letters of engagement. In other words, when someone instructs a lawyer, they should have a rough idea of what it is going to cost them. Parliament forced the Law Society into applying its own rules on that. Transparency in legal fees is a very important issue for the ordinary person. As David Whitton mentioned, we have to ensure that we do what we can to make legal services affordable.

Some concerns have been raised about law firms and civil legal aid. Margaret Smith and Aileen Campbell have spoken about firms simply giving up and removing that choice for individuals. I want to dwell on Rhoda Grant's contribution about the importance of getting the civil legal aid rules right. She made an important point about women who are seeking an interdict to protect themselves from violence: if they receive certain benefits, those are counted when it is being decided whether they will get full legal aid, so getting the interdict may become too costly. Parliament pointed that out almost four years ago—Margaret Smith might remember whether it was the Justice 1 or Justice 2 Committee—and asked for a solution. I call on the Government to look at the issue again and come to an acceptable conclusion.

Law centres are very important to the debate about providing accessible law for ordinary citizens. Legal aid rules need to be reformed and the public needs to be given choice.

A sensitive issue for the Law Society is the suing of other lawyers. Members might have had experience of that through their constituents. There seems to be no framework for doing that. In all fairness, we need to be clear about the rules, so that people do not have to shop around, being refused access to lawyers because they believe that they have had defective representation in the past.

Has anyone heard of the auditor of court? It is an important aspect of the legal system. Anyone who disputes their legal bill sends it to the auditor of court. Some people struggle to understand how even the auditor arrives at an amount. We need transparency so that the ordinary person can understand whether they have been treated fairly in the application of legal fees.

Bill Aitken made the important point that legal firms contribute £1.2 billion to the economy, so opening up the market is a fine balancing act to ensure that we do not reduce that contribution to the general economy.

Paul Martin talked about the one-stop shop, which seemed to be very attractive to consumers. It will probably feature in future change, notwithstanding some of the important dimensions that Nigel Don mentioned. Multidisciplinary practices have to consider the regulation of the different professions and ensure that there is no conflict of interest; the firm that employs the surveyor to work alongside the lawyer needs to be sure that members of both professions are true to their oaths, as Christopher Harvie said, and not simply loyal to the firm.

Forcing Scotland to go down the same road as England for its own sake is not the best approach. The English bar operates quite differently. I have

no experience of that, but I watch "Judge John Deed" and, if that is anything to go by, the English bar is very different from the Scottish bar.

The Scottish bar has unique quirks and some very strange conventions. When I introduced my husband, who is an advocate, to Des Brown, who is also an advocate, they shook hands. Des Brown then said to my husband, "We will not be shaking hands again." I questioned that and learned that it is a Faculty of Advocates convention that if an advocate shakes hands with a very learned colleague, they should never shake hands again. There is also the devilling system and, just to show that there is no hierarchy in the legal system—not—a lawyer is a friend, an advocate is a learned friend, and a Queen's counsel, such as Gordon Jackson, is a very learned friend. So our Scottish Faculty of Advocates has some interesting historical quirks that make it very different.

Mike Pringle, as an Englishman, can say that we should not rush to beat England on the timescale, and I whole-heartedly agree. John Wilson talked about the fit-to-own test; that is crucial if we are to discuss whether third parties will be able to own law firms. Paul Martin also made the point that opportunities for those whom we might not want to own legal firms would be opened up if we relaxed that rule, so we would need to be careful to apply such a test if we were to go down that road.

It has been suggested that we should set up a legal services board independent from Government, but I fear that it would be another quango—perhaps one for the bonfire—that would be distant from democratic control. In fact, all the OFT recommendations are beginning to sound like proposals for a completely free market. Having considered the matter, I am almost certain that that is the wrong approach to take. Although the independence of the legal profession is important, there should be democratic control over that framework. If we were to go down the road that some are recommending, we would lose the opportunity to have that democratic control.

There may be a case for relaxation of the rules on employing advocates by allowing direct access, and we need to learn more about how that would operate, but there are finely balanced principles that make the system work, as Margaret Smith has said.

The Deputy Presiding Officer (Alasdair Morgan): Order. The member may wish to draw her remarks to a conclusion, to allow the minister adequate time to respond.

Pauline McNeill: Oh, right. I am amazed. I must apologise; I did not realise that I had been speaking for so long.

Many other speakers have made important points, including Stuart McMillan and Nigel Don. Aileen Campbell said that the kind of regulation that we want to have is also important.

In conclusion, Presiding Officer, and so as to ensure that the minister has ample time to respond, I will end by saying that we need core principles to guide us. The social justice dimension that the Labour amendment addresses is fundamental to ensuring that that is a strong theme in any change. I am sure that, although we are a small group of enthusiasts poring over an important motion, there are others—sad people, probably—who are listening to the debate. I look forward to moving it forward with consensus.

11:28

The Minister for Community Safety (Fergus Ewing): I hope that I will be able to cover all the many issues raised in the debate in the limited time that now remains. [*Laughter.*]

I am a solicitor, if that is a declarable interest, and I am of such vintage, dating back to 1976 at the University of Glasgow, as to have been a contemporary of Michael Clancy, director of law reform at the Law Society of Scotland, who is here today listening to the debate. In fact, we are now in such a state of veteranship and vintage that most of our contemporaries no longer aspire to be president of the Law Society, but already have been.

Today's debate is an important one. It has been consensual, and I do not believe that there will be a division at the end of the day. We welcome the contributions that have been made. Matters started from what I suppose we would call the terminus a quo, from the super-complaint of Which?. I am not aware of just how many of my constituents urged Which? to make that super-complaint; certainly nobody I met in the 700 surgeries that I have held over the past eight years has raised the topic, but perhaps it is the talk of the steamie in the Which? offices. Nonetheless, a super-complaint was made and the OFT has opined.

Let us remind ourselves of the super-complaint. It stated that there have been restrictions that

"significantly harm the interests of consumers",

namely

"the restrictions on advocates' business structures... the restrictions on solicitors and advocates providing services jointly ... the restrictions on third party entry, and ... the restrictions on direct access to advocates."

All those matters have been touched on by various speakers in today's debate. There was united support for inviting the Law Society to take the matter forward by consultation, which it has done,

publishing a paper the first part of whose title is "Delivering Scottish Legal Services"—not serving lawyers or looking after their own interests but delivering legal services for the public, which many speakers today have said should be the starting point. It is the starting point for the Law Society, and we welcome that.

The Law Society is balancing different interests, between large firms and sole practitioners and between rural and urban practices. Many members have referred to that balancing act. We welcome the fact that the Law Society has taken a lead and we look forward to continuing to work with it and to reading its report. The Law Society has recently consulted on shaping the future of legal education and training in Scotland, which is important if we are to widen audiences and remove monopolies, because whoever appears in court requires some sort of rudimentary training, even if they are employed by Tesco. It has been a major consultation; we await its results with interest and our work will be informed by it.

Great changes have taken place since I was admitted as a member of the Law Society some generations ago. Some barriers have been removed, which has helped consumers. For example, it used to be the case that in order to obtain a divorce one had to raise the action in the Court of Session. That was an incredibly outmoded and old-fashioned, not to mention extraordinarily expensive, procedure. Until fairly recently, one had to raise various bankruptcy issues in the Court of Session. Again, that was completely unjustifiable. The biggest barrier to access to justice has been expense and I would argue that that has been caused by the privative jurisdiction of the Court of Session. The work that Lord Gill is now doing to reform the Court of Session further might well make as significant a contribution to serving Scotland as anything that emerges from the process that we are discussing today, so we welcome Lord Gill's work.

Much has been made of the arguments about whether there should be MDPs and how they should be regulated. Members were quite right to point out, as Bill Aitken did, that the starting point for anyone practising law must be the standards of scrupulous integrity and high quality, and of attending to the client, responding to the client and keeping the client involved and informed. The failure to do that has been the greatest source of complaints to the Law Society over the years. High standards will always be the key. Other members, including Mike Pringle, dwelt at some length on the importance of the guarantee fund to protect against fraud and of the master indemnity policy, which provides the consumer with fairly substantial protection against negligence.

If there is any complaint against a lawyer, it tends to be an extremely difficult and harrowing

experience for the complainer. The complainer is not always right, of course, but whether they are right or wrong, no one can gainsay that it is an extremely long and painstaking process. The complaints commission is being established and should be in place next year. That is arguably a step forward and I hope that it works out well. Solicitors will continue to fund dealing with complaints about their own members. That is quite right. It is a financial burden, but it is one that solicitors have borne over the years, although we enjoy grumbling about it.

The argument for having a one-stop shop has illusory attractions. There are few solicitors I would wish to see complete a tax return, and few chartered accountants I would wish to see conduct litigation. I do not think that I am maligning either profession when I make that general, sweeping observation. I would have run a marathon rather than fill in a tax return for a client who had any business of any complexity. The attractions of a one-stop shop can be overstated. We heard from Paul Martin that Pauline McNeill pays regular visits to the Buchanan Galleries shopping emporium; I very much doubt that she would prefer to have an amalgamation of all those shops into one. I do not think that we can argue that specialisms are interchangeable, because they are not. However, there are strong arguments for having practices where a range of services can be obtained within one business from men or women who profess the expertise that one requires for one's affairs.

Rightly, the debate's other main focus has been on the arguments that are raised in principle in the amendment. Many members mentioned the importance of access to justice. Call me a nit-picker, but perhaps it is really access to the possibility of justice. I do not want to be unduly gloomy, but it is an undeniable fact that, when there are two parties to a litigation, at least one of them—perhaps both—will emerge unhappy after the experience is over.

Serious points have been raised about access to a lawyer to take on one's case, particularly in family cases and in rural parts of Scotland. A comparison can be made conceptually—we are not really getting into specifics in the debate—between the provision of legal services and the provision of dental services. The dental profession has the same difficulties, in a different way. A gulf is growing between private fees and fees for state-funded dental treatment. Similarly, in the legal profession, a gulf has been growing over a very long time between private fees and legal aid fees. Legal aid fees have been almost static over the past two decades, with few increases having been granted—I state for the record that I make no complaint about that. The gulf means that it is difficult for anyone, whether he or she has a law degree or whether he or she is a member of a

commercial attorney organisation, to conduct a case at legal aid rates and make a living out of it.

With respect to Mr Whitton, the average newscaster probably earns a great deal more than the average civil legal aid lawyer and the average plumber probably also earns a great deal more. If one is looking for a career these days, one would make far more money as an electrician or a plumber than as a civil legal aid lawyer. That is a fact of life; it is not something that we can change.

I agree with Rhoda Grant's point that it is particularly important that victims of domestic abuse should have access to justice. That is a principle on which we can all agree. We are considering that complex topic carefully. It is fair to point out that the vast majority of individuals who are the victim of domestic abuse and are in an horrendous situation obtain legal aid, if the abuse is provable—very few do not.

I will raise one issue for members to consider. Let us assume that the victim of the domestic abuse is the spouse or partner of a pop star or—I will not name any names—of a newspaper magnate who faces trial for fraud. Let us also assume that the newspaper magnate or pop star happens to be a multimillionaire. Are we saying that we would extend legal aid to them? I think not. Some means testing must be available.

Rhoda Grant: Just because someone is being abused by a multimillionaire does not mean that they have access to the money—indeed, quite the opposite may be true.

Fergus Ewing: If they had no money, they would qualify for legal aid. My point is that it seems rather unlikely that that would be the case. Those who can afford legal fees should not have them paid for by the state. However, of course, if the Opposition wants to amend our budget in that respect, we could consider the matter in due course.

Other members pointed to the important role of other players. I pay tribute to the work of citizens advice bureaux and all those involved in mediation and alternative dispute resolution, which we debated a couple of weeks ago. That includes organisations such as Sacro, whose Inverness office I visited on Monday. I was impressed by the range of mediation that it provides in various ways. There are therefore many others who provide advocacy—they do not necessarily do so in court, but they help people to solve problems. That will rightly remain the case.

I should bring my speech to a close. I am disappointed about that, because I would have liked to make a great deal of other comments over the next hour or so to respond in full to members who have made helpful and valuable contributions to the debate.

Pauline McNeill referred to arcane and quaint legal practices. As a notary public, I had to have a Latin motto when I took the oath. My Latin motto is *nunc aut nunquam*—now or never. I fear that the end of my speech is *nunc*, not *nunquam*.

The Presiding Officer (Alex Fergusson): That brings us to the end of the debate. I commend members, who have filled the time extremely successfully.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:40

The Presiding Officer (Alex Fergusson): Question 1 has been withdrawn.

Fire Sprinklers (Regulations)

2. Michael Matheson (Falkirk West) (SNP): To ask the Scottish Executive whether it has any plans to review the regulations for the installation of fire sprinklers. (S3O-1229)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): Building regulations on fire safety are being reviewed by a building standards advisory committee working group. The installation of fire sprinklers is included in the review.

Michael Matheson: I draw the minister's attention to the concerns expressed by the Fire Brigades Union, Central Scotland Fire and Rescue Service and the Scotland Patients Association about NHS Forth Valley's reluctance to consider installing a fire sprinkler system in the new Larbert acute hospital. Does the minister agree that modern fire sprinklers are the best way to protect people and property from fire? Will he consider extending the existing regulations for the mandatory installation of fire sprinklers in new hospitals and schools, particularly given the vulnerable nature of the individuals who occupy such buildings and the disruption that would be caused should they experience a fire?

Stewart Stevenson: The member will recall a visit that we both made some years ago to a demonstration of fire sprinklers—I think that it was in Hamilton. I was impressed by the efficacy of such provision and it is a subject in which I am taking a close personal interest as a minister.

I understand that the issue that the member raises about Larbert hospital is under review and that it is a matter directly for NHS Forth Valley, but he can be assured that we will consider such matters in our review of the issue more generally.

Water and Sewerage Services (Charges)

3. John Scott (Ayr) (Con): To ask the Scottish Government when it intends to publish its consultation on the wider principles of charging for water and sewage services for 2010 to 2014. (S3O-1199)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): The consultation will be published shortly.

John Scott: I thank the minister for that helpful answer. As he knows, many smaller charitable and voluntary organisations and churches benefit from water and sewerage charge exemptions, but they are due to end in 2010. Although a commitment on the part of ministers to extend the existing exemption would be welcome, even more welcome would be a commitment to look favourably on the granting of mandatory 80 per cent relief to all charities and voluntary organisations, which has been recommended by the Scottish Charity Law Review Commission and supported by the Scottish Council for Voluntary Organisations. Will the minister undertake to consider the proposal, which would clearly be of enormous benefit to Scotland's voluntary and charitable sectors?

Stewart Stevenson: Like other members, I have received a number of approaches on the subject. It is a matter of concern throughout Scotland. The member can be assured that the proposal is a key part of what we will consider when we look at what will happen after 2010. The approach to reviewing charges is, of course, based on ensuring that the customers who place the least burden on the water system pay the least. The member may care to consider his question in the light of that part of my answer.

Gil Paterson (West of Scotland) (SNP): Is the minister aware that there has been a constant volume of complaints about noxious smells emanating from the Dalmeir sewage works, which are spreading over a wide area of Clydebank? Is he prepared to kick up a stink of his own and intervene to bring some positive action and respite to the residents of Clydebank and, I fear, beyond?

Stewart Stevenson: Gil Paterson will forgive me for not having experienced the noxious smells in Clydebank personally—I had always had the highest regard for the environment there. I take note of his comments and will ensure that I discuss the subject with Scottish Water when I next meet its representatives.

Tourist Information Centres

4. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the Scottish Executive what future it envisages for local tourist information centres. (S3O-1192)

The Minister for Enterprise, Energy and Tourism (Jim Mather): The Government is committed to working with Scottish tourism businesses to achieve our widely shared ambition to grow tourism revenues by 50 per cent by 2015. VisitScotland's network of tourist information

centres is an important and valuable part of the visitor experience, but more and more visitors now use the internet to find information and book their holidays, so the role of the TIC network has to change in response to the changing pattern of visitor needs. How that should evolve and happen is an operational matter for VisitScotland.

Murdo Fraser: The minister may be aware of the real concern in Perth and Kinross—an area where tourism is a primary industry—about the future of the TIC network and the potential for several centres to have their opening hours cut or even to be closed altogether. I listened with interest to what the minister said, but does he accept that the process is largely driven by budgetary pressures on VisitScotland? Will he give an assurance that the Scottish Government will provide the necessary finance to VisitScotland to ensure that any changes or closures come about not because of budgetary pressures, but for the operational reasons he outlined?

Jim Mather: VisitScotland's budget is being increased, so I assure the member that the proposals are not a function of budgetary considerations. We ran an event for the tourism sector on 27 August, at which the issue did not arise. We are running another event on Monday 19 November—I would welcome it if Murdo Fraser or representatives of the tourist information centres in his area took part. I assure the member that the considerations will be about effectiveness and maintaining the TIC network tradition of being fluid to meet evolving demand and to maximise Scottish tourism's potential.

Christine Grahame (South of Scotland) (SNP): Will the minister consider locating local tourist information centres in many of our rural post offices? As I learned from my consultation on post offices earlier this year, it is already a fact of life that they are used for that purpose. Not everyone is on the internet, and many a traveller turns up at Innerleithen post office to find out what local places tourists should visit. Will he consider that suggestion as a route through which the Parliament can protect our sub-post office network, which apparently is to be axed? *[Interruption.]*

The Presiding Officer: I remind members that many other areas are available for casual conversations. They should not take place in the chamber.

Jim Mather: I respectfully suggest to Christine Grahame that we must leave the matter as an operational one for VisitScotland, whose job it is to optimise future tourism options. However, her suggestion seems to have merit and could tie in with an increased level of destination management, to allow us to drill down deeper and deeper into Scotland. An interesting phenomenon

during the consultation on 27 August was the industry's desire to create a mosaic of more and more destinations, so that Scotland becomes a richer tapestry that enthralls visitors and encourages many of them to create a to-do list so that they come back for further visits.

Liam McArthur (Orkney) (LD): The minister should be aware of the serious concerns in my constituency about the proposals' impact on the local tourism industry in the islands. He talked about the consultation that occurred earlier and the one that will happen later this month, but why was there no prior consultation on the proposals with VisitOrkney or Orkney Islands Council? The new and more centralised structure, in which VisitScotland's area office network division has been removed, asserts that current island offices will be retained. Will the minister guarantee not only that the office in Orkney will be retained, but that it will not be downgraded at all as a result of the proposals? Can he assure my constituents, many of whom work in and rely on a vibrant tourism sector, that there will be no reduction in VisitOrkney's funding or autonomy?

Jim Mather: The messages that the member has just given will be taken into account as we have further debate with VisitScotland and other stakeholders on Monday. I believe that those concerns will be addressed by the agency, which is now looking forward to being a key part in developing Scotland's economy and ensuring that Scotland and its constituent parts become all that they can be in developing Scotland's tourism economy.

5. Elizabeth Smith (Mid Scotland and Fife) (Con): To ask the Scottish Executive whether it supports the future of all tourist information centres. (S3O-1188)

The Minister for Enterprise, Energy and Tourism (Jim Mather): In essence, what I just said to Murdo Fraser is the message that I pass on to Elizabeth Smith. The network of tourist information centres has an important role in the growth of tourism in Scotland, but the details are an operational matter for VisitScotland and must remain so.

Elizabeth Smith: I thank the minister for that answer and for his comments to Murdo Fraser. Does he accept that much of the concern among the public about the future of tourist information centres throughout Scotland arises because of the absence of a Government commitment to put in place a coherent national strategy for the promotion of the tourism industry, which is one of the most important industries in Scotland's economy?

Jim Mather: I regret that the member has not been connected with what has been happening in

Scotland of late. We have restructured the enterprise networks and included tourism interests in the strategic forum—which meets next week for the first time—where they will be at the hub of developing our tourism and wider economic goals. I assure the member that the fabric of the proposals will allow us to optimise what we can achieve. If a strong case can be made for a local tourist information centre, I believe that it will survive. However, we must put out the message that we expect all of Scotland, all tourism providers and all tourist information centres to pack together to attain a new level of effectiveness. The year of homecoming, which is coming up in 2009, presents a real opportunity—we can be slightly duplicitous by making it the year of homecoming in 2010, 2011 and 2012. The centres that are doing well and making a big impact will undoubtedly survive, in my view.

Roseanna Cunningham (Perth) (SNP): I listened carefully to the minister, but I have a slight concern. When communities the size of Crieff in my constituency discover that their tourist information centres are under threat, that raises many questions about the future of tourist information centres as a whole and is a matter of great concern. Crieff is not a small place and its tourist information centre is not small. Will the minister reconsider just a little his hands-off approach to tourist information centre closures, because they are a big problem for many rural constituencies?

Jim Mather: I reassure the member that the Government is holding VisitScotland and other elements of Scotland's economic development more closely to account than has ever been the case before. The elements of the tourism fabric that are effective and doing well will, I believe, continue. I was in Crieff last week for a session at Crieff Hydro, at which the Association of Scottish Visitor Attractions was represented. As a result of the enthusiasm that we have put into that association, the volumes that can be attracted to Scotland will increase materially, which will play a part in the long term. However, it is not the Government's role to second-guess and micromanage VisitScotland—we trust the professionals.

Alasdair Allan (Western Isles) (SNP): Tourist centres throughout Scotland report an increasing interest from Scotland's diaspora in genealogical tourism. With 2009 the planned year of homecoming, what plans does the minister have to involve tourist centres in that year of events and in genealogical tourism more widely, not least in the islands, which played such a disproportionate role in Scotland's story of emigration?

Jim Mather: That presents a real opportunity and we are looking to widen it. There is potential

for tourist information centres to link locally with families, churches, schools and local councils and to be part of a message to people in the wider world to come home to Scotland. Local families can be encouraged to look at their family archives, remember who was married in 1974 or 1985 and is now living in Auckland or Toronto, and get the message out. We can match what happened last year, when Congressman Mike McIntyre came back and re-took his wedding vows in the church where his great-great-grandfather was married, in Lismore. I suspect that, in the Western Isles, there is lots of scope to bring back many congressmen and many others.

Economic Development (Fife)

6. Jim Tolson (Dunfermline West) (LD): To ask the Scottish Executive how it intends to support economic development in Fife. (S3O-1207)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): We place great importance on supporting and increasing economic development opportunities throughout Scotland, including in the kingdom of Fife. The Government's economic strategy sets out how the Government will focus on creating a more successful country with opportunities for all Scotland to flourish through increasing sustainable economic growth. The strategy sets out an approach to growth that is both shared and sustainable, with a strategic target focused on ensuring that growth is cohesive across Scotland's regions.

Jim Tolson: As the cabinet secretary will be aware, much of Fife's economic development depends on the use of the Forth rail bridge. I am concerned about the capacity issues with the bridge in supporting that economic development. Is he aware that much of the bridge's current capacity relates to the rail freight of English Welsh & Scottish Railway Ltd, which transports coal to Longannet power station via Dunfermline in my constituency? EWS may now—

The Presiding Officer: A question, please, Mr Tolson.

Jim Tolson: Sorry, Presiding Officer.

Will the cabinet secretary work with his colleagues to ensure that the proposed tolling on the new Kincardine to Alloa rail link can be removed, as it discourages EWS from stopping using the Forth rail bridge? At the moment, Transport Scotland has been directed on the matter by the Office of Rail Regulation, but the tolling will make it much tougher to encourage economic development in Fife.

John Swinney: Mr Tolson makes a fair point about the significance of removing coal traffic from

the Forth rail bridge to the Stirling-Alloa-Kincardine rail link, which the Government expects to be open for business next year. Discussions on the issue are underway with Transport Scotland. I assure Mr Tolson that the Government will do everything in its power to ensure that the matter is resolved.

A key business argument for the Stirling-Alloa-Kincardine rail link was that, by enabling traffic to be removed from the Forth rail bridge and on to the new line, additional capacity to cope with the rising number of passengers who use the Fife rail links into Edinburgh and further afield would be freed up. It is in the Government's interests, as well as in the interests of Fife and Scotland, that the issue is resolved satisfactorily.

Education

7. Rhona Brankin (Midlothian) (Lab): To ask the Scottish Executive what it is doing to improve the education of young people. (S3O-1247)

The Minister for Children and Early Years (Adam Ingram): As we informed Parliament yesterday, the Scottish Government is making long-term investments in our country's future to create a smarter Scotland. Our key priorities for young people are the important early years of children's lives, early intervention for vulnerable children, young people and families and further developing lifelong learning to achieve a competitive and economically sustainable Scotland. To help deliver that, we are fostering a new, productive relationship with local government that will provide better value and a better deal for Scotland's children, young people and families.

Rhona Brankin: I congratulate the Executive on managing to unite teachers, students and university principals, albeit in criticism, on yesterday's budget. The Scottish National Party's manifesto talked about every child achieving its full potential and ambition, but that is made much harder to attain by yesterday's education funding squeeze. Labour pledged to increase the number of modern apprenticeships to 50,000 per year—

The Presiding Officer: A question, please.

Rhona Brankin: Will the minister confirm that yesterday's budget does not fund one extra apprenticeship place? Is this not another example of the SNP failing the young people of Scotland?

Adam Ingram: It is time for Rhona Brankin to throw away her broken record on education. She should be aware that, under this Government, ambition is replacing mediocrity.

Modern apprenticeships are a resource that has been protected. That means that we could retain existing numbers of modern apprenticeships. However, we intend to increase completion rates. The funding that we will put in place will maintain

the existing number of modern apprenticeships. We know that they have been coming under increasing pressure, but we will deal with that.

The Presiding Officer: We can have a very brief supplementary question from Christopher Harvie. Alternatively, as he is not here, before we move on to First Minister's question time, I am sure that members will wish to join me in welcoming our visitors in the Presiding Officer's gallery: His Excellency Carlos Miranda, Count of Casa Miranda, who is the Spanish ambassador to the United Kingdom; and Mr Jaime Crombet Hernández-Baquero, who is vice-president of the National Assembly of Cuba. *[Applause.]*

First Minister's Question Time

12:00

Engagements

1. Ms Wendy Alexander (Paisley North) (Lab):

To ask the First Minister what engagements he has planned for the rest of the day. (S3F-266)

The First Minister (Alex Salmond): Later today, I will chair the Glasgow 2014 strategic group of partners that have worked together to win the Commonwealth games for Glasgow. We will discuss the first steps in the delivery of a great Commonwealth games for all of Scotland. Since we are on the feel-good factor, this is a good chance for the Parliament to unite to wish Alex McLeish and his squad all the best for Saturday at Hampden. *[Applause.]*

Ms Alexander: I share all those sentiments, although they may be the only sentiments that the First Minister and I share today.

The SNP made many promises to the people of Scotland—promises that it knew it could not keep. The SNP promised communities 1,000 new police—that is not happening. The SNP promised parents class sizes of 18—that is not happening. The SNP promised first-time buyers a grant—that is not happening. The SNP promised students that it would dump their debt—that is not happening. The SNP promised families a 50 per cent increase in nursery education—that is not happening. It promised those who care about the environment annual climate change targets—that is not happening. The First Minister promised so much in May. This is more than broken promises—it is a breach of trust. Why did the First Minister knowingly make promises to the people of Scotland that he knew he would not keep?

The First Minister: All those things are happening under the Scottish National Party. Significantly, not one of them would have happened under the Labour Party or its ally. I remind Wendy Alexander that bridge tolls are going today, back-end fees are going, prescription charges have been abolished, accident and emergency departments have been saved and the council tax will be frozen over the next three years. Perhaps she would like to mention those measures.

Ms Alexander: I sometimes wonder whether the First Minister lives in a parallel universe, because not only are his promises unravelling but the budget is unravelling. Yesterday Mr Swinney held up a piece of paper from the Convention of Scottish Local Authorities. Today I would like to do the same. The paper that I am holding up is also from COSLA. It makes clear that in the budget

there is not a penny more to reduce class sizes, not a penny more for new schools and no extra money for physical education and sports facilities. I know that the First Minister likes to avoid yes or no answers, but parents across Scotland need to know. Let me ask one simple question. Does every local authority in Scotland have to make year-on-year progress towards achieving the SNP's pledge to reduce class sizes—yes or no?

The First Minister: Yes. It is item 4 in the agreement with COSLA, which states:

"Local government will be expected to show year on year progress toward delivery of the class size reduction policy."

Ms Alexander: The First Minister did not answer the question. Must every individual local authority make progress? The First Minister does not want to talk about the detail of his budget, but he had better get used to that in the coming weeks.

I have with me another piece of paper, from the centre for public policy for regions, which provides an interesting independent analysis of yesterday's budget. It makes it clear that funding for local doctors, dentists, pharmacists and opticians is forecast to fall by more than 2.6 per cent a year under the current Government. There are cuts in dental services, cuts in general practitioner surgeries, cuts in the central heating programme, cuts in support for vulnerable children and cuts in affordable homes. The budget is one of not just broken promises, but betrayal and real cuts. Why is the SNP cutting budgets that matter to millions of Scots?

The First Minister: Those budgets are going up, which could be symbolised by the Scottish National Party's commitment to have a new dental school in Aberdeen.

Referring to the centre for public policy for regions might not be Wendy Alexander's strongest point—the same institute said that Labour had 70 uncosted promises in the election campaign.

Ms Alexander: The First Minister disowns figures that are in his budget. As we expected, he has sat there sneering and laughing at the way in which the people of Scotland have been cynically let down.

In all seriousness, I say to the First Minister that I remember Donald Dewar agonising for days when he thought that he might have once inadvertently misled the chamber. Time and again, the First Minister has asserted in this place that he would keep his promises. He has not done so. Parliament and the people have been misled. Will he finally have the strength of character and the personal decency to own up to a breach of trust and admit that he has not kept his promises and that he has let the people down?

The First Minister: I have a list of supportive quotations from people and organisations the length and breadth of Scotland endorsing the Scottish National Party's budget.

I watched the Labour benches yesterday. When the agreement with COSLA was announced, Wendy Alexander looked gloom. When the business rates reduction was announced, Iain Gray looked even gloomer. When the council tax freeze was announced, Andy Kerr was fit to burst. Since it is to be a footballing weekend in Scotland, when John Swinney unveiled the budget, the SNP benches were over the moon and the Labour benches were sick as parrots.

Prime Minister (Meetings)

2. Annabel Goldie (West of Scotland) (Con): To ask the First Minister when he will next meet the Prime Minister. (S3F-267)

The First Minister (Alex Salmond): I have no plans to do so at present.

Annabel Goldie: Before the election, the SNP set out its spending plans in its document, "A platform for success." Specifically, there was to be an extra £24 million for drugs rehabilitation. After the election, however, we find in the draft budget not an extra £24 million, but a virtual freeze.

Significant resource has been allocated to dealing with alcohol abuse, but I had been encouraged to think that the First Minister was committed to political leadership on our drug abuse problem. To his credit, he has demonstrated willingness to progress the issue. However, it cannot progress without more resource. On that crucial issue that scars Scotland, why on earth has the First Minister caved in?

The First Minister: It is a crucial issue and an extremely serious question from Annabel Goldie. As regards the budget line, £3 million has been transferred to the health and well-being portfolio and the community justice services for drug-related services. Across the spending period, there will be a 13 per cent increase above inflation when all budgets are taken into account. I will be delighted to discuss those matters further with Annabel Goldie.

Annabel Goldie: I am genuinely grateful for that clarification because, as a mere politician, I go with the text of the budget document, in which it is difficult to compare like with like.

The Scottish Conservatives treat the budget document as the start of the process, not the finished product. My party will analyse the draft budget line by line and measure it issue by issue, but the starting point is not encouraging. I will not rehearse the many quotations about the broken

pledge on police numbers but, before the election, the First Minister, nailing his colours to the mast, made it plain that police numbers were a priority and that money was no object. Before the election, the Scottish National Party promised £78 million for 1,000 extra police but, after the election, that was the first budget to be cut and the first pledge to be broken. In other words, the pledge on police numbers was 1,000 plus, but now it is 500 perhaps.

Does the First Minister agree that the draft budget is not the finished article? When the Conservatives introduce proposals to fund more new police officers, assuming that we get the support of other parties in the Parliament, will the First Minister give them serious consideration or is his mind now closed on the issue?

The First Minister: I never have a closed mind. As Annabel Goldie has been keen to quote the Association of Chief Police Officers in Scotland and the Scottish Police Federation at previous question times, I think that she will recognise their reactions. This week, they said:

"ACPOS welcomes the announcement by the Cabinet Secretary for Justice"

on police numbers. Joe Grant of the Scottish Police Federation said:

"This is a positive step in the right direction."

I will be delighted—

Members: Oh!

The First Minister: Well, they would not have been saying that about the Labour Party, because there would have been no steps in any direction.

I will be delighted to discuss those matters with Annabel Goldie and I look forward to our meeting.

Cabinet (Meetings)

3. Nicol Stephen (Aberdeen South) (LD): To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-268)

The First Minister (Alex Salmond): The next meeting of Cabinet will discuss issues of importance to the Scottish people.

Nicol Stephen: How much did Scotland's universities ask for from the spending review and how much did they get?

The First Minister: We are going to invest £5.24 billion in total to preserve the competitiveness and effectiveness of the further education and university sectors. Universities Scotland asked for an additional £168 million above inflation in the final year of the spending review. Even within the tightest spending settlement since devolution, the Government has

delivered 50 per cent of that bid. On capital funding, in addition to the £100 million that has already been invested, we have exceeded the Universities Scotland bid. I would have thought that even the Liberal Democrats would welcome that.

Nicol Stephen: The First Minister deliberately confuses capital and revenue funding. Universities Scotland asked him for on-going, year-to-year support and asked for £168 million to stay world class. It got £30 million. In fact, our universities and colleges get a real-terms cut next year.

In response to the budget, Universities Scotland has attacked the Government for being inconsistent with its economic strategy. Alex Salmond launched that strategy on Tuesday at the University of Glasgow, knowing that he would cut its budget the next day. Why, under his Government, do universities get a cut next year? They are left to fall behind their competitors. Why has the First Minister chosen to give our universities and colleges less than he has chosen to give to the rest of his Government? Why has he chosen to treat them so badly?

The First Minister: There is no such cut, as can easily be demonstrated, even to the Liberal Democrats. Nor did I confuse capital and revenue funding; I deliberately explained the difference.

Yesterday I sat where John Swinney is sitting and I watched Nicol Stephen. He had everything written out in advance for his interventions, and his second question today illustrates the problems of such inflexibility.

There are increases in real terms for our universities and colleges. There is a massive increase in capital investment and yesterday's budget plans were welcomed by Howard McKenzie from the Association of Scotland's Colleges and Sue Pinder, convener of the ASC's principals forum. If our colleges and universities welcome the Scottish National Party budget, why do the Liberal Democrats not?

Kenneth Gibson (Cunninghame North) (SNP): Yesterday, Jackie Baillie asked Mr Swinney whether he will

"ignore the comments of Shelter Scotland, the Chartered Institute of Housing in Scotland, the Scottish Council for Single Homeless, Scottish Churches Housing Action, and local authority chief housing officers when they say that next year's budget for new affordable homes has been cut by 6 per cent in real terms".—[*Official Report*, 14 November 2007; c 3348.]

The terms of her question were echoed by Iain Gray in the debate on the strategic spending review.

Aside from the fact that investment in affordable housing—

The Presiding Officer (Alex Fergusson): Question, please, Mr Gibson.

Kenneth Gibson: —will actually increase by a whopping 23.5 per cent over the next three years, is the First Minister not astonished that, within an hour of the spending review's publication, all the organisations mentioned had read, absorbed and discussed it and had collectively agreed to inform the Labour Party of their position? Or, like me, does he suspect that Ms Baillie, in the heat of the moment, decided to take the names of those organisations in vain in a desperate attempt—

The Presiding Officer: That is enough, Mr Gibson.

Kenneth Gibson: —at undermining the good news that was contained in the Cabinet Secretary for Finance and Sustainable Growth's statement?

The First Minister: I certainly agree that members on the Labour benches were desperate yesterday and are desperate today.

The figure that Mr Gibson mentioned is absolutely correct: investment in affordable housing will go up by 23.5 per cent over three years. As that becomes understood, the welcome from Scottish housing organisations will be as warm for that move as it was for the excellent green paper that the Deputy First Minister introduced.

Jackie Baillie (Dumbarton) (Lab): I suggest that Kenny Gibson read the press release from the organisations that he named, which actually contains that information. It is a matter of fact.

The SNP promised to match Labour's school building programme "brick for brick". However, where are the bricks for Dumbarton academy? This week, SNP-controlled West Dunbartonshire Council removed the school entirely from the schools regeneration project. Thirty million pounds has been wiped out at the stroke of a pen, and not a single brown penny will be spent on any school in Dumbarton. Will the First Minister personally ensure that generations of children in Dumbarton are not disadvantaged by that decision by providing the funds for a new school without delay?

The First Minister: On the specific issue, the offer is still open to that council. When Jackie Baillie has time to study the budget lines and the concordat with the Convention of Scottish Local Authorities, she will see not only capital spending commitments that match brick for brick, but a massive increase in the capital available in terms of investment to local authorities the length and breadth of Scotland.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): The First Minister is aware of the escalating price of commercial and domestic

fuel. In the Highlands, prices are running at between £1.08 and £1.10 a litre; as members will appreciate, they are probably much higher on the islands. What, under his Government's current powers, does the First Minister intend to do about the increasing burden of fuel prices on the Highlands and rural Scotland?

Ian McKee (Lothians) (SNP): Vote independence!

The First Minister: I hear from behind me the suggestion that John Farquhar Munro might want to vote for independence and bring those powers under the province of this Parliament.

Throughout Scotland—in rural areas, in particular—fuel prices are having a severe impact on the country's competitive position. What is happening in oil-rich Norway, for example, contrasts hugely with what is happening in oil-rich Scotland. I share John Farquhar Munro's concern about the impact of those issues on Scotland's rural areas. I just wish that everyone in this Parliament was prepared to vote for the powers that would allow us to do something about them.

Proceeds of Crime Act 2002

4. Bill Kidd (Glasgow) (SNP): To ask the First Minister whether the Scottish Government has plans to propose changes to the Proceeds of Crime Act 2002. (S3F-278)

The First Minister (Alex Salmond): More than £17 million has been recovered from criminal assets using the provisions in the Proceeds of Crime Act 2002. However, following the first meeting of the serious organised crime task force, we are actively looking at what improvements can be made and we will introduce proposals as soon as they are ready.

Bill Kidd: As we know, many of the proceeds of crime come from drug dealing. Given the recently announced proposals, what plans does the First Minister have to increase the seizure of criminal assets and to ensure that funding can be made available to organisations such as the Dumbarton Road corridor addictions forum, which does great work in raising drugs awareness in Glasgow schools?

The First Minister: I agree with Bill Kidd that that organisation does great work. We already have £8 million from recovered assets to invest in young people. We are working with several organisations throughout the country to draw up specific funding proposals to increase the opportunities available. We will be in a position to announce plans soon. We are also considering ways to increase the value of assets seized. That includes identifying where changes to the legislation may be of help and how we can put more resources into recovery work. I hope that, if

and when these changes to legislation are introduced, given the importance of the issue and given the great work that organisations such as the one that Bill Kidd mentioned do, they will be supported throughout the chamber.

Tavish Scott (Shetland) (LD): On Tuesday, police in Lerwick seized heroin with a street value of £10,000. A 21-year-old man appeared from custody yesterday at Lerwick sheriff court. Local agencies recognise that there are some 400 heroin users in Shetland alone. Will the First Minister undertake to consider the resources that would be made available through the Proceeds of Crime Act 2002 to local agencies, including the police, to tackle the problem? Does he recognise that some £60,000 of heroin has been discovered in Shetland since September alone through the action of local agencies including Northern Constabulary?

The First Minister: I accept the points that Tavish Scott makes, which I think would command general support, in terms of both how the proceeds are distributed among worthy and deserving organisations and how we can increase the assets that are recovered to ensure that remedial action is taken to address the scourge of drugs throughout our country.

Bill Aitken (Glasgow) (Con): The First Minister will be aware that the considerable success of the Proceeds of Crime Act 2002 has been achieved largely by the activities of the Scottish Crime and Drug Enforcement Agency. He will also be aware that the director general of that body, Mr Pearson, resigned prematurely earlier this week. In the light of the statements that were made after Mr Pearson's resignation, does the First Minister agree that it might be necessary to review and revisit the legislation that deals with the governance of the SCDEA?

The First Minister: We had a discussion at Cabinet on Tuesday on that subject. Following that discussion, I am not certain that legislative change is required. However, we have the matter under close inspection and review. The Cabinet Secretary for Justice is considering the matter at present and, of course, we will report to Parliament if any changes are required.

Police (Funding)

5. Paul Martin (Glasgow Springburn) (Lab): To ask the First Minister what further funding will be committed to additional policing resources following the recent terrorist attack on Glasgow airport. (S3F-275)

The First Minister (Alex Salmond): This year the Scottish Government is providing in excess of £12 million in 100 per cent grant funding to Scottish police forces specifically for counter-

terrorism purposes. We are also reviewing with the police what additional resources will be needed to improve the ability to fight terrorism in the future.

Paul Martin: All members in the chamber would have agreed with the First Minister when he said on 2 July that the response—including the response by Strathclyde Police—to the Glasgow airport attack was hugely impressive. Taking into consideration the huge commitment that was shown by Strathclyde Police, will the First Minister give his commitment to provide the £1.5 million that Strathclyde Police needs for the additional resources that it required during that period?

The First Minister: I certainly appreciate the outstanding job that Strathclyde Police did in handling the incident at Glasgow airport on 30 June. However, as with any claim for additional funds, the Scottish Government has to be clear exactly what the funds are required for. We are considering the request from Strathclyde Police for reimbursement of the costs relating to policing and we will reply to the police shortly.

Sandra White (Glasgow) (SNP): The First Minister will be aware of yesterday's pledge by Prime Minister Gordon Brown to do more to increase security at airports. Has the Scottish Government been offered any financial assistance by the United Kingdom Government in its fight against terror attacks, which is a UK-wide operation, given that the recent incident at Glasgow airport cost Strathclyde Police more than £1.7 million in overtime and expenses?

The First Minister: The police and other enforcement agencies co-operate daily to ensure that Scotland is as safe as the rest of the United Kingdom from the threat of terrorism. The issue is reserved, but Sandra White can be sure that we will work closely with the UK Government in this area and that we will pursue the need for additional resources as necessary.

Margaret Smith (Edinburgh West) (LD): I know that the First Minister will agree that to fight terrorism we need enough police officers. Now that the promise on police numbers has been watered down to 500 new recruits and 500 redeployed and retained officers, will the First Minister tell us how many of the 500 will be redeployed and how many will be retained from the 2,300 officers who are due to retire over the next four years? Will he give us some idea of his proposals and timetable for how he will deliver that retention of officers?

The First Minister: Margaret Smith is confusing the terms recruitment, retention and redeployment. I ask her to look at the comments from the Association of Chief Police Officers in Scotland and the Scottish Police Federation this week. She should reflect on the matter, as she should have

done yesterday. We have had to increase recruitment substantially because of the position we were left in by the Liberal and Labour Executive.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Will the First Minister think a bit more about the question that he was just asked? He has watered down his commitment to provide 1,000 extra police officers. Will he break down the 500 officers that he has now promised? Will they come from new recruitment or from retention? Surely a Government that has spent many weeks poring over the figures for the budget knows how it will manage that pledge of 500 officers.

The First Minister: The 500 is recruitment. The member must not believe the Labour Party's propaganda on the issue. Retention is necessary because 2,300 skilled police officers would otherwise be due to retire. The current scheme for retention has not done the job; that is why we are having a new scheme. Redeployment is important because, under the Labour Party, we had statistics such as only one in 13 police officers being on the front line. The member would do well to support the SNP's plans for recruitment, retention and redeployment.

The Presiding Officer: As a reward for the most extraordinary persistence, I call Margo MacDonald.

Margo MacDonald (Lothians) (Ind): Thank you, Presiding Officer. However, it is not a new thing. I was persistent yesterday, too, and I would prefer to ask the First Minister the question that I wanted to ask the Cabinet Secretary for Finance and Sustainable Growth. I will just slip it in very quickly. I sincerely hope that we are thinking about capital city funding for the city of Edinburgh, because of its financial situation.

On the policing question, which the First Minister has answered—

The Presiding Officer: In that case I can go straight to the First Minister.

The First Minister: I am sure that the finance secretary will be delighted to discuss with Margo MacDonald and the City of Edinburgh Council the points that she has raised. I also confirm that she has been persistent not just today and yesterday; she has been persistent all her adult life.

Nursery Teachers

6. Hugh O'Donnell (Central Scotland) (LD): To ask the First Minister when the Scottish Government will fulfil its commitment to provide access to a fully qualified nursery teacher for every nursery-age child. (S3F-276)

The First Minister (Alex Salmond): I am sure that Hugh O'Donnell has read with great interest

the concordat with the Convention of Scottish Local Authorities and would like to welcome it. It includes an agreement that local government will work with the Scottish Government to deliver access to a teacher for every child in pre-school as quickly as possible. Our budget will deliver 20,000 new teachers in training by 2011. That will help us to make year-on-year progress towards that and other commitments.

I know that Hugh O'Donnell is desperate to welcome the 20,000 new teachers in training—the highest number since devolution.

Hugh O'Donnell: I thank the First Minister for that party-political broadcast.

There are 1,240 nurseries across Scotland that do not have access to a qualified teacher. The SNP manifesto promised that every pre-school child would have such access. The SNP budget yesterday, and the First Minister's comments about COSLA, commit only to working towards that goal. There has been no timescale and no detail. Can the Parliament have details on when and how the commitment will be met? Or is it yet another nursery rhyme for Scotland's schoolchildren from the SNP?

The First Minister: It is in point 5 of the agreement with COSLA.

I say as gently as I can to Hugh O'Donnell that party politics sometimes intrude into First Minister's question time. Far from working towards any of these commitments, the previous Administration—which Mr O'Donnell supported—gave us eight years of underachievement.

Hugh Henry (Paisley South) (Lab): The First Minister referred to the delivery of 20,000 extra teachers. On 5 September, he said that the teachers who would be used to reduce class sizes in primaries 1 to 3 would be in place by 2011. Will he confirm that, when he said that, he knew that he and his ministers had previously been advised by officials that that could not be achieved by 2011?

The First Minister: Members will find that at point 4 of the agreement with COSLA, which I am sure Hugh Henry will be the first to acknowledge and support in his usual cheerful manner. Even Hugh Henry should welcome the fact that 20,000 new teachers will be in training to help us meet those commitments.

Bob Doris (Glasgow) (SNP): The First Minister is aware of the 100 parents, many of whose children are in pre-school, who signed a statement of support for the SNP's family-friendly policies. After yesterday's historic first SNP Government budget, do those 100 parents have reason for optimism?

The First Minister: Those parents and millions of others are part of the feel-good mood that is sweeping the country.

14:15

On resuming—

12:31

Meeting suspended until 14:15.

Question Time

SCOTTISH EXECUTIVE

Health and Wellbeing

British Red Cross (Financial Support)

1. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Executive what financial support it will provide to the British Red Cross in Scotland in 2008-09. (S3O-1223)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): As the outcome of the spending review has been announced, consideration will now be given to new applications for funding during 2008-09 from the British Red Cross and other voluntary organisations.

Kenneth Gibson: The cabinet secretary will be aware that, in partnership with the Scottish Ambulance Service, the British Red Cross operates community first responder schemes in Scotland. Under the four schemes, Red Cross volunteers delivered thousands of on-call hours over the past year. What plans does she have to develop such schemes throughout Scotland?

The Scottish Government has made a clear and welcome commitment to support voluntary sector organisations, such as the Red Cross, that deliver health and social care services in our communities. Will the cabinet secretary confirm her commitment to work towards flexible contracts and full cost recovery for such organisations?

Nicola Sturgeon: I can confirm that the Government appreciates and greatly values the voluntary sector's contribution in health care and in the other sectors in which it is engaged. We will always seek to work to make it easier for such organisations to make that contribution and to ensure that their role is protected and enhanced.

First responder schemes make an enormous contribution to the delivery of emergency ambulance care to people throughout Scotland. As Kenny Gibson rightly said, the British Red Cross is currently involved with the Scottish Ambulance Service in four community partnerships: Kyle of Lochalsh, Aberdeen, Forth Valley and Grangemouth. Those schemes are examples of what can be achieved with close working between the health service and the voluntary sector. I would be very interested in having discussions about how we can further roll that out across the

country. I am more than happy to keep Kenny Gibson involved and up to date with progress.

The Presiding Officer (Alex Fergusson): I call Bill Kidd.

Bill Kidd (Glasgow) (SNP): Sorry. I beg your pardon. I have lost my place for my supplementary. Sorry, I was not aware.

The Presiding Officer: We will move on to the next question.

Cetuximab

2. Bill Butler (Glasgow Anniesland) (Lab): To ask the Scottish Executive when it intends to make cetuximab freely available across the national health service in Scotland. (S3O-1248)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): The Scottish medicines consortium has considered cetuximab for use in the treatment of certain conditions. I expect NHS boards and clinicians to take full account of the SMC's recommendations in the decisions they make. When drugs are recommended, I expect them to be made available in line with that advice.

Bill Butler: The minister will be aware that a number of my constituents have been in touch with me about the drug because I have written to her on the general issue and on the case of a particular individual. I understand that, in exceptional circumstances, health boards can review whether specific treatments should be provided. It is also my understanding that patients in Wales can access the drug on the NHS.

As the cabinet secretary will probably know, the leading charity Bowel Cancer UK believes that proof of the efficacy and benefits of the treatment is growing all the time, especially for people in the later stages of the disease. Given the stark consequences for the individuals involved and their families and friends, will she assure us that she will do everything in her power to ensure that health boards are provided with the necessary resources to allow cetuximab to be made available to those who are in most need of it? Will she assure us that decisions will be made solely on the basis of clinical and medical need and will not be coloured by any financial considerations?

Nicola Sturgeon: I thank Bill Butler for the constructive way in which he asked his question. I am very aware of the case to which he refers—as a result of his correspondence and following representations from Richard Lochhead, who is the individual's constituency MSP. I have enormous sympathy for the position in which the individual finds himself. None of us can fully appreciate what he is going through.

This is an extremely serious and difficult matter. I hope that everyone in the chamber, regardless of their political persuasion—this is not a political issue—appreciates that it is essential to have in place a system for approving new drugs, and that that system must be expert led and evidence based. In Scotland, the process is conducted primarily through the Scottish medicines consortium. New evidence will always be considered, because it is vital that decisions should always be taken on a clinical basis. Everyone in the chamber will agree that it would be invidious and totally wrong for decisions about what drugs can be prescribed and to whom they should be prescribed to be taken by politicians. None of us wants that situation to develop.

I confirm that, when the Scottish medicines consortium has not approved a drug, it is open to any clinician to put the argument to a health board that a particular patient is an exceptional case. That underlines the assurance that I give Bill Butler that such decisions will always be taken on clinical grounds.

Rob Gibson (Highlands and Islands) (SNP): Members will have seen the widespread publicity about our constituent, Michael Gray, and the letters that we have received from many of his friends. It is concerning that, while a trial for cetuximab has been taking place in Aberdeen, it has not yet been possible for Mr Gray to benefit from the drug. Can the cabinet secretary help us in this case—and more widely—by telling us how bowel cancer policy nationally will cope with the development of science and the interventions that will be required, despite what some of those may cost initially?

Nicola Sturgeon: Tackling cancer generally, and bowel cancer in particular, is a key priority for the Government. We are in the process of rolling out bowel cancer screening across the country. That has the potential to save many lives. It may also lead to more cases being diagnosed earlier, which places an obligation on us to ensure that the necessary treatment and services are available. I assure the chamber that the Government places the highest possible priority on giving the best possible services to cancer sufferers. That is why I have made it such a personal priority to meet the 62-day waiting time target for cancer patients.

As I said to Bill Butler, the process that we have, which is the right process, will inevitably lead to very difficult and, often, painful decisions. I appreciate the personal trauma that that will cause individuals in particular cases, but it is essential that an evidence-based, expert-led system is in place, as is the case in Scotland. If new evidence emerges on any drug—cetuximab has been assessed by the Scottish medicines consortium on

two occasions—it will be considered by the SMC, as is right and proper.

Peter Peacock (Highlands and Islands) (Lab):

As Nicola Sturgeon said, these are difficult issues. I am disappointed that her response was not more encouraging, but I would like to push her further on the issue. In the case to which she and Rob Gibson have referred—and to which Richard Lochhead cannot refer because he is a minister—it appears that NHS Grampian is prepared to fund the use of cetuximab when it is believed that, in his or her particular circumstances, a patient might benefit more from it than is the norm. That is an extraordinarily fine judgment for a consultant to have to make. Until the drug is tried, it is not possible to say definitively that a patient would not benefit more than other, similar, patients would. The only way of getting any equity and justice in that situation is to ensure that the drug is available when the consultant believes that it should be; I gather that that is the case in this instance.

In the case that we are discussing, there is literally no time to spare. I urge the cabinet secretary to refer the matter back to the SMC, in the light of the changing evidence to which Bill Butler referred, and to do so without delay.

Nicola Sturgeon: Rightly, the SMC is an independent body. It will consider new evidence as new evidence emerges: it does so all the time. In my answer to Bill Butler, I made it clear that there is a process for dealing with situations in which the SMC has not approved a drug: individual clinicians who believe that individual patients are exceptional cases put that argument to the NHS board in question. I appreciate that that requires clinicians to make fine judgments, but I believe more than anything that those are clinical judgments, not judgments that politicians should try to make.

NHS Grampian is very aware of the case and will be aware of developments. We all have the most enormous sympathy for the predicament of the individual involved. Such cases are always difficult and painful, but we must have in place a system that is evidence based and expert led—and that is what we have. In such a system, new evidence will always be considered.

The Presiding Officer: Question 3 has been withdrawn.

Childhood Obesity

4. Margaret Mitchell (Central Scotland) (Con):

To ask the Scottish Executive what action it is taking to combat childhood obesity. (S3O-1191)

The Minister for Public Health (Shona Robison): A wide range of actions that contribute to children achieving and maintaining a healthy weight is delivered through implementation of the

Scottish diet action plan and physical activity strategy. Those actions are complemented by the on-going implementation of the Schools (Health Promotion and Nutrition) (Scotland) Act 2007.

During the next three years, we will invest £4.9 million a year, in addition to increased spending on healthy eating and physical activity, in initiatives dedicated to tackling obesity. Those initiatives will include programmes to address childhood obesity through community-based and family-focused interventions. We will provide further detail on the initiatives as part of our plans on diet, physical activity and obesity, which will be published in the new year.

Margaret Mitchell: Given that physical education is recognised as vital in combating childhood obesity, can the minister confirm that the Scottish National Party pledge that every child in Scotland will receive

“2 hours of quality PE each week delivered by specialist PE teachers”

will be honoured? If so, when and how will that happen?

Shona Robison: Physical education will be an important element of the outcomes for health and well-being that are being drafted as part of the work on the curriculum for excellence. As part of the curriculum review, a new model is being developed for managing the curriculum and the commitment on two hours of PE will be considered in the context of that work.

I assure the member that physical activity among children is a priority for the Government. We will ensure that we increase physical activity levels as part of the wider strategy for tackling childhood obesity.

Margaret Curran (Glasgow Baillieston) (Lab):

I am delighted that children from Rogerfield primary school are in the gallery to hear us discuss childhood obesity.

The SNP said in its manifesto that to deal with childhood obesity it would, in government,

“introduce annual health and fitness checks in schools, delivered by doubling the number of school nurses.”

Are those commitments costed in the recently published budget? If so, when will annual health and fitness checks be introduced? Will the number of school nurses be doubled and, if so, when?

Shona Robison: We are working on the best model to deliver that manifesto commitment. There is resource in the budget to take it forward. We are developing models of care, which will include health checks and increased health care capacity in schools. A range of health professionals will be involved, including nurses, because we acknowledge that other health

professionals have an important part to play in delivering the model. In rolling out increased health care capacity in schools, we will initially focus attention on schools in the most deprived communities. I hope that Margaret Curran will agree with that approach.

Scottish Diabetes Framework Action Plan

5. David Stewart (Highlands and Islands) (Lab): To ask the Scottish Executive what progress it is making in implementing the Scottish diabetes framework action plan 2006-09. (S3O-1283)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): All national health service boards are working towards achieving the action points set out in the Scottish diabetes framework action plan. Diabetes managed clinical network managers provide the Scottish diabetes group with regular updates on delivery and we are encouraged by the progress that has been made to date.

David Stewart: The cabinet secretary will be well aware that diabetes is the main cause of blindness in people of working age and is responsible for half the non-traumatic lower limb amputations. Does she share my view that we need a Scotland-wide high-risk screening programme for people who are more than 45, people who are overweight and people who have a family history of diabetes? In that way, we can tackle a condition that maims, kills and blinds.

Nicola Sturgeon: I recognise the scale of the issue. I had a presentation from a general practice in Lothian earlier this week, which revealed the staggering statistic that some 8 per cent of people who are in our acute hospitals at any one time have diabetes. They might not be in hospital because of the diabetes, but their diabetes tends to prolong their stay in hospital. That is just one example of the scale of the issue.

The member says, rightly, that diabetes is a major cause of blindness. That is why one of the aspects of the action plan is to give people access to retinopathy screening—it is important that we encourage everybody with diabetes to take advantage of that.

I recognise that the wider issues concerning screening are very important, and we acknowledge the principle and the importance of early diagnosis. We take evidence and follow advice from the national screening committee—and the advice is that screening adults on a whole-population basis would not be the most effective way forward. I think that the member recognises that.

The committee's advice is that groups that are at high risk of type 2 diabetes, such as people who

are overweight or who have a family history of diabetes, should be screened. In addition, the current SIGN guideline 55 recommends that people with conditions such as cystic fibrosis or coeliac disease are also screened for diabetes, and vice versa. We take those things seriously and we will continue to ensure that the practice of screening reflects the best advice that is available.

Mary Scanlon (Highlands and Islands) (Con): Diabetes is underdiagnosed: many people with diabetes do not have a family history of the condition and might not fall into the categories the minister mentioned. What is being done to ensure that such people get early diagnoses and treatment as soon as possible—particularly on the basis of primary care—to ensure that what David Stewart mentioned is alleviated?

Nicola Sturgeon: That is an important question, as diagnosing diabetes as early as possible is critical. I mentioned some of the important things in my answer to the previous question, but there are other initiatives in our national health service that contribute to early diagnosis, such as the keep well pilots, which focus on the people in the age group 45 to 64 in our most deprived communities who are considered to be at the highest risk of heart disease.

SIGN guideline 97 recommends that all adults over 40 should be screened for cardiovascular risk at least every five years. The connection to diabetes is that that provides a data source for early identification of people who are at increased risk of diabetes. I recognise the importance of the points that have been raised in the course of this question, and I offer reassurance that we are keen to do everything we can to ensure the earliest possible diagnosis of diabetes.

Warm Deal

6. David Whitton (Strathkelvin and Bearsden) (Lab): To ask the Scottish Executive how many people have benefited from the warm deal since its introduction in 1999. (S3O-1285)

The Minister for Communities and Sport (Stewart Maxwell): Up to the end of October, more than 255,000 households had benefited from insulation measures under the warm deal programme.

David Whitton: I am sure that the minister saw the report in the *Sunday Mail* last weekend that highlighted the fact that almost 11,000 pensioners will have to wait until next year to get a new central heating system installed under the warm deal. I heard him discussing the matter on the radio earlier in the week, so I am sure he agrees that that should not be tolerated. When he promised to review the scheme, what did he mean? When will the review be complete, so that

those pensioners can look forward to a warm home before—and not after—the onset of winter? Perhaps the minister could change the regulations to allow for the replacement of a boiler only, instead of a whole system, in cases where that is appropriate, so that things might be speeded up.

Stewart Maxwell: The current situation, in which just under 11,000 people are on the waiting list, is of concern to all members. The programme is exceptionally popular because it is so effective. One of the problems—and the reason I am reviewing it—is that there are concerns about its implementation, the effectiveness of implementation, and the time it takes to get systems installed.

The internal review that I am conducting is about the effectiveness of the fuel poverty programmes in Scotland. It is important that we keep them under review and ensure that they are focused on fuel poverty, that there is no drift, and that they do what was intended, which is to deal with pensioners who are in difficulty and fuel poor. That is the intention of the internal review, which I will conclude as soon as possible. I am keeping in mind the necessity to reach the end of the review as quickly as possible to help those who are still waiting.

The Presiding Officer: I am afraid that I must now move on to questions on rural affairs and the environment. I will allow a moment for ministers to change places.

Rural Affairs and the Environment

Foot-and-mouth Disease (Interim Payments)

1. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive whether it intends to make interim payments to farmers and crofters to alleviate the impact of the foot-and-mouth disease outbreak. (S3O-1213)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): Given that European Commission regulations do not permit single farm payments to be made in full before 1 December, the Scottish Government has been working towards paying as many eligible claims as possible from the first possible banking day, which will be 3 December. That approach will ensure that the greatest possible number of producers both within and outwith less favoured areas will be paid in full at the earliest opportunity. I am advised that that will mean paying at least £300 million in single farm payments in December.

John Farquhar Munro: I am sure that bringing forward the payment date for schemes such as the LFA scheme and the beef calf scheme would help to address the serious cash flow problems in the

industry, as would action by the minister to ensure that all crofters and farmers receive their single farm payments on time next month. Will the minister do everything he can to ensure that single farm payments will not be delayed as they have been in years past?

Richard Lochhead: I have every reason to believe that there will be no delay whatsoever. As I said, £300 million of a total payment of £406 million will be paid from 3 December onwards, which is—I believe—earlier than in previous years. My officials in the Scottish Government are pulling out all the stops to get the payments out to farmers and crofters the length and breadth of Scotland as soon as possible, especially given the difficult situation that the industry faces at present, to which the member alluded.

Dave Thompson (Highlands and Islands) (SNP): Given the United Kingdom Government's refusal to take responsibility in the aftermath of the foot-and-mouth crisis, what action is the cabinet secretary taking to ensure that Scottish farmers and crofters have access to the compensation that they deserve?

Richard Lochhead: It remains the Scottish Government's position that the UK Government has a moral responsibility to compensate Scotland's farmers and crofters and the industry for losses that have resulted from events that are outwith their control. That continues to be the subject of negotiation between the Scottish Government and the UK Government. As members from throughout the chamber are well aware, we are facing a lot of resistance from the UK Government on the issue, which has incurred the anger of Scotland's rural communities and will, no doubt, continue to do so. However, we also continue to work closely with NFU Scotland and other organisations in Scotland on the matter.

Peter Peacock (Highlands and Islands) (Lab): I raise the plight of Scotland's pig farmers in relation to foot-and-mouth disease. As the minister knows, the pig sector has faced extreme difficulties since the foot-and-mouth outbreak, and those difficulties are combined with high grain costs because of other events that are taking place worldwide. Pig farmers are losing substantial sums and are in a parlous state. What does the minister plan to do to support the sector?

Richard Lochhead: I am sure that the Presiding Officer will be aware that I do not want to pre-empt the oral question that will be asked in a few minutes, but I say to Peter Peacock that we are well aware of the difficult challenges that the pig industry in Scotland faces. He alluded to the fact that the difficulties are not simply due to fallout from the foot-and-mouth crisis—the industry was facing financial problems because of high cereal prices before the foot-and-mouth crisis. We are

engaging with pig industry leaders in Scotland. I met them a couple of weeks ago and my officials continue to have regular meetings so that we can work up a plan of action to help the sector, if that is possible.

Flooding and Coastal Erosion (Forth Estuary)

2. Helen Eadie (Dunfermline East) (Lab): To ask the Scottish Executive when it last had discussions on flooding and coastal erosion issues in the Forth estuary with the Forth Estuary Forum, the Scottish Environment Protection Agency and relevant local authorities. (S3O-1252)

The Minister for Environment (Michael Russell): Officials have had regular discussions with Falkirk Council concerning the Bo'ness flood prevention scheme, and I regularly meet authorities and SEPA. No discussions have taken place with the Forth Estuary Forum regarding flooding and coastal erosion, but I am sure that the member would join me in welcoming the fact that in the next three years the funds that will be available for dealing with flooding—£126 million—will be up 34 per cent. That is good news for Scotland's communities that are threatened by flooding.

Helen Eadie: It would be even better news if there were discussions with local authorities in the Forth estuary area. There are critical concerns regarding flooding and coastal erosion. Why did the minister refuse to meet me and others to discuss those issues, despite our having written to him? How will he take forward the issues regarding planning officials and the Executive reporter giving planning permission for lands around the Forth estuary—lands for which planning permission should not have been given because of the risk of flooding and coastal erosion?

Michael Russell: It is not always possible fully to understand what Helen Eadie is talking about in this regard. I have never refused to meet her, and I would be happy to do so. She may have been trying to meet ministers over a planning issue, but there are—of course—restrictions on that, given that planning applications may be called in.

As far as I am aware, I have also never refused to meet a local authority to discuss flooding. I remain open to meeting all the relevant local authorities to discuss serious issues.

Sustainable Development (Carbon Emissions)

3. Des McNulty (Clydebank and Milngavie) (Lab): To ask the Scottish Executive what practical sustainable development measures are being taken in 2007 and 2008 to achieve a 3 per cent per annum reduction in carbon emissions to fulfil the Scottish National Party commitment to reduce Scotland's carbon footprint. (S3O-1274)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): We are committed to consulting on proposals for a Scottish climate change bill, including our ambitious commitment to reduce emissions by 80 per cent by 2050.

Additionally, we are ensuring that tackling climate change becomes part and parcel of how Government and the wider public sector behaves, and is not an optional extra. Our spending review makes it clear that public spending programmes must take account of, and contribute to, the action that is needed to meet our emissions targets. The Government economic strategy, which was published earlier this week, has emissions reductions as one of its targets and is providing a key yardstick by which our commitment to sustainable economic growth will be judged.

We are committed to taking early action on climate change. We will continue to invest in the development of renewable energy and in measures to improve public transport. The report of the expert panel on a low-carbon buildings standards strategy for Scotland will be published before the end of the year, and it is expected to recommend a route map towards the goal of zero-carbon buildings in Scotland. That will inform future changes to energy standards.

Des McNulty: The minister will recall that, in the SNP manifesto, there was a commitment to annual targets for climate change reductions—I think that was the first broken promise from the SNP. The SNP said that the reason for breaking the promise is that it is not possible to take annual measurements, but it said that it would set periodic targets. The budget document for 2007 to 2011 contains not a single numerical target: there is no short-term target for climate change. When are ministers going to stop talking big and doing little?

Stewart Stevenson: So, budget proposals have to contain numeric targets on CO₂ reduction, do they? The member should exercise a little patience and wait for the adumbrated consultation on the climate change bill, which will start around the turn of the year.

In going forward, we will report annually on our progress towards the 2050 target of achieving an 80 per cent reduction in emissions. That is a long-term target and I hope that it will gain support from people of every political persuasion and from every member of Parliament. The target will transcend any single Administration or even a single life. I will be 104, God willing, come 2050, when I hope to see that we have all—together—worked towards the target and the ambition of this Government, and that we have succeeded.

Rob Gibson (Highlands and Islands) (SNP): Will the minister advise local authorities to support

voluntary sector best practice in recycling and reuse when they are considering their budgets? The voluntary sector's service level agreements can often show larger organisations, such as councils, innovative ways of reducing CO₂ emissions.

Stewart Stevenson: Rob Gibson will welcome, as I and many others outside Parliament do, the concordat between the Government and local authorities. It is a vital part of re-empowering local authorities to take appropriate local action. We will, of course, work with local authorities on the issues that the member has raised.

Patrick Harvie (Glasgow) (Green): It will, of course, be for the whole Parliament to decide the nature of the targets in legislation when the climate change bill comes before us. Whether those targets are ambitious or unambitious, and whether they are annual or five-year targets, they will not be reached unless—as the original question implies—the right measures are put in place.

Does the minister recall that one of the environmental justifications for the air route development fund was that it would cut the number of direct internal flights in the United Kingdom between Scotland and London? The Executive has decided not to enter into new subsidies for aviation expansion. What other measures will be taken to cut the number of unnecessary domestic flights?

Stewart Stevenson: Patrick Harvie will be aware of the First Minister's comments on the increase in capacity and speed of rail links to London, which will be a fundamental part of ensuring that while we have good communications across these islands, we can reduce our dependency on aviation.

Animal Rendering (Capacity)

4. Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the Scottish Executive whether Scotland has the required capacity for rendering animals. (S3O-1271)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): The vast majority of animal waste generated by our livestock industry is ultimately processed by the two main rendering facilities in Scotland, which are located in Dumfries and in Newarthill near Motherwell.

Michael McMahon: I thank the minister for his response—especially in relation to the rendering plant at the Omoa works, which is run by William Forrest and Son (Paisley) Ltd in Newarthill in my constituency. Will the minister join me in welcoming the decision of Scottish Environment Protection Agency to refuse the plant's pollution

prevention and control permit application and to withdraw its current air pollution control permit application? The decision was based on the historical failure of the company to operate its plant properly. The company has blighted communities in my area and in my colleague Karen Whitefield's area for almost four decades. During that period, the company has tried to blackmail local communities by arguing that if the company did not exist it would have to be invented because of the shortage of capacity to render in Scotland. Will the minister assure us that he will not give in to that blackmail? Will he support SEPA in its efforts to get the company to clean up its act or clear out of our communities?

Richard Lochhead: As the member quite rightly suggests, the issues are largely for the Scottish Environment Protection Agency, especially in its role as the enforcement agency for the relevant regulations.

I wrote to William Forrest and Son on 14 November after receiving representations from a wide range of interests on both sides of the argument. As the members suggested, SEPA has invited the company to submit representations concerning the agency's intention to revoke the air pollution control authorisation. SEPA has a clear duty to ensure that industrial plants comply with relevant environmental legislation. In this instance, SEPA is clearly taking its responsibilities seriously. I understand that SEPA is looking for a clear programme of action—the intention being that the plant should come into compliance with existing legislation.

On the plant's overall role, it is fair to say that there may be disruption to the livestock sector in Scotland were the plant not to fulfil its role. It is not really my place to say whether that would be short-term or longer-term disruption—that is for the market to decide. The issues that have been raised by Michael McMahon are being taken seriously by SEPA—I trust that the member has also taken them up directly with SEPA.

Biodiversity

5. Margaret Smith (Edinburgh West) (LD): To ask the Scottish Executive what action it will take to fulfil its commitment to safeguarding Scotland's biodiversity, as stated by the Minister for Environment on 9 October 2007. (S3O-1205)

The Minister for Environment (Michael Russell): The Scottish Government is carrying forward a wide range of measures that support implementation of the Scottish biodiversity strategy across the public and private sectors. Those include enhancing public understanding and participation, as well as providing support to Scottish Natural Heritage and other public sector partners. The Scottish biodiversity indicators,

which I launched in October 2007, demonstrate the success of the work carried out and what still needs to be done. We will also be providing financial support to land managers through the Scottish rural development programme to encourage land management practices that benefit species and habitats.

Margaret Smith: I welcome that answer. Will the minister provide assurances that the importance to Scotland's biodiversity of the special protection areas, ancient woodland sites, and Ramsar wetland and waterfowl sites in Queensferry in my constituency, and elsewhere around the Firth of Forth, will be given full consideration by the Scottish Government in any decisions relating to development in that area, particularly the construction of the new Forth crossing?

Michael Russell: I am happy to give that assurance. There is always a balance to be struck, but increasingly the balance has to take into account the absolute need to protect not just individual species or habitats but the entire rich, diverse and precious ecosystem in which we live.

Environmental Organisations (Meetings)

6. Jackson Carlaw (West of Scotland) (Con): To ask the Scottish Executive what meetings it has had with environmental organisations since May 2007 and what issues were discussed. (S3O-1197)

The Minister for Environment (Michael Russell): The Scottish Government meets environmental organisations regularly as part of its day-to-day business. Indeed, later this afternoon I shall be meeting RSPB Scotland, among others. Most recently, on 7 November 2007, Richard Lochhead and I had a very full meeting with Scottish Environment LINK, in which we had an extremely constructive discussion about how we can work together to deliver the Scottish Government's five strategic objectives.

Jackson Carlaw: Does the Government accept that the composition of Scotland's waste is not ideally conducive to large-scale household segregation, particularly given Scotland's traditional housing mix? Is he also aware that technologies exist that prevent the need for large-scale source segregation, while ensuring that local authorities are able to meet their environmental obligations? In the light of that, does the Government intend to encourage deployment of mechanical biological treatment to ensure that Scotland meets its international landfill directive recycling and recovery targets for 2010, 2013 and 2020? Leicester City Council, through a partnership with a private industry partner, has deployed simple ball-mill technology to ensure that it meets its environmental target obligations and

provides the people of Leicester with a cost-effective long-term waste disposal system.

Michael Russell: Those are interesting and full questions—and perhaps they have answers. We should recognise the success of household waste recycling, which has reached nearly 30 per cent. That is a considerable increase from a time when we thought it was not possible to make such good progress. There are a number of innovations in that field. As an MSP for the South of Scotland, I was fortunate last week to see the new eco-deco plant at Dumfries in operation. It is technologically most impressive and environmentally very advanced. We have to meet our targets, and the work that we are doing with local authorities and the responsibilities that are being laid on them in outcome agreements will be part of that.

We are keen to ensure not only that targets are met but that we tackle waste not just at the end of the process but at the beginning too, so that far less waste goes into the system. I note what Mr Carlaw said: it will inform my colleague Richard Lochhead's deliberations as he develops the waste strategy.

Pig Industry

7. Nanette Milne (North East Scotland) (Con): To ask the Scottish Executive what measures it will take to support the pig industry. (S3O-1189)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): We are working with representatives of the pig sector to identify appropriate support measures. An options paper is being developed and we expect to take decisions soon.

Nanette Milne: I know that the cabinet secretary is acutely aware of the current crisis facing the pig industry in Scotland. Given the low uptake of the sheep disposal scheme that was put in place following the foot-and-mouth outbreak, will he look into the possibility of funds being transferred from that scheme to allow for a one-off payment to help support the hard-pressed Scottish pig industry?

What communication has the cabinet secretary had with retailers to encourage them to invest in the future of Scottish pork, for instance by committing to a clear labelling policy to encourage consumers to actively support Scottish farmers by buying locally produced pork?

Richard Lochhead: I reiterated many of the Government's concerns in an answer that I gave earlier.

I assure Nanette Milne that we have made vigorous representations to the retail sector. The First Minister has written to the chief executives of all the UK supermarkets and I have written to the public sector bodies in Scotland. We have been

doing our utmost to encourage more orders and greater consumption of the fantastic product that is Scottish pork.

On direct assistance to the sector, I explained that we are working up an options paper. I am sure that we will not be able to deliver everything that the sector would like. If we were to transfer funds from any underspend on the sheep welfare scheme to help the pig industry, the implementation of a scheme that involved a similar payment to the headage payment that has been used for the sheep sector could present significant difficulties under state-aid rules, so that is potentially an extremely difficult road to go down. However, there are other ways of helping the sector and we are exploring them in detail.

Abolition of Bridge Tolls (Scotland) Bill: Stage 1

The Presiding Officer (Alex Fergusson): The next item of business is a debate on motion S3M-780, in the name of Stewart Stevenson, that the Parliament agrees to the general principles of the Abolition of Bridge Tolls (Scotland) Bill.

14:56

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): When I opened the debate on bridge tolls on 31 May, I said that I did so with some satisfaction. I hope that I will be allowed some satisfaction in opening the stage 1 debate on the Abolition of Bridge Tolls (Scotland) Bill, which was the first bill to be introduced by this Government.

We have been committed to ending bridge tolls for a very long time. During the previous parliamentary session, my colleagues Shona Robison and Tricia Marwick both led debates that sought to end bridge tolls, and Bruce Crawford has just reminded me that he proposed a member's bill on the subject. Many members have supported such calls in the past and I am happy once again to single out Helen Eadie in that regard. Her draft bill to abolish bridge tolls remains poised for introduction, if we look likely to backtrack on our manifesto commitment, although I assure members that we will not backtrack. In May, members voted overwhelmingly to support the abolition of tolls. The bill will remove, with transparency and certainty, the right to demand tolls and, crucially, it will do so as soon as is practicable.

The bill is short and simple and aims to do just three things: remove the ability to charge and collect tolls on the Forth and Tay road bridges; remove a legislative deadline for the Tay Road Bridge Joint Board to repay all its debts by 2016; and repeal obsolete legislation relating to the Erskine bridge. If Parliament agrees to the bill, we will end an injustice to the people of Fife, Tayside and the Lothians, and to all who have had to pay tolls on the Forth and Tay road bridges when tolls have been removed elsewhere. That is the principle on which the bill is based, and it is the principle on which we will be voting today.

The Transport, Infrastructure and Climate Change Committee has published its stage 1 report on the bill, and I am pleased that the majority of the committee's members have endorsed the bill. I regret that Patrick Harvie has dissented from that view. He abstained on the motion that was debated in May, and I understand that he has continuing concerns about the potential environmental impacts of removing the

tolls, such as congestion. Of course, I recognise and respect his long-held position. I share the view that we cannot encourage an unchecked rise in traffic on our roads, but it is not the aim of the Government to punish car users and it is certainly not its aim to punish Fife car users alone.

Margaret Smith (Edinburgh West) (LD): Given that the suggestions for increases in road traffic vary from 10 to 21 per cent and that Transport Scotland's preferred option for a further Forth crossing is a unimodal rather than a multimodal bridge, will the minister reassure members and my constituents that the Government takes increased road traffic seriously and that it will do everything that it can to provide the necessary funding and support to put public transport options in place to deal with the traffic increases that will affect my constituents in west Edinburgh?

Stewart Stevenson: I will return to the subject of west Edinburgh and I am sure that the member will be comfortable with what I say.

I return to responding to Patrick Harvie. We believe that the carrot is more powerful than the stick and that we should persuade people by offering a wide range of public transport options. That is why the Cabinet Secretary for Finance and Sustainable Growth announced £3.3 million—I mean £3,300 million; I just cut the figure a thousandfold, but I reinstated it almost instantly—for rail and bus yesterday. That is also why park-and-ride facilities remain an important part of our strategy. More people can be persuaded on to trains and buses than can be bullied out of cars.

Let us remind ourselves that tolls on the two bridges were introduced so that bridge users contributed to the cost of construction. In a report on a public meeting in Bo'ness, *The Scotsman* said:

"The Government would stop the charging of tolls after the capital expenditure on the bridge had been cleared."

That argument is not new; it was made in February 1935. The chair at that public meeting of the Road Bridge Promotion Committee was Alexander Stewart Stevenson, my great-uncle.

Today's tolls were not introduced to restrain traffic and were not introduced for all eternity. Enough is enough.

Patrick Harvie (Glasgow) (Green): Perhaps I begin to understand the minister's convictions on the issue: they are a matter not of transport policy, but of family loyalty.

Does the minister accept that, at the time to which he referred and for many decades after that, the level of traffic and the weight of heavy goods vehicles that went over the Forth road bridge were not and were never expected to be what they are now? We face a genuinely new situation, which is

why tolls—a demand-management mechanism—can serve a new purpose. Is that not the case?

Stewart Stevenson: It is interesting that the committee that my great-uncle chaired predicted that 6,000 vehicles per day would cross the bridge, as against the 66,000 per day that cross today. Pro rata, 6,000 was a bigger share of the overall traffic in 1935 than 66,000 is of the traffic today.

The Transport, Infrastructure and Climate Change Committee asked for information on several issues. I have written to the convener to address the points in detail, but I will touch on one or two issues that have been raised—particularly those that relate to the motion that the Parliament passed on the abolition of tolls in May.

The committee was concerned that we had not consulted on the bill, but very thorough discussion and consultation have taken place over a long period on the principle of abolishing bridge tolls. That consultation and the research study that followed it were unusually thorough. They involved MSPs and substantial numbers of individuals, companies and private and public sector organisations.

The committee acknowledged that the Government is committed to funding the removal of the tollbooths on the Tay road bridge and a new road layout at the Forth road bridge in place of the toll plaza there. The details are matters for the bridge boards as roads authorities, but my officials will help to ensure that safe traffic management arrangements are provided at both bridges when tolls are removed.

The committee has pressed me on the effects on bridge staff. I assure members that I take seriously the impact of our proposals on bridge staff. I have paid tribute to their expertise and understand that this has been a particularly difficult and uncertain time for some of them. I have had no wish to complicate the important and detailed work that has been going on to develop and agree staffing policies that respond to the new situation. Decisions on such issues are a matter for the employers—the Forth Estuary Transport Authority and the Tay Road Bridge Joint Board—but I understand that the Government has a role to play in explaining our thinking behind the bill and reassuring staff about their positions. With that in mind, my officials have contacted local representatives of bridge staff to offer a meeting at an early date if they would find such a meeting useful. In addition, I understand that discussions between employers and employees are reaching a conclusion, which is the right time for me to hear from those who have made such a substantial contribution to the safety and operation of the bridges as to how we may preserve the investment that they have made.

The amendment to the motion that we debated in May sought details on finance and costs. We want to remove the power to charge and collect tolls, and the Government has given an assurance to each of the bridge boards that we will replace the toll income with direct grants. We are discussing appropriate agreements with them. The current toll income of some £13 million will be replaced. We, rather than bridge users, will provide that money. A clear announcement in yesterday's spending review backed that up.

Iain Smith (North East Fife) (LD): A number of different figures appear in the financial memorandum to the bill and the letter that the minister has just sent to the committee. The net toll income for 2009-10 has been given as £13.167 million once the costs of collecting the tolls have been deducted, but there is a budget of only £10.7 million for 2010-11 for the bridge authorities. It does not strike me that the net toll income will be replaced if £3 million less will be provided. Will the minister clarify the figures, as they are a little confusing?

Stewart Stevenson: There is an overall provision of £87 million, which of course includes money for paying off the Tay Road Bridge Joint Board's debts and some of the effects of removing the tolls. The member should be assured that we have made the provision that we are required to make.

I turn to west Edinburgh. We have made major announcements on train services, including on a new station at Gogar, and we are working with all stakeholders to examine issues relating to the west Edinburgh planning framework area. Further detailed analysis of transport aspects will be reported next year.

Finally, I return to the principle that we are debating today. The bill is about equity and fairness. It will remove a barrier to travel, employment, education, leisure and trade. In doing so, it will help us to achieve our strategic objective of building a wealthier and fairer Scotland. The people who must cross the bridges for health or educational reasons or to visit their friends or families should not pay additional taxes for that privilege. They should be treated equitably. The committee's stage 1 report stated:

"The majority of the Committee is of the view that this is a persuasive argument and it therefore agrees that for this reason alone the continuation of tolls on the Forth Road Bridge and Tay Road Bridge is no longer justified."

I commend that conclusion to the Parliament.

I am happy to move,

That the Parliament agrees to the general principles of the Abolition of Bridge Tolls (Scotland) Bill.

The Presiding Officer: I call Patrick Harvie to speak on behalf of the Transport, Infrastructure and Climate Change Committee.

15:08

Patrick Harvie (Glasgow) (Green): In opening for the committee, I first give my thanks and those of the committee to the committee's clerks and the Parliament's other officials who make our meetings and work possible. Thanking those people is traditional, but it is richly deserved. I also thank the other members of the committee and everybody who gave evidence at committee meetings or in writing. We took oral evidence from a range of organisations—from environmental and sustainable transport non-governmental organisations to local authorities, trade unions, business interests and others. We also received many pieces of written evidence. I am grateful to everyone who took part in the process.

It is worth restating for the record that we were disappointed and a little concerned that Transport Scotland initially declined to appear before the committee when it was invited to do so. We welcomed the clarification from the minister and Transport Scotland that that will not happen again, but I hope that no other parliamentary committee will seek evidence from a key part of Government on an issue that it is scrutinising and then find itself looking at a decline letter.

I thank the minister for his written response to the committee's report. I will talk about some of the specifics of that in a few moments.

As the minister makes clear, the bill is simple and short: it deals with the abolition of bridge tolls. However, the committee recognised early on that there are wider implications, and we felt that it was entirely right for us to address those in our scrutiny. I was, therefore, surprised by the references to a tight interpretation of what the bill is about in the minister's response. It is entirely right that we should address the bill's wider implications.

Tricia Marwick (Central Fife) (SNP): I am not trying to be difficult, but I do not understand how the member can speak on behalf of the committee when, as the committee's convener, he distanced himself from the report and disagreed with its conclusion.

Patrick Harvie: I am sorry that the member finds it awkward. It is not entirely as I would wish it either, but it is entirely in order. We discussed with Cathy Peattie, the deputy convener, who supports the bill, whether she might stand in today; however, she is away on sick leave this week. If the member is interested in how I intend to manage this feat, I suggest that she simply watch and listen.

There are some difficulties in this scenario. I am a convener in a minority of one, but the vast bulk of the report was agreed unanimously. The majority of the recommendations in the report had the support of the entire committee, and I will spend the bulk of my speech reflecting the consensus view of the committee on the majority of the bill. After that—if I can be indulged just a few words at the end of my speech—I will talk about why complete consensus was impossible to achieve.

Our first task was to consider the toll impact study and to find out whether the Government accepted its findings. In one of our most significant early conclusions, we found a wide body of support for the toll impact study and a suggestion that it represents the best state of knowledge that we can have about the likely impacts of the bill. We found that the study is factually sound and that there is a general consensus that it presents a reliable account of the impact of the abolition of the tolls on the two bridges. In questioning the minister, it appeared—although he was sometimes less than 100 per cent explicit about this—that the Government accepted the findings of fact in the toll impact study.

After considering the impacts, we recommended that the Government should provide funding for any remedial or mitigating measures that might be identified as necessary to address negative environmental impacts. Although the Government has responded, that response consists mostly of commitments to “continue to monitor” and to “give consideration to”, and other such open-ended commitments. It seems reasonable, given that the findings of fact of the toll impact study have been accepted—at least, it is implied that they are accepted by Government—that the Government should have something a bit more coherent and positive to say about what it intends to do, based on the expectation that the toll impact study’s findings will come to pass.

We asked the Government to explain what it intends to do to ensure that it honours its commitment to keep road traffic across the Forth at 2006 levels and to decrease CO₂ emissions, given the likely impact of an additional 9,000 tonnes of CO₂ per annum. The minister answered that that is

“outwith the scope of the Bill.”

However, the committee would not have agreed its conclusions on those matters if it did not regard them as being very much part of the context of the bill.

Of course, the commitment to long-term targets for CO₂ emissions is welcome. The whole chamber will look forward to debating that. Nevertheless, it is a long-term target and we were

looking for something about what the Government intends to do in the immediate future to ensure that its policy on emissions and traffic levels is achieved. There does not appear to be anything clear in the minister’s response about what impact each of the measures will have. The minister mentioned buses, rail, travel planning, eco-driving—the phrase almost makes me gag but I have said it—green fleet reviews and active travel, but there seems to be no clear expectation of what impact those measures will have. If those measures are being planned, and if the minister has some confidence in the predictions about traffic levels and CO₂ emissions, he should be able to tell the chamber what impact those measures will have on traffic levels and CO₂ emissions.

We commented on the need to fund additional traffic management measures as a result of removing the tolls. We had a clear explanation of how the toll plaza currently manages traffic at busy times by merging multiple lanes of traffic so that it can pass safely across the bridge, and a clear indication that whatever traffic management system replaces the plaza will have some of the same physical consequences for traffic going on to the bridge.

We argued for further commitments on bus priority measures and sustainable transport initiatives. I am a little sorry that, although the minister mentioned bus priority measures in his response, he said nothing about sustainable transport. I particularly mention the evidence that the committee received from Spokes, the cycle campaign, which described the experience of getting across the bridge and into Edinburgh. The minister told the committee that there is a very nice cycle lane on the bridge, which would be fine if all one wanted to do was cycle back and forth across the bridge, but most people want go somewhere when they get off the bridge. The cycle route is described as:

“Completely inadequate cycleroute – too narrow, poor surfacing.”

Another person said:

“this is one of the poorest parts of the route”

and someone else stated:

“It is a national disgrace that it is allowed to continue.”

It would be good if the minister said what the Government intends to do to achieve the shift towards sustainable transport for which we all hope.

Finally, equity is the basis on which the Government has made its argument. It is clear that the Government’s current transport policy objectives are connectivity, public transport, reducing emissions and shortening journey times.

Those are the transport strategy's objectives and the Government says that it intends to honour them.

At one point, the committee agreed that equity should not in general be a transport policy objective. We heard very sound evidence that it would be difficult to build in such an objective. In this instance, the majority of the committee agreed that equity should be argued for and other members will no doubt explain that at length. We were not able to reach full consensus because, in my view, if equity was to be a serious transport objective for Government, we would be looking for the greatest equity, which is equity for public transport users who have been fleeced for decades, and many disabled passengers who are still physically locked out of much of the transport network. That is where the greatest inequity lies in the transport system. If the Government were genuinely proposing equity as a transport objective, that is where it would begin.

15:18

Des McNulty (Clydebank and Milngavie) (Lab): That was a rather strange speech on behalf of the committee, but I say to Tricia Marwick that Patrick Harvie is sitting in a Scottish National Party convenership, so the SNP must bear some responsibility for that.

I will set out Labour's position on the bill. We accept that there was a strong sense in Fife that it was unfair that tolls should continue to be imposed on the key routes in and out of Fife. Those views are shared by people on Tayside and those in the Lothians who are regular users of those two crossings. Their views have been forcefully conveyed by Labour's elected representatives in this Parliament, as the minister acknowledged in his opening speech, and by Labour councillors in the relevant local authorities. In the context of the removal of tolls from the Skye and Erskine bridges, it became unsustainable to continue charging tolls on the existing Forth and Tay crossings. For that reason, Labour members will vote in favour of the principles of the bill.

It is not wrong for politicians or political parties to embrace popular policies, but Governments have responsibilities in bringing forward legislation and the SNP has not faced up to those responsibilities. Those concerns were expressed in evidence to the committee.

David McLetchie (Edinburgh Pentlands) (Con): If the abolition of tolls on the Skye and Erskine bridges was so inequitable, why did it take the previous Executive so long even to recognise that inequity?

Des McNulty: There are a number of issues that we now need to address, having taken that decision.

The Scottish Association for Public Transport stated:

"abolition of tolls on the Forth and Tay bridges is a populist promise that has been made without any regard for transport, fiscal or environmental strategy. This development can only increase bridge traffic and worsen road congestion".

We need to listen to that. Tellingly, the association goes on to point out:

"Free Forth crossings for cars at all times of day contrasts with a peak hour surcharge on rail fares."

We saw yesterday, from the figures in the transport budget, that allocations for road projects are being increased, while money for new rail projects next year is reduced to half of what it was in the budget set by Labour and the Liberal Democrats for this year. That imbalance in spending and the high fares being paid by rail passengers contribute to increased congestion and higher emissions—things that the Government is refusing to acknowledge. We believe that effective mitigating measures, such as park-and-ride schemes and re-examination of the fare structures, are vital to offset those likely consequences.

Stewart Stevenson: Will the member give way?

Des McNulty: The budget made some big general promises. Perhaps the minister will make more specific ones.

Stewart Stevenson: Does the member recognise that yesterday's statement provided £2.6 billion for rail projects, a figure substantially in advance of his party's commitments?

Des McNulty: If he reads page 89 of his own budget document, Stewart Stevenson will find the figures for new strategic projects.

A sufficiently robust traffic management plan must be put in place for both the bridges and the road networks used by bridgebound traffic, otherwise traffic accidents or inclement weather will cause havoc. Increased traffic already causes havoc and that will get worse. As the bill progresses, and as the Government makes clear its transport plans, we want to see that things pan out in such a way that that does not happen.

There are shortcomings in the way in which the bill has been brought forward and there are inconsistencies in the approach adopted by the Government. As Patrick Harvie said, those shortcomings and inconsistencies are highlighted in the committee report, which castigates the Administration for failing to carry out a strategic environmental assessment. The previous Parliament agreed, in legislation that it approved, that an SEA should be undertaken where significant environmental impact arises out of projects, plans or programmes. Ministers have

weaselled out of that requirement, claiming that the legislation says that changing the financial arrangements, which is what is being done, is not subject to strategic environmental assessment. The exception for budget changes was intended to facilitate the budget process, not to allow the Government to push through legislation without a formal assessment of its environmental impact. As we know, there is overwhelming evidence of adverse environmental impact in the form of an estimated 9,000 tonnes of extra carbon emissions.

The Government's ministers would prefer to ignore that evidence. They promised annual targets for reduced emissions in their manifesto, but they abandoned that commitment in May. Yesterday's budget document set no targets for reductions between now and 2011. In May, it was clear that the political will in this Parliament was in favour of the removal of tolls, but that did not mean that the minister should ignore the key findings of the toll impact study, to which officials—and, presumably, ministers—had access in May. The study was not made public until August, and we have yet to hear ministers provide answers to some of the difficult questions that it highlighted. Southbound traffic will increase by 15 per cent and northbound traffic by 20 per cent, and those increases could have adverse consequences.

The Deputy Presiding Officer (Alasdair Morgan): You have one minute left.

Des McNulty: If, as the study suggests, the monetised transport impact assessment demonstrates that the disbenefit of congestion considerably outweighs the benefit of removing the tolls, how will the Government ensure that the people of Fife, Lothian and Tayside are not faced with longer queues, longer delays and longer travel times?

The minister has said that he will meet the trade unions, and I welcome that. Why did he not do that before? Patrick Harvie has highlighted a number of suggestions to which ministers should respond, either in the course of the debate or by considering changes during the passage of the bill. In particular, they must address funding for remedial or mitigating measures, restraining road traffic across the Forth, reducing CO₂ emissions across Scotland and considering additional traffic management measures that are a direct and quantifiable consequence of the removal of the tolls. Those are the things that should be done.

Let me just say—

The Deputy Presiding Officer: No, you must conclude.

Des McNulty: Sorry?

The Deputy Presiding Officer: You must conclude.

Des McNulty: Okay. That means—

The Deputy Presiding Officer: That means finish. I call Alex Johnstone.

15:24

Alex Johnstone (North East Scotland) (Con):

This is a great day for the Scottish Parliament. We have spent so much time in recent days and weeks complaining about Governments that do not fulfil their manifesto commitments, but today a Government is genuinely fulfilling one. I say that with a degree of pride, because the commitment was also in our manifesto, which is why I will support the motion.

The stage 1 inquiry was interesting. The key issue of inadequate consultation was raised early in the process. I can understand why some people raised it, but, to be honest, given that if the bill had been printed in smaller type it could have fitted on a single sheet of paper, the fact that we produced a stage 1 report that is as thick as a telephone book shows that the committee was extremely thorough.

In the time available, it is not possible for me to go through all the issues related to the inquiry and the bill, but I will raise one or two key issues, so that we can better understand my concerns and how we want the bill to be implemented, with all the appropriate safeguards.

The first issue is what tolls are for. I do not think that anyone who came before the committee to give evidence or any committee member believed that tolls should be retained for the purpose for which they were originally imposed. I do not object to the idea that tolls should be imposed as a method of funding projects—who knows, tolls may once again be necessary to fund road development projects in Scotland—but I object to the idea that the tolls should be retained for reasons that were beyond the imagination of the people who originally put them in place. Therefore, one of the key issues that I raised during the inquiry was that people asked us to retain the tolls because of the provisions in part 3 of the Transport (Scotland) Act 2001, yet those provisions have been put to the political test repeatedly in elections, referenda and by-elections, and they have been rejected consistently by the people who would have to pay the charges.

David McLetchie will come back to the possibility of repealing elements of the 2001 act to ensure that no subsequent Government has the opportunity to use it to reimpose tolls on existing road infrastructure.

John Park (Mid Scotland and Fife) (Lab): Why did the Conservative party not end tolls when the

original tolling period came to an end in 1995, when it was in power?

Alex Johnstone: That was a long time ago. If I had access to the people who were responsible for that decision, I might be able to answer the question. We must remember that, back then, people were paying tolls for the purpose for which they had been introduced. That is no longer the case, and that injustice is what we are dealing with today.

I am content that with the structure that it intends to put in place, the Government is willing to ensure that the resources that are currently gathered through tolls are properly replaced by some other means. However, I am concerned that the independence that has been afforded the bridge boards and, subsequently, the transport authorities—owing to the fact that they have their own independent income through the toll booths—could be undermined. I therefore seek assurances from the minister that the bill will not mark the start of a process that will lead to the removal of the bridge boards' powers to make decisions about the long-term well-being of the structures in their charge.

I am aware that an attempt has been made—I believe that it has been successful—to retain the power to borrow, but so far that power has been exercised against a steady income stream. Now that that stream will be replaced by a Government grant, I am worried that the confidence may not exist to allow the boards to borrow, should there be a crisis that requires to be dealt with.

One of the key parts of the process that led to the decision to abolish the tolls being taken was the toll impact study. It might have been the position of someone such as me to try to rubbish the toll impact study, but I have no intention of doing so: I believe that the toll impact study was sound. However, its conclusions are only marginal to the decision-making process that is before us. Dr Iain Docherty estimated that the extra traffic that removing the tolls would generate

"is probably only a few months' worth ... of background growth, which we would expect to see anyway."—[*Official Report, Transport, Infrastructure and Climate Change Committee*, 25 September 2007; c 146-147.]

I hold that view to be accurate.

The key issue for me has always been equity or, to use a word that the minister used in his opening remarks, injustice. The tolls have become a tax on Fifers. In the Parliament, I have seen valiant and eventually successful efforts to remove tolls from the Skye and Erskine bridges. It can be viewed only as an injustice that the only two tolled bridges in Scotland are those that lead into or out of Fife. Injustice is the key issue on which the argument balances. As far as I am concerned, the argument is sound, so let us remove the tolls.

15:31

Alison McInnes (North East Scotland) (LD):

As we have heard, the Transport, Infrastructure and Climate Change Committee report recommends that Parliament agree to the general principles of the bill, but it also makes several important recommendations. The report attacks the SNP's simplistic approach and advises that the bill's environmental impacts must be dealt with. The Liberal Democrats support the sensible removal of tolls as part of an overall plan, with careful consideration of the cost, the impact on demand management, the environmental issues and congestion. However, that is not what the SNP is doing.

So far, from evidence given to the committee and from the minister's written response to the committee this week, the indication is that the Government intends to pay no heed to the issues that the committee raised. The minister has insisted that the bill is purely a financial arrangement, and he commented to the committee that he was pursuing

"the simplest method of removing the bridge tolls".—[*Official Report, Transport, Infrastructure and Climate Change Committee*, 2 October 2007; c 179.]

However, the simplest and quickest solution is not necessarily the best one.

Stewart Stevenson: The member will be aware that the legislation on strategic environmental assessment stems from European legislation, which specifically excludes financial provisions. The inclusion of such provisions was debated in the Scottish Parliament and considered impracticable. Will the member remind us how the Liberals voted on that?

Alison McInnes: I was not a member of Parliament at the time. I do not dispute the report's conclusions on environmental assessment.

Perhaps it is because the SNP has been in opposition for so long that it does not understand that a Government carries responsibility for its decisions. The soundbite policies of which the SNP is so fond do not work in government—they just come back and bite the party. The SNP likes to blame others—problems are always someone else's fault, be it Westminster or the previous Administration—but the present problem is down to the SNP. If the SNP breeches ahead with the proposals without ensuring that compensating measures are put in place, the problems that arise will be of its own making.

I note Patrick Harvie's opposition to the committee's recommendation, but that will not hold much water if the Greens vote through the SNP budget. The Greens should think carefully about propping up a Government whose first bill will

increase emissions and congestion and threaten existing successful public transport schemes.

The minister's written response to the committee's stage 1 report outlines his thinking. In response to recommendations 3a and 3b, on the environmental impact of the proposals, he writes:

"I note the Committee's recommendation and their concerns. The impacts that concern the Committee are all driven by changes in traffic volumes. The Government will continue to monitor traffic levels".

Monitoring the problem will not solve it. We have the evidence from the toll impact study and we know that changes in traffic volumes will occur, so why the prevarication? Why does the SNP not just get on and do it?

In response to the committee's recommendation 3c, which was that the minister should outline the steps that the Government will take to decrease emissions throughout Scotland, given the additional load that the bill will add, the minister stated:

"I note the Committee's recommendation but it is considered to be outwith the scope of this Bill."

The Government must take seriously the implications of the policy decision and introduce measures to mitigate the effects.

I turn to the evidence from Dundee City Council, the Confederation of Passenger Transport and the City of Edinburgh Council. Dundee City Council led evidence that the removal of tolls would have

"an immediate positive impact on congestion and air quality in Dundee's city centre."

I agree with the council on that, but there is an opportunity to provide a sustainable transport option through the provision of a park-and-ride facility at the southern access to the Tay bridge. I call on the Government to have enough foresight to make progress on that.

The Minister for Public Health (Shona Robison): Will the member give way?

Alison McInnes: Not at the moment, as I want to make some progress.

The Confederation of Passenger Transport argued against the removal of tolls as a retrograde step, but it made a plea for bus priority measures on the bridge's access roads if the bill proceeds. The CPT cited the success of the Ferrytoll park and ride, but expressed concerns about the threat that it might face due to increased congestion:

"Stagecoach buses ... shift 21,000 single-occupancy car journeys off the Forth road bridge every week ... Ferrytoll park and ride has had a 24 per cent increase year on year. For the service from Fife to Edinburgh airport, there was a 49 per cent increase in passengers last year. Where we provide a good service on quality vehicles, we will get the extra patronage. What will stop that investment is if we cannot keep those vehicles moving freely."—[*Official*

Report, Transport, Infrastructure and Climate Change Committee, 25 September 2007; c 128-131.]

City of Edinburgh Council representatives gave evidence that the park and ride had been a huge success. However, they stated:

"We fear that changes will impact on public transport use by making it less attractive. If public transport has to experience the same congestion as general car traffic, people might stop using it. If it appears to be more expensive, more people will stop using it ... it will be affected by the change in the relative costs."—[*Official Report, Transport, Infrastructure and Climate Change Committee, 18 September 2007; c 94.]*

I know that bus priority measures have been discussed by the south-east of Scotland transport partnership—SEStran—and FETA, but there is as yet no certainty on the matter. The Government must agree that such measures will be funded and ensure that they are delivered at the same time as the changes to the traffic management schemes on the bridges. When I put those matters to the Minister for Transport, Infrastructure and Climate Change at the committee, I could not get a straight answer. I pressed him three times on whether bus priority measures would be part of the plaza redesign, but he wriggled around and passed the buck. He did so again today in his opening speech by saying that such matters are for the bridge board. It is irresponsible of him to wash his hands of such matters for something of this scale.

Removing the tolls will be cold comfort to the people of Fife and to transport hauliers throughout the country if the result is greater congestion, longer peak periods and more pollution. I urge the Government to pay heed to the committee's recommendations and to bring forward proper plans to deal with the impact of the removal of tolls.

The Deputy Presiding Officer: We move to the open debate. Speeches should be of six minutes.

15:37

Tricia Marwick (Central Fife) (SNP): On 4 September 1964, the tolled Forth road bridge was opened. Exactly 43 years later, on 3 September 2007, the first ever Scottish National Party Government introduced the Abolition of Bridge Tolls (Scotland) Bill to the Parliament. To the people of Fife and Tayside, the bill is another promise made and kept by the SNP Government.

The road to get here has been long and tortuous. The journey has involved broken promise after broken promise by Labour to the people of Fife. Having carefully examined the stage 1 report of the Transport, Infrastructure and Climate Change Committee, I must say—with all respect to the committee members—that the report is a bit po-faced. The report criticises the lack of public consultation, despite the fact that there is no

requirement for public consultation. I say as kindly as I can to the committee that the bridge tolls have been subject to public consultation: it was called an election. Labour paid a heavy price for its broken promises to the people of Fife.

Those broken promises go back a long way. In 1964, the Labour Government said that the tolls would be removed when the capital costs of the Forth road bridge were paid off. In 1985, Gordon Brown informed the Forth Road Bridge Joint Board inquiry into proposed increases in bridge tolls:

"The unjust treatment of bridge users is exemplified by the fact that they effectively pay several times over for the facilities they use—as taxpayers, rate payers, road-tax payers and as toll payers."

Gordon Brown even went as far as to promise, by press release, a bill at Westminster to abolish the tolls. However, that promise went only as far as lodging a proposal in the House of Commons library; it was never translated into a bill that was considered. When Gordon Brown had time to do something about the matter in Government in 1997, he still did nothing.

In March 2006, when an SNP motion to scrap the tolls on the Tay was defeated by Labour and Liberal Democrats, I said:

"One thing is sure: the SNP will vote to scrap the tolls on the Tay bridge. If we are defeated, the campaign will continue. An SNP Government will scrap the tolls on the Tay and Forth bridges next year."—[*Official Report*, 30 March 2006; c 24570.]

And that is just what we are about to do.

I found it mildly amusing that, in a recent motion, Helen Eadie castigated the SNP for not setting a date for the abolition of the tolls—that from a member who voted to keep the tolls on the Tay when her party was in Government. Of course, the bill is subject to the Parliament's timetable, not the Government's. However, provided that the Liberals and Labour support the bill, it is reasonable to assume that the tolls will be removed from the Forth and Tay bridges by January next year.

I offer particular thanks to *The Courier* newspaper, which came in behind the campaign and was truly a voice for the people of Fife, Tayside and Perthshire on the issue. I also thank my friends Shona Robison and Bruce Crawford, who would have dearly loved to speak in the debate but cannot do so.

I turn again to the committee's stage 1 report. Paragraph 182 states:

"However the fact remains that in Scotland it is only those who live in, visit or work in Fife who are subjected to the requirement to pay bridge tolls."

However, in paragraph 183 the report states that the committee

"is of the view that equity is a subjective as opposed to a scientific argument and, as such, should not generally be considered as a transport policy objective."

Not surprisingly, I disagree profoundly with that statement. I know that I speak for the people of Fife when I say that I do not care what issues are used to support the abolition of the tolls or what arguments are used to retain them. There is, and has been since 1964, only one issue: fairness and equity. It is not a perception of unfairness for Fife to have two tolls when no other part of Scotland has any—it is unfairness.

Patrick Harvie: Will the member give way?

Tricia Marwick: No.

I do not want to finish without referring to the toll plaza—the vanity project that was agreed by Tavish Scott and FETA and cost £5 million to build. It will now cost us millions more to dismantle the plaza and remodel the road network. I say to Alison McInnes that it is a pity that when the Liberal Democrat Tavish Scott was the Minister for Transport he did not put in the bus lanes that were necessary. When he ordered a review of the review in March 2006, FETA had already made plans for a new toll plaza, including electronic collection. I asked the minister to halt that work while the review of the review took place, but he refused. However, I am a generous soul. I assure Labour and Liberal Democrat members that at 5 pm tonight they can vote to redeem themselves. After all, if a repentant sinner can enter the kingdom of heaven, repentant politicians are welcome to enter the toll-free kingdom of Fife.

15:43

David Stewart (Highlands and Islands) (Lab):

As a member of the Transport, Infrastructure and Climate Change Committee—and, perhaps, as a repentant sinner as well—I am grateful for the opportunity to make a few brief comments.

The committee did what was written on the tin—we scrutinised the bill. As we have heard, we did not all agree, but we came up with a first-class report. Today, I thank publicly not only the staff and members of the committee, as Patrick Harvie has done, but all the excellent witnesses who appeared before us. I include the minister in that, although I hope that my comments will not damage his future political career. As we have heard, all the witnesses were happy and willing volunteers, apart from one pressed man, representing Transport Scotland, who did not seem keen to appear before the committee, until he turned up screaming and kicking, handcuffed to John Swinney. Perhaps I overstate my case.

We know that this is a simple bill that takes away the tolls from the Forth and Tay road bridges and tidies up the legislation on the Erskine bridge.

I thank publicly Helen Eadie for the excellent work that she has done on the issue, especially in her previous proposed member's bill.

I support the principle of the bill and will vote for it this evening, but I would like to make a couple of points; the minister may want to respond to them when he winds up. My points relate to consultation, environmental issues—about which we have already heard—modal shift, equity and staffing.

I am still confused about why the public were not formally consulted under the new Administration. I am not convinced—although I am happy to be convinced if the minister can come up with some arguments—that because the abolition of bridge tolls was a manifesto commitment there was no reason to consult. What is the legal precedent for such an approach? I understand that the Government will consult on local income tax, which was also a manifesto commitment, so there seems to be a contradiction. However, if the minister can show me the legal precedent for the approach, I will be happy to withdraw my comments.

On the environmental issues, the toll impact study was the key piece of information that was available to us. As we have heard, the study suggested that there would be increased congestion and extended peak periods on both bridges. Stuart Hay, from Friends of the Earth Scotland, said in evidence to the committee that toll removal would add 9,000 tonnes of CO₂ to the environment, which he said was 16 times more CO₂ than the Government's whole microrenewables programme currently displaces. The Scottish Government has a debit side on its carbon balance sheet, so where will the credits come from? Where is the evidence of modal shift—the transfer from car to bus, rail or bicycle? Where is the evidence for a transfer to park and ride, or at least to high-occupancy vehicle lanes? I am interested to hear more from the minister on that.

In fairness—I believe in being fair in this debate—I have no doubt that the minister is genuinely dedicated to trying to ensure that, in the future, trains are more efficient and have greater capacity: he made that clear to the committee. However, in his letter to the committee, which is reproduced on page 165 of the report, he said:

"Transport Scotland has no plans to modify or upgrade any section of the trunk road network to minimise the impact of any increase in congestion caused specifically by the removal of tolls",

and went on to say, in response to a suggestion by the City of Edinburgh Council:

"Transport Scotland has not considered any proposal to reduce Edinburgh-Fife rail fares".

City of Edinburgh Council was also concerned about CO₂ emissions, and it thinks that in the future there might be an argument for more air quality management areas in the city. In addition, it suggested bus priority measures on the A90, more park-and-ride facilities in Fife and clean bus-engine technology. I ask the minister to comment on those suggestions when he winds up. Does he share my view that it would have been helpful to complete a strategic environmental assessment, as other members have said?

I acknowledge the work that was carried out by the Fife and Tayside members who took part in the original consultation and who articulated well the sense of grievance that communities feel about the tolls on both bridges, particularly given that the Skye and Erskine bridges are now toll free.

I do not always sign up to the arguments of environmentalists, but some environmentalists have asked how fair our approach is for non-car users in Kirkcaldy or Wester Hailes. How can there be equity without an increase in public transport projects? It is important that we measure future transport initiatives against a national transport strategy.

It is important that there should be more direct intervention by the minister in relation to people who will lose their jobs, particularly on the Forth bridge. The minister has given assurances on that. The evidence on staffing that the committee took from trade unions was compelling.

My speech is designed to praise the bill, not to bury it. The Transport, Infrastructure and Climate Change Committee supported the principle behind the bill, although there are issues to do with staffing, environmental mitigation and future financing. I support the bill and I commend it to members.

15:48

Joe FitzPatrick (Dundee West) (SNP): I am delighted to welcome the Scottish National Party Government's first bill, which addresses an issue of great importance to my constituents and the constituents of my colleague Shona Robison, on the other side of Dundee.

The fact that the first bill of the new Administration focuses on the abolition of tolls on the Forth and Tay bridges sends a strong message that the unfair tolls that the Labour and Liberal Democrat coalition kept in place have no place in a Scotland headed by an SNP Government. The people and economies of Fife and Tayside have suffered as a result of the unfair tolls, but the Labour and Lib Dem Executive refused to remove the tolls, despite having numerous opportunities to do so during its eight

long years in power. The Executive that removed tolls from the Skye bridge in 2003 and the Erskine bridge in 2006 left the people of Fife and Tayside as the only people who paid tolls.

This session of Parliament has seen a welcome—if somewhat half-hearted—U-turn by Labour and the Liberals, and I am glad that they are beginning to see the error of their ways. I welcome their support for the removal of tolls from the Forth and Tay bridges. However, it would be wrong of me not to acknowledge the role that the campaign by *The Courier* played in putting pressure on those parties to make that U-turn. It was incredible to see the U-turn spreading across the Labour and Lib Dem benches during the debate on 31 May—that was something to behold.

I will focus on the tolls on the Tay bridge, which are of most relevance to my constituents. No matter where people are trying to get to by car in Dundee, the congestion from the queues of traffic from the Tay bridge toll booths will affect them. Car and bus journeys are lengthened, and at peak times the town centre can come to a virtual standstill, with a knock-on effect on air quality. Anyone who has tried to get around Dundee in the early evening knows how bad the situation is. It is clear that the situation in Dundee is caused by cars idling in the city because they cannot reach the Tay bridge, or cannot traverse the city centre from east to west or west to east because they cannot get through the queues of traffic that are trying to get to the tolls, which often stretch right round the inner ring road.

I see that Patrick Harvie has gone, but—just to clarify—the tolls on the Tay bridge do not just slow down traffic that is crossing the bridge; they slow down traffic, including public transport, that is crossing the city. I appreciate the position of members in the Green party, but in the case of Dundee, speeding up the flow of traffic will reduce the amount of emissions that are caused by static traffic and will benefit bus users just as much as those who travel by car.

In 1991, when the two-way tolling was replaced by southbound-only tolling on the Tay bridge, the benefits were clear, as congestion was reduced on the south bank. On 28 March 2006, when the toll collectors were on strike, the congestion disappeared almost altogether, even in the evening. There is good evidence that congestion in Dundee is caused by tolls, and removing the tolls will alleviate that daily congestion. I assure members that the bill is warmly welcomed in my constituency, as the people anticipate an end to the unjust tolls and, more important, the queues of traffic that they have suffered for so many years.

I also welcome the proposal in the bill that provides for central Government funding for the running of the bridges and for taking on the Tay

bridge capital debt. We should remember that central Government took over the £26 million Skye bridge debt, which is double the amount of the Tay bridge debt. Local councillors in Dundee, north-east Fife and Angus will also welcome the proposals to retain the Tay Road Bridge Joint Board as the body that is responsible for the day-to-day management of the bridge. There was some concern, particularly among staff, that when the tolls went the bridge board would go as well. I particularly welcome the fact that we will maintain the wealth of experience that has been built up over the years by board members, managers and—most important—members of staff.

I am pleased that the new arrangements that have been laid in place by the Tay bridge board will be arrived at with no compulsory redundancies. I hope that all members of the Parliament will welcome that, which is in stark contrast to the shoddy way in which workers were treated when the former Labour-Lib Dem Executive removed tolls from the Erskine bridge with no regard for the workers involved.

The effect on the economy was raised earlier, and it should not be underplayed. In order to benefit fully from inward investment, Dundee requires transport across the Tay bridge. North-east Fife is naturally geared towards Dundee, and we need to ensure that as much as possible of that business comes into the city centre. That will be important when the waterfront development is advanced, and we want Dundee to take maximum benefit from that—the people of north-east Fife are very welcome in our city. The removal of the burden of tolls is essential to ensure that businesses in Dundee compete on an equal footing with businesses elsewhere. The bill will remove the extra tax that the tolls add and give an extra boost to the economies of both Fife and Tayside.

We are not giving the people of Tayside and Fife anything more than what the rest of the country expects—and has, at present. There are almost 30 road crossings over tidal waters in Scotland, and tolls are charged only for the Tay and Forth bridges. There can be no argument in favour of keeping the unjust tolls, and I call on all members to support the bill.

15:54

Helen Eadie (Dunfermline East) (Lab): I welcome the bill and give the credit that is due to the Scottish Government. If we are to have credibility, it is important that we acknowledge when our political opponents do something that we would like to see done. I warmly welcome the position that we are in today. I have an issue with Patrick Harvie. The fact that he spoke in the way that he did today is an issue for his committee and

for the Scottish Government. However, I will let that stick.

I was chair of the Forth Road Bridge Joint Board from 1996 to 1999, so I speak with some knowledge of the historical issues. I also want to mention the A8000—I hope that colleagues will allow me to do so. Some members will know that the approach roads to the bridge were paid for by the tolls. The Forth road bridge is the only road bridge in the United Kingdom whose approach roads were paid for by tolls. More recently, FETA paid for the A8000. Colleagues ought to give credit to the previous Labour-led coalition and the ministers who were involved in developing the A8000, which is one of the best pieces of the road network in central Scotland. I applaud the Labour and Liberal Democrat ministers who were involved in that decision, because the road has made a colossal difference to all travellers across Scotland.

I am delighted to hear that the SNP will not backtrack on the issue, although I have to say to the minister that that is in stark contrast to the SNP's approach to some of its other manifesto commitments. I hope that the SNP will learn from this example that when it keeps its manifesto commitments, we warmly welcome that and applaud it.

I hope that the minister will take on board the concern that I noted at the Subordinate Legislation Committee. The committee had a slightly unusual request from the Government for a delay to the commencement—

Stewart Stevenson: There will be no delay. The provision at the end of the bill is a standard one, which states that the minister may act by order. It will be done on the first day on which I can do it.

Helen Eadie: I am delighted to know that. I welcome the minister's comment, because that was certainly not the impression that I had at the committee.

Tricia Marwick cynically tried to rewrite history today. When the Parliament voted on the Tay bridge tolls, the motion mentioned only the Tay bridge. It did not mention the Forth bridge. Everyone knows that my position on the Forth bridge tolls has been absolutely consistent. I have never done a U-turn on the issue. My position was clear—I would not support the removal of tolls from the Tay bridge unless tolls were also removed from the Forth bridge. That is important.

I am pleased that the Transport, Infrastructure and Climate Change Committee considered the wider socioeconomic issues. In the past, the focus largely ignored the interests of the wider community. I am especially pleased that the committee took evidence from a variety of key stakeholders in the business community, including

officials from the Freight Transport Association, Scottish Chambers of Commerce and the Confederation of Passenger Transport UK.

I was especially pleased to read the evidence that was given by Alan Russell, representing both Scottish Chambers of Commerce and Fife Chamber of Commerce. He pinpointed one of the points that have been argued powerfully in Fife when he said that Fife businesses pay about an extra £3.4 million in additional taxation. That was shown by a survey that Fife Chamber of Commerce carried out. He went on to say that the additional costs have impinged dramatically on business development in Fife and cited an example of a company that failed to locate in Fife. That really is a matter of grave concern, as it was not the only example.

I am especially keen to highlight the fact that the Government does not seem to speak to local government—that seems to be a pattern for this Government. It is arguing for all kinds of measures to be taken, but in Fife we are seeing different effects. Today's *Dunfermline Press and West of Fife Advertiser* reports that Fife Council is to impose a £1 car parking fee at all railway stations in Fife. Just as we are trying to encourage people to take public transport, the SNP puts up another cost barrier. The SNP is taking the tolls off the bridge, but the SNP and Lib Dem-controlled council in Fife is adding an extra £1 a day to the cost of travel for people who want to go by train. It is perverse logic to put people in that position.

Finally, if we really wanted to get meaningful change in patterns of public transport use, we would be investing in the Edinburgh airport rail link.

16:02

David McLetchie (Edinburgh Pentlands) (Con): I welcome the bill to abolish tolls on the Tay and Forth bridges.

Although the new Government has been quick to take credit for that outcome, we should reflect on the fact that it is really a result of the confused and contradictory policies of the previous Labour and Liberal Democrat regime and of the naked, unprincipled opportunism that characterised so much of the Faustian bargain between the two parties.

The genesis was the abolition of the tolls on the Skye bridge, a Lib Dem demand that was enshrined in its first partnership agreement with Labour. Inevitably and inexorably, that led to demands from Labour MSPs for a tolls quid pro quo. Sure enough, only a few years later, the Executive came up with the abolition of the tolls on the Erskine bridge. As many members have pointed out, that left commuters to and from Fife as effectively the only toll payers in the country.

That was a fundamental inequity in treatment that no amount of argument in favour of tolls from Patrick Harvie or others could resolve, for the simple reason that the pass had been well and truly sold and Labour members in particular were placed in an untenable position—literally, of course, as two of them lost their seats.

The bill should not be regarded as the end of the matter or as signifying the final demise of tolls in Scotland. Lurking on the statute book, we have the Transport (Scotland) Act 2001, which empowers the Forth Estuary Transport Authority to introduce a road user charging scheme for traffic on the bridge.

Members will be aware of that power, because the Liberal Democrat Minister for Transport Nicol Stephen ordered FETA to exercise it when he instructed FETA to devise a variable tolling or road pricing scheme as a condition of funding for the A8000 upgrade. Then, as we all know, less than a year later it became the road user charging scheme that the Liberal Democrats disowned in the Dunfermline and West Fife by-election and which was subsequently rejected.

In one of the most two-faced, unscrupulous pieces of political chicanery ever seen in Scotland, the Liberal Democrats won a by-election by campaigning against the very tolls that their ministers had instructed FETA to introduce. Not surprisingly, that must have left a sour taste in many a Labour mouth, and the eventual demise of the loveless marriage in the Parliament between the two can perhaps be traced to that event.

Enough of the history, entertaining though it is to record—the fact is that the variable tolling power remains on the statute book, and it is open to all local authorities in Scotland and to FETA to introduce road user charging schemes. Accordingly, until that power is removed, tolls—or the prospect of tolls—will not be finally laid to rest.

The Conservatives raised the issue in the Parliament back in February this year, before the election, when we lodged an amendment that called for the repeal in its entirety of part 3 of the Transport (Scotland) Act 2001. Those are the road user or so-called congestion charging provisions, which were supported at the time by Labour, the Liberal Democrats and—I am afraid to say—the SNP. Only the Scottish Conservatives opposed them.

However, back in February, in a most welcome U-turn, the then SNP transport spokesman, Fergus Ewing, said unequivocally in Parliament that:

“The SNP is wholly opposed to additional taxation on the roads and to road tolls.”

He added:

“We are not prepared to allow a piece of legislation to remain on the statute book that could be used to put a charge of £4 or £10 on the Forth road bridge by the back door”.—[*Official Report*, 22 February; c 32352.]

Mr Ewing has since gone on to lesser things, but we have continued, since the new Government was appointed, to pursue the issue with Stewart Stevenson. That has been done both in correspondence between me and the minister and through meetings of the Transport, Infrastructure and Climate Change Committee. The minister has undertaken to consider whether the Abolition of Bridge Tolls (Scotland) Bill could be amended to remove the power from FETA. I give notice that the Conservatives will lodge such an amendment at stage 2.

Stewart Stevenson: Should such an amendment be lodged, we would be minded to accept it, if it were properly drafted.

David McLetchie: I welcome the Government's support, and I would welcome the support of other parties in the chamber—in particular the Liberal Democrats, who I am sure have now seen the error of their ways, despite the prominent positions that their former transport ministers still occupy in the party.

If we are successful in achieving that objective through the bill, we will seek support later this session for the repeal in its entirety of part 3 of the 2001 act—a proposal for which SNP members voted back in February. We shall seek that repeal so that the imposition of a tolling regime on any road or bridge in Scotland is no longer possible, and so that our motorists, who already pay the highest fuel prices and the highest fuel taxes in western Europe, will not have to pay any additional charges to drive on the very roads that their taxes have already paid for.

Bearing in mind the persistent threats from Labour at Westminster to promote national or local road pricing schemes, it is imperative that the Scottish Parliament says no to tolls in Scotland—in what is quite clearly a devolved responsibility—by cleaning up the statute book. On that wider issue, we would welcome all converts to our point of view. We look forward to the support of members across the chamber.

16:07

Jim Tolson (Dunfermline West) (LD): I welcome today's debate as an opportunity to move towards a fair tolling system for all Scotland, but also as an opportunity to challenge the Government on its inconsistent approach to tolling.

Many of my constituents in Dunfermline West have regularly commuted to Edinburgh for decades. Overcrowded trains, congested roads

and bridge tolls all added to their misery. Fortunately, the previous Executive—under the direction of my good friend Tavish Scott—extended platforms and improved the quality and capacity of the rolling stock. The previous Executive also helped to reduce congestion with the implementation of the very successful Inverkeithing park and ride. In this session of Parliament, we have supported the abolition of bridge tolls to ensure fairness across the whole country.

Patrick Harvie: Will the member give way?

Jim Tolson: I am sorry, but I have very little time.

The recent toll impact study suggests that the removal of the tolls will lead to a 20 per cent increase in traffic congestion, but the SNP claims that traffic will stabilise at 2006 levels. Given the well-known traffic growth figures, it seems that that is another promise that the Government is destined to break.

The Government has used its very first legislative proposal to increase emissions and congestion. Its ambitious targets of reducing emissions by 80 per cent by 2050 are not consistent with its actions so far. It has delayed the introduction of the climate change bill, it is blocking renewable energy projects and it is undermining public transport projects. That is not a very good—or even consistent—start for the SNP Government.

The Government is due to announce soon—whenever “soon” is—its decision on a new Forth crossing. That project is vital not only to my constituency but to the economy of the whole of eastern Scotland. The existing bridge is operating way beyond its intended loads and capacities and a very real crisis is looming, in that it may have to close to traffic in whole or in part within the next decade. I sincerely hope that the Government makes the right decision for Scotland on a new crossing and that it selects a cable-stayed bridge on the grounds of urgency, cost and the environment.

Is the minister aware that a significant landowner along the route that a tunnel might take on the Fife side of the Forth claims to have decades of test bore data for his land, which he claims show pockets of underground water? That water, if struck as part of the route of a proposed tunnel, would significantly increase the time and cost of the tunnel option. The minister and the Government continue to come under sustained pressure from political colleagues to support the tunnel option, but to ignore the perils of a tunnel—or the benefits of a bridge—would let down the vast majority of the people of Scotland, not just a few of the SNP’s supporters, who will vote for the SNP in 2011 come what may.

Despite my repeated requests for information from the Government, it refuses to rule out the use of tolls on what I hope will be the bridge for the third millennium across the Forth at Queensferry. Will the Government dare to give members and the public a clear statement today on whether it will include a tolling regime with a new Forth crossing? Many businesses in Fife already have great concerns about the uncertainty over the provision of a new crossing. In fact, some businesses are actively considering moving south of the Forth. Will the minister put their concerns at rest by confirming today that a replacement Forth crossing will be put in place in the shortest possible timescale, and that it will cost the taxpayer less and have the least environmental impact? The only option that meets those criteria is a cable-stayed bridge. Will he please put employers, employees and everyone in Fife out of their misery and back the cable-stayed bridge option?

The Liberal Democrats welcome today’s debate and will support the Abolition of Bridge Tolls (Scotland) Bill. However, the Government must not forget the consequences and should build in environmental protection measures to offset an increase in emissions.

Thus far, the Government has refused to confirm that it will not impose tolls on a new Forth crossing. It has been inconsistent in its promises to the public, who will hold it to account on that issue. The Government says that it will not only reduce pollution but halt traffic growth—that sounds like the kind of hare-brained idea that we have come to expect from its Green bedfellows.

Removal of the Forth and Tay bridge tolls has been a long-term aspiration for businesses, commuters and visitors. I believe that today we will take a major step toward making that a real benefit for my constituents and everyone who lives or works in, or travels through, the great kingdom of Fife. *[Interruption.]*

The Deputy Presiding Officer (Trish Godman): Here we go again. Put your mobile phones and Blackberrys off—easy.

16:12

Shirley-Anne Somerville (Lothians) (SNP): As a member of the Transport, Infrastructure and Climate Change Committee, and as someone who was born and brought up in the kingdom of Fife, I am delighted that one of the SNP Government’s first moves has been to abolish tolls on the Forth and Tay road bridges. The debate is about fairness. The tolls on the Forth and the Tay are a unique form of regressive taxation on the people of Fife and the east of Scotland.

Claire Baker (Mid Scotland and Fife) (Lab): I have listened to the debate over the principle of equity for Fife with interest. Does the member agree that it would be helpful if the minister confirmed today whether he is considering tolling as part of the funding package for a future replacement Forth crossing?

Shirley-Anne Somerville: I think that the minister has heard the member's intervention and will take it into account if he wants to.

The debate is about fairness. It has always been an anomaly that only a few stretches of road in Scotland are tolled. The successful campaigns against the tolls on the Skye and Erskine bridges rightly highlighted the negative impact those tolls had on the local economies and on local communities. To put it simply, if the tolls on the Skye bridge and the Erskine bridge were wrong, the tolls on the Forth and the Tay are wrong, too.

One of the most striking reasons why the tolls should go is that the reason why they were put there in the first place has long gone. They were introduced specifically to pay off the capital costs of constructing the bridge. That milestone passed some time ago, yet the tolls have remained. If the original reason for tolling has passed, it is important to get to the real motivation of the people who want tolls to remain. As the Transport, Infrastructure and Climate Change Committee took evidence on the bill, it became clear that the debate about tolls had grown into something quite different. Many people who supported the retention of tolls did so because they saw tolling as a means of having congestion charging on Scotland's roads.

Although I do not agree with Patrick Harvie, I respect the sincerity of his views and those of the Green party on the issue. Patrick and some of the witnesses who came before the committee put forward an impassioned case for congestion charging. They may believe that that is the right way forward for Scotland's road network—I do not—and they may want to see more rather than less tolling, but the fact that tolls were introduced decades ago to fund initial capital costs cannot mean that the people of Fife should be subject to Scotland's only congestion charge. They have the right to have the current discrimination ended—and soon.

Patrick Harvie: Will the member give way?

Shirley-Anne Somerville: Not at the moment.

Equity is not the only important issue in the debate. The abolition of tolls is also right for the economy of Fife. Both the Fife Chamber of Commerce and the Scottish Chambers of Commerce have argued strongly that tolls harm the Fife economy. During their evidence to the committee, they highlighted that tolls act as a drag

on development and prosperity, and that their continued existence represents an additional financial and psychological impediment to growth.

Indeed, a recent survey by Fife Chamber of Commerce found that the direct cost of the tolls to businesses in Fife is £1.4 million. If we add on to that the £2 million in indirect costs to which they are also subject, the total additional tax bill that they face reaches nearly £3.5 million. That is a heavy burden, the removal of which will be welcomed by small businesses, in particular.

Some of the evidence that the committee received made much of the forecast increase in carbon emissions that will result from the abolition of the tolls; much has been made of those predictions again today. However, we should bear in mind the scale of the numbers involved. We are talking about an increase of less than 0.1 per cent in the emissions caused on Scotland's roads, which represents an increase of less than 0.02 per cent of the total CO₂ emissions for Scotland.

I appreciate that that increase, albeit that it is small, is concerning to environmental groups, but it does not take into account the evidence from Dundee City Council, which clearly believes that the abolition of the tolls will lead to a reduction—rather than, as the toll impact study forecasts, an increase—in congestion and emissions.

Most significantly, even if the forecast increase is true, it must be seen in the context of the Government's wider pledge to introduce a climate change bill and its commitment to reduce carbon emissions by 80 per cent by 2050, which we should remember is a much stronger target than the one that has been set by the Government at Westminster. In particular, it must be seen in the context of the budget that was published yesterday, which committed the Scottish Government to record amounts of expenditure on public transport. Over the next three years, £2.65 billion will be spent on railways and £740 million will be spent on increasing bus travel. In addition, there will be an increase of 40 per cent in funding for sustainable and active travel. That is good news for Scotland's commuters, especially those in Fife, and for the environment. I welcome the Government's commitment to tackling our country's contribution to climate change.

Alison McInnes: Will the member take an intervention?

Shirley-Anne Somerville: I am sorry, but I am winding up.

The Deputy Presiding Officer: Yes, you are in your final minute.

Shirley-Anne Somerville: As part of our work on the bill, the committee undertook a visit to the Forth road bridge, which left us in no doubt about

the hard work and dedication of the people who work behind the scenes on that impressive structure. It is important that, as we make our decisions in Parliament, we pay special attention to the direct impact that those decisions will have on the people who currently work on both bridges. I end by paying tribute to the staff and management who work on the Forth and Tay bridges and acknowledge their considerable experience. It is important that their vital skills be retained and I welcome the minister's agreement to meet staff to discuss their concerns.

16:18

Marilyn Livingstone (Kirkcaldy) (Lab): I thank the Presiding Officer for giving me the opportunity to participate in the debate. It will come as no surprise to the Parliament that I will speak in support of the removal of tolls from the Forth and Tay road bridges.

There is no doubt that both bridges are essential to the social and economic well-being of Fife, including my Kirkcaldy constituency. They are crucial in providing access to jobs and markets for local businesses and residents, who must be allowed such access on an equal basis with the rest of Scotland. The removal of the tolls will do just that, which is why I warmly welcome the bill.

In my submission to my colleague Helen Eadie's consultation as part of her draft proposal to remove tolls from the Forth and Tay bridges, I made the point that the removal of tolls would allow Fife to compete equally with other areas of Scotland and would have an extremely positive social impact. As others have mentioned, that view is supported by Fife Chamber of Commerce and the Scottish Chambers of Commerce, which said in evidence that the tolls on Fife's bridges are

"a barrier to economic growth, particularly in Fife. There is no evidence to support the idea that tolls benefit the economy; if anything, they have the opposite effect. We could produce a range of evidence to prove that the tolls are detrimental to tourism, which is one of the major industries in Scotland and Fife."—[*Official Report, Transport, Infrastructure and Climate Change Committee*, 25 September 2007; c 129.]

The toll impact study suggests that about 1,000 additional jobs will be created in Fife following the abolition of the tolls. Businesses will benefit from a reduction in their transportation costs. However, as has been said, the committee noted that increased congestion, particularly on the Forth road bridge, is likely to bring economic disadvantage and have an environmental impact. We must pay heed to that.

Fife Council was concerned that, in its early phase, the toll impact study did not properly reflect the measures that the council introduced to mitigate the effect of increases in road traffic. A

council representative said that the tolled bridges review phase 1 to phase 3 reports show the projected increase in traffic movements reducing from 40 per cent to 10 per cent and asked whether, if there were a phase 4 report that took other matters into account, that would further reduce the increased volume of traffic using the bridge. That question is important and I would like the minister to answer it, if possible.

My constituents and the wider east of Scotland region have experienced major improvements because the A8000 has been upgraded, as Helen Eadie mentioned. That has removed one of the major barriers that caused increasing traffic congestion. I congratulate all who were involved in that major project.

Members who represent Fife must take economic disadvantage seriously. Fife Chamber of Commerce members have raised with Fife MSPs the economic disadvantage of congestion. What action will the Scottish Government take on the committee's recommendations that the Government should provide appropriate funding for any remedial or mitigating measures and that it should fund any additional traffic management measures that may be considered necessary?

I ask the minister to answer the following specific questions about support for appropriate modal shift measures. Does he agree that a new crossing is crucial to the economy of Fife and Scotland? Will he support a multimodal option for a new crossing, to give the people of my constituency and the wider Fife community a public transport option? Will he say how soon work will commence? Will he support increased park-and-ride opportunities, especially for people in mid-Fife, who find it difficult to reach Inverkeithing park and ride?

What plans does the Scottish Government have for further development of sustainable transport initiatives, such as bus priority and rail travel measures, including the continued expansion of parking facilities at railway stations throughout Fife? The lack of parking is still a major barrier. Also, what support will be given to cycle use?

Will the Government support the initiatives for ferry or hovercraft services from my constituency to Edinburgh? How will the minister mitigate the negative impact that the Government's rejection of the Edinburgh airport rail link has had on my constituents? That link would have not only given the people of Fife a direct route to Edinburgh airport but opened up the rail network to them. The failure to support the link has dramatically reduced their access to public transport options.

When the minister considers transport spending initiatives, I ask him to take on board the issues that have been raised today. I ask the Parliament

to support the bill to ensure equity for the people of my constituency and the wider Fife community.

16:24

John Park (Mid Scotland and Fife) (Lab): We have heard speeches from many MSPs who have been involved in the campaign for a while, so I was going to start by paying tribute to Helen Eadie and Tricia Marwick. However, there was a little bit of tit for tat earlier, so I say gently to Tricia Marwick that perhaps she should show a wee bit more humility in such situations. As she said, we are reaching the end of a long campaign. Neither member is a Johnny-come-lately to the issue and they should both be pleased about the outcome that will be in place early next year.

I have no doubt that the majority of people in Fife will warmly welcome the removal of tolls from both crossings. I have lived in the area that I now call "the bridgehead area"—I have called it that only since I became a politician; before I was elected to the Parliament, I called it "Dunfermline and Rosyth"—and, in my undoubted understanding of the west Fife psyche, public opinion on the matter has shifted very quickly over the past two or three years. However, we must not lose sight of the fact that some people who live in the bridgehead area and elsewhere in Fife have legitimate concerns about the negative impact that increased congestion could have on their communities. I have received correspondence highlighting those concerns and have tried my best to put people's minds at rest. I am sure that the minister agrees that appropriate measures will have to be introduced—indeed, he mentioned that. I am pleased that finances will be available to introduce further measures.

People who regularly travel over the Forth road bridge will have seen improvements in recent months. The new toll plaza and the associated traffic management to the north of the toll plaza have led to far fewer queues on the northbound road at peak times, and the M9 spur has led to less congestion on the southbound road at peak times. More important, that spur has reduced the load on the bridge, as heavy goods vehicles no longer end up nose to tail on it waiting to go up the ramp towards the A8000. That will make a huge difference to the condition of the bridge's cables, the study on which will be completed in the next couple of years.

I was a little bit worried by the minister's semantics when we initially asked him about the workforce. The Transport and General Workers Union and I wrote to him about meeting the workforce, but he replied that he was unable to meet its representatives at that time. In response to a question that I asked in the chamber, he said:

"I will be happy to meet anyone who wishes to discuss the continued safe operation of the bridges, which is in all our interests."—[*Official Report*, 6 September 2007; c 1515.]

He told the Transport, Infrastructure and Climate Change Committee:

"I am happy to meet the unions ... once the terms between the employers and the unions have been signed off."—[*Official Report, Transport, Infrastructure and Climate Change Committee*, 2 October 2007; c 184.]

Removing tolls from the Forth road bridge raises two particular issues. The first is industrial relations—I recognise that the minister has tried to separate out issues relating to redundancy pay, terms and outplacements. However, the second issue is wider: the operation of the bridge in the future. I raise that issue because the SNP Government has made a big play of social partnerships and engaging with trade unions. I welcome what it has said, but we must ensure that there is early dialogue and that organised workers are involved in the process. There should not be only warm words.

Tricia Marwick rose—

John Park: I am sorry, but I still have a lot to say.

Industrial relations and workers' legitimate concerns cannot be separated. That is what social partnership is about. It is about engaging with people as early as possible and discussing decisions that matter to them. People might think that having a national conversation is laudable, but there must be much earlier engagement and meaningful conversation, particularly with organised workers. I am pleased that the minister has made a commitment on that, but I would like him to provide details in summing up. He said that he has made contact with representatives of bridge staff, but I have received no notice of that, although I have spoken to the unions. Perhaps he can confirm when correspondence was sent to them or when contact about a meeting was made. Feedback about such meetings to the chamber or the committee would be useful.

In debating the removal of tolls from the Forth road bridge, another massive factor that we cannot lose sight of is the current condition of that crossing. I am particularly concerned about the potential for HGVs to be banned from it in 2013 or 2014. That would lead to a nightmare in the Rosyth area. Many lorries would end up travelling nose to tail through a heavily populated area. From a business perspective, hauliers would have to take a detour of at least 40 miles over the Kincardine bridge, which would have an impact on communities in west Fife.

I tried to start on a positive note, and will finish on one. There are many transport priorities that

will have implications for communities in the east of Scotland and for the Fife economy. The Government has very big decisions to take in the next few months, none of which is bigger than the decision on a new Forth crossing. If the SNP delivers on the promise of a new Forth crossing, it will get support from this side of the chamber for getting its plans in place and moving them forward. That is what the people of Fife expect, and it is what I hope they will get.

16:30

Iain Smith (North East Fife) (LD): I am delighted to wind up the debate on behalf of the Liberal Democrats. Despite Tricia Marwick's speech, it would be churlish not to congratulate the SNP Government on producing the bill to abolish the bridge tolls so quickly. However, I have concerns about the bill, which I will come to later.

As the MSP for North East Fife, I warmly welcome the fact that my constituents will no longer be faced with tolls at both ends of our fine kingdom. The abolition of the tolls on the Tay road bridge is especially welcome to my constituents. The residents of North East Fife are the main users of the Tay road bridge and, as such, have contributed the bulk of the toll revenue on the bridge over the past 41 years. I firmly believe that we have paid for that bridge over and over again and that there is no case for continuing the tolls.

I began campaigning for the abolition of the Tay road bridge tolls about 30 years ago.

Tricia Marwick: You voted to keep them.

Iain Smith: No, I did not.

David McLetchie: Will the member take an intervention?

Iain Smith: No, I am not taking an intervention at the moment. Sit down, the pair of you.

Alex Johnstone: We have never heard this before.

Iain Smith: I can show you a picture of me campaigning against the tolls.

Tricia Marwick: You voted to keep them.

Iain Smith: I did not vote to keep them.

Tricia Marwick: You did.

Iain Smith: That is not true. I readily accept that the Liberal Democrats did not include the abolition of the Tay road bridge tolls in their manifestos for the Scottish Parliament elections in 1999 and 2003—no party in the Parliament did. The SNP did not, the Conservative party did not, the Labour Party did not and the Green party certainly did not. No party supported the abolition of the tolls in its manifesto in 2003. However, I did not vote to keep

the tolls; I voted to have a proper study conducted into the environmental and other impacts of the tolls. I did not vote to keep the tolls. Members should read what I voted for in the chamber.

It is time for Tricia Marwick and the SNP to stop their churlish behaviour on the matter, accept that we have moved on in the debate and acknowledge that there are important issues around the abolition of tolls that need to be addressed. It is important that we move on to those issues instead of going on about the past in the rather pathetic and negative way that Tricia Marwick always tends to do.

I am pleased that I got the Liberal Democrats to put the abolition of the Tay road bridge tolls in our 2007 manifesto. I included it as one of my five personal priorities in the election for North East Fife, and I am delighted to support the general principles of the bill today.

Alex Johnstone: Will the member take an intervention?

Iain Smith: Not at the moment. I am running out of time because of all the asides.

However, there are serious questions about the approach that the Government is taking in the bill, which I hope the minister will address in summing up. To paraphrase an old adage, if we legislate in haste, we repent at leisure. Legislating simply to remove the powers of the Tay Road Bridge Joint Board and the Forth Estuary Transport Authority to raise tolls, rather than addressing the statutory basis of those bodies, is a major weakness. I am surprised that there was little consideration of that issue during the committee's consideration of the bill. The Government has made much of its pledge to axe a quarter of our quangos, but the bill proposes the retention of two quangos whose primary function will be removed by the bill.

Dave Thompson (Highlands and Islands) (SNP): Will the member give way?

Iain Smith: I do not have time. There have been too many asides.

The Tay and Forth road bridges are part of Scotland's major road network and should be operated and maintained in the same way as all the other bridges on that network. Although we need to retain the engineering expertise, why should that not be transferred into Transport Scotland? Surely the assets and liabilities of the bridges should be transferred to Scottish ministers instead of being left, de facto, with the local authorities that make up the joint boards.

There is an issue about ensuring the long-term funding—both revenue and capital maintenance—which should be the responsibility of Scottish ministers. Frankly, transport infrastructure of the importance of the Forth and Tay road bridges

deserves more security than an announcement that ministers intend to replace lost toll revenue as “a policy decision”. As we have seen in the budget documents, the Government is not even going to replace all the lost toll revenue. The Finance Committee’s report raises concerns about whether the likely long-term investment in the maintenance of bridges—especially the Forth road bridge—is adequately reflected in the financial memorandum. FETA has identified £107 million of expenditure in its 15-year capital plan, which is around £7 million a year. However, the financial memorandum and additional information that has been provided by Government officials give a maximum figure of £4 million. Therefore, there is a serious shortfall that must be of concern.

There must also be a concern that no other source of revenue is available to cover any funding shortfall. Would such a shortfall have to be made up by the constituent local authorities of the joint boards, to the detriment of their other transport commitments? Will the minister explain why he has chosen to leave the responsibility for bridge maintenance with the Tay Road Bridge Joint Board and FETA rather than take direct responsibility for them, as ministers always had with the Erskine bridge, and as they had with the Skye bridge after the tolls were scrapped there.

Given the importance of the bridges to the transport strategy in the east of Scotland, I cannot see the logic in retaining the boards as separate roads authorities. The south-east of Scotland transport partnership and Tayside and central Scotland transport partnership are supposed to be the strategic transport authorities for the Forth and Tay estuaries. Would it not make more sense for the traffic management functions of FETA and the Tay Road Bridge Joint Board to be transferred to SEStran and tactran respectively, where they can be fully integrated into the wider regional transport strategies, including public transport strategies in particular? Surely the importance of the estuarial crossings to regional transport in the east of Scotland means that it should be the regional transport authorities that manage the transport strategies for the crossings, not the boards, which are primarily responsible for the maintenance of the bridges.

I am not wholly convinced by some of the claims that have been made about increased congestion. If there is going to be a 20 per cent increase in traffic going across the Forth, why is there not 20 per cent more going south at the moment when no tolls are being paid? The crossings must be seen in the context of the wider public transport strategy, particularly the need to get more people on to public transport. The scrapping of the Edinburgh airport rail link by this unambitious SNP Government will do nothing to encourage more people from Fife to go by train. Although EARL

would have increased rail capacity, the SNP’s alternative glorified tram stop will reduce it because it will create extra stops on the line, which means that fewer trains can use the train path. That is a simple fact of rail engineering; a train cannot get past a train that is stopped.

We need the bridges to be managed by the transport authorities because they have a wider vision, not one that is based on managing the road crossings, and I hope that the minister will reflect on the wisdom of the management of the bridges remaining with FETA and the Tay Road Bridge Joint Board.

16:37

Ted Brocklebank (Mid Scotland and Fife)
(Con): The bottom line to this stage 1 debate is that we are finally righting a palpable wrong. I understand why Iain Smith does not want to dwell on the past, but there is an Inuit proverb that says, in effect, that to know where we are going, we first have to know where we have come from.

Members will forgive me if I reiterate some of the arguments. As a Fifer, I can modestly claim to have been among the first to campaign for the removal of tolls from the kingdom’s bridges, although I accept that there is an argument that payment by individual motorists can be an acceptable solution to financing specific motorways, tunnels or bridges where payments are charged for a specific amount of time until the capital cost of the project is recovered. That is an economic argument.

However, what has happened in respect of removal of the Fife bridge tolls has had nothing to do with economics and everything to do with politics. As David McLetchie reminded us, it is all about political opportunism, initially by the Lib Dems, who used their clout in the coalition to have the Skye bridge tolls removed. Not to be outdone, the Labour group insisted on a pay-off from their partners through abolition of the tolls on the Erskine bridge. A political innocent could have seen the hole that the coalition was digging for itself, but apparently not the Lib Dem transport ministerial duo of Nicol Stephen and Tavish Scott, who are notably absent from the chamber today.

With the removal of all other bridge tolls in Scotland, it became a simple matter of when, rather than if, the Fife bridge tolls would be removed. When Fife became the only part of Scotland where a direct tax was being charged on motorists coming into the kingdom across both firths, the economic argument was lost. Quite rightly, it then all became about fairness.

Where is it written that it has to be fair? That seemed to be the Executive’s argument in the dog days of the previous Administration. As Alex

Johnstone reminded us, we and the SNP were able to point to our manifestos and say, "That is where it is written in cold print that it has to be fair". Of course, at the 11th hour—surprise, surprise—the Executive partners underwent a Damascene manifesto conversion to abolishing the Tay bridge tolls and ending the Forth bridge tolls for cars with more than one occupant.

The voters were not fooled. As Tricia Marwick pointed out, in the May elections coalition members—particularly Labour—lost seats in Fife and thereby reaped the whirlwind of their own intransigence. Of course, I except Helen Eadie's honourable record on this issue. Although I take on board John Park's reminder that we abolitionists should show some humility, it must have been especially galling for Labour's Scott Barrie—who tried to distance himself from his party's doomed policy—to find himself unseated by a member of a party that, despite Iain Smith's recollections, had campaigned so vigorously to retain the tolls until a few short weeks before the election.

Patrick Harvie claimed again today that congestion over the Forth bridge might increase as a result of de-tolling. Well, I guess that that will depend partly on how the existing bridge will dovetail with the proposed new crossing. What cannot be allowed to happen is for the economy of the whole east of Scotland to be put in jeopardy while Patrick Harvie wrings his hands and the SNP Administration tries to get its act together on the new crossing.

On congestion, Tavish Scott, in a last desperate throe as Minister for Transport, commissioned traffic flow figures for the roads approaching the Tay bridge from the Dundee side. Of course, as Joe FitzPatrick reminded us, anyone who uses the bridge at rush hour could have told him that the only days on which the traffic flows freely in and out of Dundee across the bridge are days on which tolls are suspended for one reason or another. As Alison McInnes accepted, surveys by Dundee City Council predicted that there would be little increase in traffic levels as a result of abolishing the tolls.

Iain Docherty of the University of Glasgow reported that removal of tolls from the Forth bridge would

"not make a huge impact on the ... level of congestion or on carbon emissions".—[*Official Report, Transport, Infrastructure and Climate Change Committee*, 25 September 2007; c 147.]

As David McLetchie eloquently pointed out, all that remains is for Stewart Stevenson to assure us that a future Government will not be able to introduce a road user charging scheme on the bridge, as was previously proposed by FETA and by the then Minister for Transport, Nicol Stephen. I was glad to

hear that the current minister is exploring how such an amendment of part 3 of the Transport (Scotland) Act 2001 might be achieved.

Ultimately, as all Fifers are aware, the toll issue is of secondary importance to the need for a new crossing over the Forth. We Conservatives believe that too much time has already been wasted because of successive Lib-Lab, and now SNP, ministers dragging their feet. We must ensure that the unthinkable does not happen—that the current bridge is forced to close before a new crossing is ready. I agree with John Park that there are serious considerations in relation to heavy goods vehicles crossing the bridge, and we really have to get that right.

The day when Fifers can look forward to driving across toll-free bridges all the way from Edinburgh to Dundee cannot come soon enough—ideally by Christmas, but certainly by Burns night. I ask all members to support the bill.

16:42

Charlie Gordon (Glasgow Cathcart) (Lab): What an unusual debate this has been in some respects. It started with Stewart Stevenson telling us how very satisfied he is. There was nothing unusual about that, but he then reminded us that the bill is the first to have come before Parliament from a Government that has been in power for six months, which is highly unusual.

Stewart Stevenson also said that there would be no backtracking on the bill, which is also unusual, given the pledges that were ditched in the budget yesterday—the pledges on student debt and classroom sizes, to perm two from quite a few. However, given Labour's support for the bill, I have to mark the minister's card and say that, if there is any sign of backtracking from de-tolling the two bridges, I will personally send for the "equivalent" polis.

Also unusual was the fact that the convener of the Transport, Infrastructure and Climate Change Committee—I am a member of that committee, of course—spoke on behalf of the committee but said virtually nothing about the committee's voluminous report and told members virtually nothing about the committee's recommendations. He chose instead to take the opportunity to pursue a mainly personal agenda.

Patrick Harvie: We will both have to check the *Official Report*, but I certainly made an effort to address the majority of my comments to the serious concerns that the entire committee signed up to on various aspects of the bill. The fact that the entire committee agreed on those serious concerns—even though not all members share my view on the final recommendations and conclusions—reinforces them. I reserved only the

last few seconds of my remarks for my personal viewpoint.

Charlie Gordon: No. I think that if the Deputy Presiding Officer checks the *Official Report*—I had the summary of the committee's report before me—she will find that the convener rather let the committee down in his speech, which was supposed to be on behalf of the committee. He has his own agenda, as we saw last week when he briefed against completion of the M74—a vital component of Scotland's bid—on the front page of a national newspaper 48 hours before the vital decision on the Commonwealth games was taken in Sri Lanka. It was serendipitous that that did not do major damage to the interests of the country.

In an unusual revelation, Stewart Stevenson said that his satisfaction today derives from redeeming the pledges of his great-uncle in days of yore. Some commentators have said that Stewart Stevenson became the minister for transport because he drove Alex Salmond's car during the May election campaign. I do not accept that—in my view Stewart Stevenson is a fine parliamentarian. As an aside, I have sometimes ruminated on whether Mr Richard Lochhead owes his current position to having washed Alex Salmond's car during the election, but that is entirely by the way, as they say in Castlemilk. Now that Stewart Stevenson has got the nod—my money was on Fergus Ewing, but I presume that he did not get the post because the Greens do not like him—I find myself wondering whether he is the Government's transport minister because the post has been made hereditary to the Stevenson family.

As a rule, our approach to transport policies and projects should be strategic and should involve public consultation, an environmental assessment and, generally speaking, an objective approach. Equity arguments can be problematic in transport evaluation, given the cross-subsidies that often lie beneath the surface of cross-boundary transport networks.

Today, Parliament is uniting and heeding the voice of the people. Success has many parents—most parties in Parliament have claimed credit for the stage that we have reached with this bill. I could be statesmanlike and say that Labour will not descend to that level of politicking but, seeing Trish Godman in the chair as Deputy Presiding Officer, I am reminded that the success of her campaign—along with Des McNulty—on de-tolling the Erskine bridge, could be said to have set the example to the politicians who have followed.

Labour will vote for the bill. I am grateful to Alison McInnes and to my colleague, Dave Stewart, for telling Parliament—and, indeed, the press and public—about the recommendations in the committee's report. It is not necessary to

reiterate them. We will vote for the bill, which I would, in my rather down-to-earth way, call a quick and dirty wee bill, in order to realign the whole Parliament with the opinion of the many users of the Forth and Tay bridges.

16:49

Stewart Stevenson: That was a model example, from my dear friend Charlie Gordon, of how to soak up to the Presiding Officer. I hope that all members take note of his example and, whoever may be in the chair, copy it.

When I opened the debate, I said that the Abolition of Bridge Tolls (Scotland) Bill was based on equity. The dictionary definition of equity is

"the spirit of justice which enables us to interpret laws rightly".

The bill will provide justice for the people of Fife, in particular, and for all other users of the Forth and Tay road bridges by giving them free access to Scotland's road network, the same as everyone else on every other road in Scotland. I am delighted that all but one of the members who spoke in the debate clearly support that principle. In doing so, they reflect the views of a great many travellers, bridge users and businesses in the east of Scotland.

I understand that concerns exist about the impacts that the removal of tolls might have; I commented on some of them in my opening remarks and I will make further comments on them in closing. However, I repeat that we are debating the principle of what Charlie Gordon described as a dirty little bill, but what I describe as a simple bill with simple ends, which are to remove the bridge tolls as soon as practicable; to remove an artificial deadline for the repayment of the Tay bridge loans; and to remove redundant Erskine bridge legislation from the statute books.

Patrick Harvie referred to the results of the model that was used in the toll impact study as "findings of fact". We should be slightly cautious about that, because the model is not intrinsically a matter of fact; it is an assessment that is based on a wide range of assumptions, any one of which if changed could lead to different outcomes. The model is the best available assessment, but it probably is not fact, so we must be careful in interpreting it.

Patrick Harvie's attempt to remove equity from Scotland's political life will have puzzled many members. If equity is removed from the political debate on transport or on a wide range of other policy matters, frankly, we are left with little but the mechanistic assessment of what we should do. I do not support that.

Patrick Harvie: To reinforce my point, I was certainly not arguing that equity should not exist in public policy making, but that, at present, the Government's strategic transport objectives do not include it and that if we included equity as a transport objective, we would look for the greatest inequity and we would not find car drivers.

Stewart Stevenson: Continuing with other members, Iain Smith must read the budget document more carefully. The £10.7 million in 2010-11 to which he referred is of course capital provision, not revenue provision—that provision amounts to £13 million each year for tolls and appears elsewhere in the budget. He will find an extremely generous provision for the boards, which in the immediate year ahead is mainly for dehumidification and replacement of joints on the Forth bridge and for bearings on the Tay bridge.

Iain Smith: Will the minister take an intervention?

Stewart Stevenson: I am sorry, but I am running out of time.

One surprising point that Liberal members raised—Alison McInnes and Iain Smith mentioned it—was on their desire to remove local input to the management of the bridges by abolishing the boards for the Tay and Forth road bridges.

Iain Smith seemed to suggest that putting the Gogar station, rather than an Edinburgh airport station, on the railway line from Fife would somehow have a negative effect. The reality is that we can deliver the Gogar station sooner, more quickly and more cheaply and, because it will not be below ground, the stopping time at the station will be less than it would have been under the proposals for the Edinburgh airport rail link. We are increasing capacity as well. That is a positive approach.

Alex Johnstone took a different view on the bridge boards and asked whether their independence will be maintained. We are doing nothing that will affect the boards' independence. I have given that assurance to the boards' members. They make a valuable contribution and I want them to continue to do so for the foreseeable future.

Alison McInnes commented that, somehow, the bill will threaten successful public transport schemes. She gave no examples, so I am not entirely sure what she was referring to, although later she talked about Ferrytoll park and ride. We support the Ferrytoll park and ride, which will be expanded, as a vital part of multimodality in transport infrastructure north of the bridge. Indeed, when we came to office, we discovered a substantial number of proposals for park-and-ride schemes around central Scotland on which no progress appeared to have been made. One of the

challenges for me—I will rise to it and seek to engage with it—is to make more park and rides work. We will do so, of course, through local interests. Peak-time congestion on the bridge will be unchanged, so there will be no difference for buses or for anything else.

Joe FitzPatrick made some interesting comments. As he highlighted, it is proper to say that much of the groundwork on which the bill is founded was started by the previous Administration. We welcome that. That groundwork has accelerated the pace at which we were able to introduce the bill.

Helen Eadie was gracious in her remarks. Once again, I congratulate her on her persistence on the issue. She said that she will always welcome the SNP keeping a manifesto commitment. I very much look forward to her voting for the referendum bill and supporting a local income tax—both of which are key commitments on which we seek to move forward.

To Jim Tolson, I say that the climate change bill is moving forward at a tremendous pace. We are also working with the UK Government on its bill.

Marilyn Livingstone hinted at increased rail costs. It is worth saying to her that we inherited the current pattern of rail costs, but we are looking at how things might be in the future. On ferry and hovercraft support, we have yet to receive a proposal. We will assess any such proposal when we get it.

John Park again—quite properly—returned to the issue of the bridge staff. Of course I see a role for organised labour. Early in my period in office, I spoke to the Highland and Islands conference of the Scottish Trades Union Congress and I will continue to engage with representatives of organised labour. The approach—

The Presiding Officer: Order. There is too much background noise.

Stewart Stevenson: In relation to the bridge staff, the approach that we have made has been via the bridge boards. I hope that we will get a response shortly and I stand ready to speak to the staff.

I want to repeat something in case, in my enthusiasm earlier, I miscued it. The amount of money that we announced for bus and rail is two threes followed by eight zeros—£3,300,000,000—so I hope that I have made that point absolutely clear.

Alison McInnes: Will the minister give way?

Stewart Stevenson: I am sorry, but I am coming to the end of my speech.

The benefits of the bill are clear and others share that clarity. David Chalmers, of the

Federation of Small Businesses in Fife, has said that it is nice to see that we are reaching a point at which we can say that the tolls are definitely coming off. Businesses across Scotland will benefit from having no tolls. Alan Russell, of the Scottish Chambers of Commerce, stated:

"The tolls are a restraint on trade."—[*Official Report, Transport, Infrastructure and Climate Change Committee*, 25 September 2007; c 129.]

I offer my thanks, in addition to those that others have given, to members for contributing to the debate on the first bill that the SNP Government has introduced to the Parliament. In particular, I am grateful to the members of the Transport, Infrastructure and Climate Change Committee. I hope that I have answered many of their questions and I look forward to continuing the dialogue.

Finally, I publicly thank the members and officials of both FETA and the Tay Road Bridge Joint Board. I have met representatives of the boards and my officials continue to work with them. Charlie suggested that my post had perhaps been made hereditary—

The Presiding Officer (Alex Fergusson): Charlie who, minister? We are not on first-name terms in the chamber.

Stewart Stevenson: I beg your pardon, Presiding Officer.

The member on the benches opposite referred to my post as possibly being hereditary. I wonder what my late great-uncle, Alexander Stewart Stevenson, would think of our deliberations today. As the person who chaired the Road Bridge Promotion Committee in the 1930s, I suspect that he would join many people in eastern Scotland in quiet satisfaction.

Following today's debate, I am hopeful that the bill can proceed quickly and safely. I thank members for their contributions.

Point of Order

17:00

Rhona Brankin (Midlothian) (Lab): On a point of order, Presiding Officer. Section 2.1 of the guidance on parliamentary questions states:

"Parliamentary questions provide a means for Members to obtain factual and statistical information from the Scottish Executive".

Earlier this afternoon, the First Minister was challenged by Wendy Alexander on the fact that the Scottish National Party is breaking a number of promises on various issues. That means that there will not be 1,000 new police; that there will not be class sizes of 18 by 2011; that there will be no first-time house buyers grant; that student debt will not be written off; that there will not be a 15 per cent increase in nursery education; and that there will be no annual climate change targets. In response, the First Minister said:

"All those things are happening".

Given that earlier this week the SNP said that only 500 new officers would be hired and that yesterday John Swinney admitted that student debt will not be written off, what the First Minister said is clearly not the case. Indeed, not one of the promises that were made previously will be met.

The Presiding Officer (Alex Fergusson): Ms Brankin, is the point of order about the veracity of the First Minister's statement?

Rhona Brankin: Absolutely.

The Presiding Officer: I have made clear that that is not a point of order for the chair.

Rhona Brankin: I am sorry, but I have quoted—

The Presiding Officer: I have made that clear in the past, Ms Brankin.

Rhona Brankin: I will write to you—

The Presiding Officer: I would like you to come to your point of order.

Rhona Brankin: My point of order relates to section 2.1 of the guidance on parliamentary questions. Presiding Officer, since the First Minister's answers were clearly not based on fact, will you outline what steps you can take to ensure that parliamentary questions remain a means of eliciting factual and statistical information from ministers? Given this change in position, should not the First Minister be held to account for misleading Parliament and the Scottish people? Should he not also be required to give a statement to Parliament clarifying his position?

The Presiding Officer: The only thing that I am prepared to say in relation to that so-called point of

order is that it is not a point of order for the chair. [Applause.] It is not a matter for applause, either. I have stated repeatedly that it is not the role of the Presiding Officer to verify any ministerial response—that is a matter for the ministerial code of conduct. I can say no more than that in this instance.

Abolition of Bridge Tolls (Scotland) Bill: Financial Resolution

17:02

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-691, in the name of John Swinney, on the financial resolution in respect of the Abolition of Bridge Tolls (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Abolition of Bridge Tolls (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.—[*Stewart Stevenson.*]

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

Decision Time

17:02

The Presiding Officer (Alex Fergusson):

There are four questions to be put as a result of today's business. The first question is, that amendment S3M-847.1, in the name of Pauline McNeill, which seeks to amend motion S3M-847, in the name of Kenny MacAskill, on competition, regulation and business structures in the Scottish legal services market, be agreed to.

Amendment agreed to.

The Presiding Officer: The second question is, that motion S3M-847, in the name of Kenny MacAskill, on competition, regulation and business structures in the Scottish legal services market, as amended, be agreed to.

Motion, as amended, agreed to.

Resolved,

That the Parliament notes the Office of Fair Trading's response to the super-complaint by *Which?* on restrictions on business structures and direct access in the Scottish legal profession and the Law Society of Scotland's consultation on alternative business structures; believes that the regulatory and business structures of the Scottish legal profession should reflect Scottish circumstances and support improved access to high-quality legal services in a competitive and appropriately regulated market in accordance with competition law, and notes the Scottish Government's approach of working closely with the legal profession to secure reforms that will allow the Scottish legal profession to compete internationally while enhancing access to justice in local communities and considers that this approach should also widen choice, provide easier access to legal services and create the conditions for more affordable services so that social justice will be at the heart of future changes.

The Presiding Officer: The next question is, that motion S3M-780, in the name of Stewart Stevenson, that the Parliament agrees to the general principles of the Abolition of Bridge Tolls (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: We are forcibly agreed.

Members: No.

The Presiding Officer: My apologies. I failed to hear members. There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Ahmad, Bashir (Glasgow) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)

Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGregor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)

Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

AGAINST

Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Mitchell, Margaret (Central Scotland) (Con)
 O'Donnell, Hugh (Central Scotland) (LD)

ABSTENTIONS

Pringle, Mike (Edinburgh South) (LD)
 Smith, Margaret (Edinburgh West) (LD)

The Presiding Officer: The result of the division is: For 107, Against 4, Abstentions 2.

Motion agreed to.

That the Parliament agrees to the general principles of the Abolition of Bridge Tolls (Scotland) Bill.

The Presiding Officer: The final question is, that motion S3M-691, in the name of John Swinney, on the financial resolution in respect of the Abolition of Bridge Tolls (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Ahmad, Bashir (Glasgow) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)

Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

AGAINST

Goldie, Annabel (West of Scotland) (Con)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)

The Presiding Officer: The result of the division is: For 110, Against 3, Abstentions 0.

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Abolition of Bridge Tolls (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in paragraph 3(b)(iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.

Alcohol and Tobacco Consumption

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-668, in the name of Bill Wilson, on perceived norms of alcohol and tobacco consumption: pilot studies in Scottish educational institutions. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes the recent survey on student alcohol consumption carried out by McAlaney and McMahon in the University of Paisley and detailed in *Journal of Studies on Alcohol and Drugs* (<http://www.ncbi.nlm.nih.gov/entrez/query.fcgi?linkbar=plain&db=journals&term=0096-882X> (2007; 68(3):385 – 392); notes that it replicates work in the United States of America that has demonstrated that most people overestimate the alcohol and tobacco intake of their peers and that this misperception of the norm leads to increased consumption; notes the authors' statement that this raises the possibility of applying social norms interventions, as demonstrated to be effective in the USA, to the United Kingdom; further notes that pilot schemes along these lines are being undertaken in several schools in the Croydon area of England, and considers that the practicality of initiating such schemes in Scottish educational institutions should be investigated.

17:07

Bill Wilson (West of Scotland) (SNP): Recently, *The Herald* published a lengthy report on children under eight years old who commit crimes. The youngest alleged offender was two years old. A headline in the *Edinburgh Evening News* screamed, "One in 70 revellers goes out armed with knife". In an article that condemned drunkenness and alcohol abuse among youth in England, *The Observer* asked, "Who let the yobs out?" There is a wide perception of moral decay. Questions have been asked:

"What is happening to our young people? They disrespect their elders, they disobey their parents. They ignore the law. They riot in the streets, inflamed with wild notions. Their morals are decaying. What is to become of them?"

In the face of such evidence, how can anyone doubt that our society is irretrievably doomed? "We're a' doomed"—what other perception could be accurate?

Perhaps that is the point; I am talking about a perception. We are told that the youth of today are violent, degenerate and drunken. According to MORI research, 71 per cent of news stories that refer to youth are negative. There is an alternative view of Scotland's youth. If one in 70 youthful revellers carries a knife, 98.5 per cent do not carry knives. Of course the 1.5 per cent are a problem, but our streets are hardly awash with blood and

weapons. In the article entitled, "Who let the yobs out?" there was a small flaw. The journalist did not know the levels of drunkenness among English youth but had observed youthful drunks on the street and extrapolated, to draw an extremely negative conclusion. As for the quotation about the behaviour of our young people, it is attributed to Plato and is approximately 1,600 years old—give or take a year or two. If Plato had been right, society should by now be made up of the most extraordinary collection of degenerates—perhaps I should move on.

Perceptions matter. They shape attitudes, responses and—more important—misperceptions. Misperceptions are created and perpetuated in various ways, for example through ill-informed and misleading news articles and people's natural tendency to brag: "What you drank was nothing. I had 10 pints last night!"—I did not, by the way; this is not a confessional speech.

Misperceptions also arise because we tend to remember the unusual. If someone is a little the worse for wear one evening, that is what people will talk about. The 500 other occasions on which the person was stone cold sober generate no comment or excitement whatever.

Nobody disputes that our behaviour is influenced by our peer group, but it is clear that most people have a false idea of how their peers behave. When we consider potentially harmful behaviour, we need to ask two simple questions. How do we really behave? How do we perceive our peers to behave? Those questions lie at the heart of social norming.

There are now more than 25 studies of student drinking patterns and students' perceptions of those patterns. The results are consistent—students overestimate peer risk taking. The results of a study by the University of Paisley are typical. All undergraduate students in the university were offered the chance to take part in a web-based survey, and some 500 responses were returned. The majority of respondents overestimated peer alcohol consumption. Younger respondents were more likely to overestimate. The majority of students perceived themselves to be drinking less frequently than the average student. Approximately 50 per cent of students stated that they did not become drunk in a normal month yet, importantly, only 4 per cent of students believed that to be the normal frequency of drunkenness.

The important messages in the study are that young people are more likely to overestimate risk-taking behaviour; that when individuals feel that they are under peer pressure, that pressure is to increase their drinking; and that when individuals fit the peer group patterns of behaviour, the majority still perceive themselves not to do so. An obvious question follows—if individuals are made

aware of the actual peer group behaviour patterns, will that reduce risk-taking behaviour. The answer appears to be yes. There is strong evidence to show that the social norms approach, when it is not accompanied by scare stories, hectoring or denigration, can reduce alcohol abuse. It can encourage safer, more considered attitudes to drink.

Several programmes have now used the social norms approach to reduce risk-taking behaviour. One example is an attempt to reduce alcohol consumption among college athletes in New York. The programme ran for three years and was based on an annual survey of student behaviour. The surveys found that 66 per cent of student athletes drank alcohol less than once a week or not at all, 88 per cent believed that one should never drink to a level that affects one's responsibilities, and 71 per cent did not use alcohol to relieve academic pressure. The project then disseminated the results and other, similar, findings. A wide range of approaches, such as messages in newspapers, email messages and interactive CDs, were used. Importantly, there was no use of scare tactics or condemnation. The involvement of student athletes as so-called peer educators was also important. The results were that frequent personal use of alcohol, high-quantity consumption of alcohol and the negative consequences of alcohol consumption all declined by 30 per cent or more.

The University of Paisley, in conjunction with Youth Media, has now embarked on a United Kingdom-wide social norms project that is one of the largest in the world. The initial survey concludes this week. It is expected that there will be 20,000 responses from universities and colleges, including more than 2,000 from Scotland. Results that relate to students' smoking, drinking, sexual activity and exercise will be reported in January. The social norms data will then be fed back to the students over the next three months. A follow-up survey in April will assess the impact. If it proves successful, the duration and scope will be extended.

In Croydon in south London, the social norms approach is being applied to 16 schools to reduce bullying. It is hoped that the programme will be expanded to tackle a wider range of issues. I believe that we should pilot the social norms approach in Scottish schools. Why target schools? We can look at smoking to answer that. Consider just three facts. According to a BBC report, 80 per cent of smokers take up the habit as teenagers. There is clear evidence from a recent Cancer Research study in England that young people significantly overestimate how many people smoke. In Scotland, 85 per cent of 15-year-olds do not smoke. The social norm among that group is non-smoking. In other words, among young

people, there is a large gap between the perception of smoking and the reality. If we can correct that misperception and make it easier for teenagers to say no to smoking, they are more likely to remain non-smokers.

The potential for a social norms approach in schools is clear. School intakes can be followed and compared statistically over several years. Social norms programmes offer an effective way to tackle risk-taking behaviour before it takes root and have great potential for being embedded in the school curriculum. They are more likely to be effective if the target audience is involved—that is what would make them ideal: school pupils could help design the surveys, analyse the data and present and publicise the results.

I urge the Scottish Government to examine the use of the social norms approach to tackle risk-taking behaviour in our schools. The time is right to pilot the approach in Scotland. It is based not on wishful thinking, but on a clear and rational model that seeks to include our young people in finding a solution rather than impose a solution on them. Above all, it is an approach that rejects the negative and emphasises the positive. Most of Scotland's youth does not smoke, does not get drunk, and does not

"riot in the streets, inflamed with wild notions."

17:14

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Mr Wilson makes a cogent argument that arises from an interesting presentation that was given to Scotland's Futures Forum.

In drugs, we have moved from the just say no programme to the know the score campaign. In relation to tobacco, we have succeeded in changing attitudes. The number of people in the population who smoke has reduced substantially. The Scottish schools adolescent lifestyle and substance use survey, which has been carried out every two years, with only one year's break, since 1982, shows that the number of boys who smoke has dropped from 30 per cent to 12 per cent. The number of girls who smoke has reduced slightly but, regrettably, it is still substantially higher than the figure for boys.

The 2006 SALSUS figures show that there has been a substantial reduction in the number of 13 to 15-year-olds who start to drink. The number who drink excessively or heavily has also reduced, alternative there is concern about binge drinking, again particularly among girls.

We do not publicise those results enough. When they were published, there was nothing in the press to say that Scottish youth is moving in the right direction and should be praised for that. Bill

Wilson's motion says more than that. We need to define programmes that build on the work that has been done to provide knowledge in every school. We need to ensure, first, that information is guaranteed to be provided, that the information is much more powerful, and that young people come back to us and say that the education that they get is meaningful and useful. Secondly, as Bill Wilson pointed out, we need young people to participate in driving forward a programme that emphasises that X per cent do not smoke and that more than half of those who smoke want to give up.

The significant minority of young people who drink know about getting into trouble with the police, getting involved in arguments and fights, being taken home by the police and so on—there is a list of such things in the SALSUS report. We need to encourage young people to understand that that is not normal behaviour. We need to do more; we need to engage young people in more than just being taken home by the police. We need to bring those young people into educational programmes that are run by or involve their peers. In many cases, having a criminal justice system or a public security system that lifts young people, takes them home and presumes that their parents will care will not get us far. We need to develop things further.

I hope that the forthcoming drug and alcohol strategy will have a renewed emphasis on children and families and on supporting those who have problems. I support the motion and welcome the opportunity that it has provided for tonight's debate.

17:18

Kenneth Gibson (Cunninghame North) (SNP): As someone who has never been "inflamed with wild notions", I congratulate my colleague Dr Bill Wilson on bringing this important debate to the chamber. The approach that is described in the motion should be considered in depth because it is an innovative example of the kind of subject the Scottish Parliament should investigate. However, I condemn Dr Wilson for stealing the quote from Plato that I intended to use in the debate, and for stealing my title of Statto of the Parliament by reeling off so many statistics in such a short period.

I know exactly what Bill Wilson was talking about. When I was at university, I was part of a group of four. Two of my friends were quite heavy drinkers, but I was teetotal until I was 23 years old because of my family background, and my friend Michael was one of those people who seem to think that, to impress people, they have to be seen drinking. The problem was that he did not like drink. We would go into a bar and, of course, we would all buy rounds. He would sit there sipping

his pint. After an hour or so, about 2mm of his pint would have been drunk. He would then go to the bathroom and, miraculously, the pint would disappear. We knew that he had flushed the pint down the toilet. When we met him the following day, he would say, "I've got a terrible headache. I was really bevvied last night." That infantile attitude in a young adult did not make friends or influence people—we all joked about it—but he perceived that that was what young students did.

That is why it was important for Bill Wilson to highlight that a lot of students do not drink heavily. Many young people are concerned about their future, are extremely well behaved and care about their society and the planet. They care about lots of things: they do not want to smoke their lungs out, to drink themselves to death or to take drugs.

One difficult issue that we face is the sensationalism of the press: the lurid approach to life whereby people are plucked from obscurity and put on a pedestal for a short time, which leads to their lives being damaged in the long run. Their 15 minutes of fame—the Andy Warhol idea—often results in their being pictured in a variety of relationships or perhaps taking their clothes off in public. That has an impact on young people—younger people are much more sexualised than they were in the past and are much less innocent. There is a real problem of responsibility in the media.

None of my friends at school smoked, and I have never tried a cigarette or understood the concept of smoking at all. My parents did not smoke either. However, in a crowd where people smoke or drink a lot, there is obviously peer pressure to do that. I hope that with the reduction in smoking figures, particularly among boys, we are at the trigger point and it is now becoming extremely unfashionable in certain circles to smoke.

I would like to see it become much more unfashionable among young people to drink, particularly drinking products such as Buckfast in the street. Just a couple of days ago at a public meeting, someone said to me that if Buckfast was called Honeysuckle Juice, people would not drink it. "Buckfast" has a macho sound to it that perhaps attracts people that it should not.

The issue is an important one that we should pursue in Parliament. I welcome once again Dr Bill Wilson's having brought it forward for debate, and I am sure that the minister will be positive in her summing up.

17:22

Mary Scanlon (Highlands and Islands) (Con):

I welcome the debate in the name of Bill Wilson, and his Rev I M Jolly introduction.

The research is much more interesting than I found it to be at first glance. Any research that can contribute to the understanding of alcohol intake and the behaviour of young people is helpful. That is particularly the case given that 27 per cent of the population use alcohol harmfully, compared with the 1 per cent of the population who use drugs harmfully—figures that were given in this week's Health and Sport Committee meeting.

I welcome the research paper from the University of Paisley by John McAlaney and John McMahon. There is in Scotland a culture of drinking that has to be understood and addressed. Although we could have lifted the American research, there is no doubt that the higher legal age for purchasing and the less tolerant attitude of students and university officials in America means that that research does not wholly apply to Scotland. As Bill Wilson stated, the research found that an individual's perception of normal behaviour in others is a determinant in his or her own behaviour. It is also important to acknowledge the higher proportion of mature students who participated in the Paisley research and that the female to male ratio was 2:1.

The significant positive relationship between the individual's consumption and his or her perception of others' consumption appears to be stronger when a person drinks more than seven drinks on a night out. That compares to the individual who has fewer than seven drinks and who perceives that their personal drinking behaviour is greater than the norm in other students. In other words, the lower the individual's alcohol intake, the lower is their perception of drinking in others, and the higher their intake above seven drinks a night, the higher is their perception of what is the norm of drinking among other students. The research paper states:

"Heavy episodic drinking behaviour itself may increase how common individuals perceive the behaviour to be in others—possibly as a way to justify their own consumption to themselves".

The theory applies also to the frequency of drunkenness. Students who were drunk on fewer than two or three days a week perceived the norms of drinking by other students to be lower, whereas those who were drunk more than once a week perceived the norms of drinking by others to be significantly greater. In my view, those two points represent the core of the issue. The research shows that many students strive—as Kenny Gibson said—to match an inflated perception of what is normal drinking for a student. The report says that 52 per cent of respondents at Paisley university stated that the majority of students got drunk at least twice a week. However, that is more than four times greater than the real figure, which the report says is 12 per cent. That reinforces what I regard as being the

central point, which is that there seem to be genuine misperceptions. The end result is that the alcohol intake of many people is being increased as they try to keep up with their peers, even though their peers are actually drinking less than them.

I hope that the research will be utilised to underline public health messages, advertising and information campaigns for students and others. However, the research is confined to the university sector. It would be interesting to find out whether the analysis applies equally to the drinking behaviour of people of all ages and people from all walks of life. Nonetheless, the research is an excellent contribution to the debate on alcohol consumption. I thank Bill Wilson for bringing it to the attention of Parliament.

17:27

Bob Doris (Glasgow) (SNP): I congratulate Bill Wilson on securing this members' debate and on bringing such an interesting and potentially beneficial motion before the Parliament. Several members have used statistics. I am afraid that I will not be able to use any—although Dr Wilson handed me a small summary of his statistics before the debate began. I have not had the chance to dip into it yet, but I promise him that I will look at it.

Later this evening, many MSPs will attend the politician of the year awards dinner. No doubt good food will be eaten and a few drinks will be had. One or two humorous stories may even emerge over the few days following the dinner. We all know how stories work: they are often funnier and more entertaining when exaggeration and embellishment are added to provide spice and seasoning. In Scotland, the cement that binds a good story is often the special ingredient of alcohol. I am always surprised by how many times grown adults exaggerate and embellish their behaviour—even their mild misdemeanours. It seems to make us far more windswept and interesting. The cement that binds stories is often alcohol—not only when they are created, but when they are retold.

"How many drinks did you have last night?" That has been a common question over the years, but how many people give an honest answer? The answer is often, "I can't remember, but it was a fair few," or, "A bucketload." Why do people exaggerate? Why, according to the statistics, do teenagers in particular exaggerate? That is a vexed question, the answer to which likely involves a heady cultural mix, the ingredients of which would no doubt keep many a sociologist in employment for many a year. However, it appears that not only do we exaggerate our own stories, we believe other people's exaggerations.

Kenny Gibson's story of his student days struck me. I had a similar good friend who liked going out and participating in the drinking of alcohol. After two or three drinks that was him—that was his limit—but he would never say no to a pint of lager, and he would have to be seen to drink it. However, he did not drink it, and I knew that he did not drink it. He felt that, socially, for the company, he had to pretend that he was partaking of alcohol along with everyone else.

It is of little surprise that when adults cannot have a mature, honest and responsible relationship with alcohol, our perceptions of the social norms of alcohol consumption become hazy, to say the least. It is also of little surprise that when it comes to the drug of choice for many, people overestimate their peers' consumption. Worryingly, the gap between the real social norm for consumption and the perceived social norm may fuel some to drink more heavily. After all, we all, in our own way—even the most rebellious among us—like to be part of the social norm and to be accepted by our peers. Surely we should tackle the social misconceptions that may lead to increased consumption of drugs and alcohol.

I am sure that there are a number of drug and alcohol awareness initiatives in educational institutions. However, any tailoring of them—or, if need be, the provision of stand-alone projects that deal openly and honestly with our relationship with drugs and alcohol, including challenging misperceptions with regard to peer groups—would surely be worth while. I therefore thank Bill Wilson once more for lodging the motion. I am more than happy to commend it to the chamber.

17:30

Hugh O'Donnell (Central Scotland) (LD): Like previous speakers, I congratulate Bill Wilson. It is important and entirely appropriate that the Parliament has an opportunity to discuss alcohol consumption from another perspective. I trust that it is coincidental that it has occurred on the same night as the parliamentarians' dinner—we should all take a sober lesson from that.

We all know the problems that alcohol poses for Scotland. All speakers have been armed with a litany of statistics and figures to indicate the negative social and medical effects of excessive consumption. It is legitimate that, to a greater or lesser extent, those statistics are founded in quantitative empirical methodology—that is perfectly understandable. There is nothing easier for people to get a grip on than facts and figures, although it is all too easy for the media to twist those facts and figures in a way that suits the story that they want to tell.

It is a lot more difficult accurately to assess the qualitative effects—as members from professional fields will know, it is very complicated. Qualitative studies are longer term and take a lot more manpower and analysis. The methodology that is referred to in the motion presents us with an opportunity. Research from the Institute of Alcohol Studies indicates that, on their own, warning labels about the number of units have no effect. We need a panoply of tools to attack the issue. The methodology kindly presented to us by Bill Wilson is a way forward.

What motivates and stimulates the attitude that the purpose of consuming alcohol is solely to get falling-down drunk? It is not about socialising. It is not about easing digestion. It is not even about enhancing the enjoyment of entertainment. Other members have referred to the post-mortem discussions about nights out, many of which revolve not around the pleasant company, the food—good or otherwise—or the entertainment, but almost exclusively around how much alcohol was consumed. As Bob Doris said, there seems to be a perverse pride in telling tales of consumption to friends, colleagues and associates. Perversely, it is seen as heroic to claim to have drunk 15 pints or six shots. We feed that machismo.

We need to find a mechanism to scotch that attitude. Given the damage that alcohol does to our society, it is one of our major challenges. A strategy must include all the tools that are at our disposal. Attitudes can be changed, but it is often a slow process. We need look only at the other issues on which we have had to change attitudes—on using seatbelts, on consuming alcohol when driving or on wearing crash helmets when riding a motorbike—to know that it is a slow process.

Like other members, I welcome Bill Wilson's efforts to bring the methodology that is mentioned in the motion to our attention. I hope that ministers and cabinet secretaries take it forward as another tool.

17:34

The Minister for Public Health (Shona Robison): I thank Bill Wilson for raising an extremely interesting topic, and I thank him and other members for their speeches. A number of points that we should all remember have sprung out of the debate. One is that the vast majority of young people are responsible, law-abiding citizens. Another is that good news often does not make good headlines, as Richard Simpson said. We must consider that in the context of how we deal with the media.

I congratulate Scotland's Futures Forum on holding an excellent expert seminar on the social

norms approach back in October, at which the key speaker was Wesley Perkins, professor of sociology at Hobart and William Smith Colleges in New York, who has championed the social norms approach for a number of years.

All of us will recall feeling pressure, as young people, to fit in with the crowd, but the social norms programmes in the United States have exposed that the reality of the crowd's behaviour can be misunderstood, and that such misconceptions can reinforce negative behaviours, such as binge drinking or smoking. As members have said, exposing those misconceptions for what they are and reinforcing majority behaviour are the keys to the success of the social norms approach. The recent study that was done at the University of Paisley draws some comparisons with the results from the United States, in that students tend to overestimate the alcohol consumption of their peers, and suggests that similar interventions could have positive results in Scotland. I look forward to reading the report of the wider study in January.

However, I offer a word of caution. Although the evidence from the United States shows that that approach has merit, we know that we face significant challenges in Scotland in relation to attitudes and behaviour, and that our problems are complex. As Mary Scanlon said, we should bear in mind the fact that the cultural relationship that people in Scotland have with alcohol is different from the one that exists in the US. We also have some vivid statistics on alcohol-related illnesses and deaths, to which I will return shortly.

If we are to achieve sustainable culture change, we need to educate our young people so that they can make informed, responsible decisions about behaviour such as substance use or risky sexual activity. We must empower them to make sensible choices to ensure not only that they safeguard their health, but that they do not fall foul of other problems, such as those that are linked to alcohol misuse, which include antisocial behaviour, drug misuse or unprotected sex.

Government has an important role to play in supporting people to make healthier choices. We want to ensure that we communicate the benefits that our behaviour can have for our health in a clear and unambiguous way. Hugh O'Donnell highlighted the importance of that. We might be used to thinking of Government health improvement messages as warnings about what we should not do or what we should do less of, but it is just as important to give individuals and families, particularly those in our most disadvantaged communities, the tools to make more positive choices.

For that reason, we are reviewing our health improvement communications, to ensure that

future campaigns offer a clear, supportive and inclusive way to positive behaviour that will lead to a healthy life. That means taking a more strategic approach that recognises that all the messages to be more physically active, to stop smoking, to eat more healthily and to consume alcohol sensibly have at their heart a basic requirement—that we feel confident about taking control of our lives and positive about making achievable changes. That is particularly important for those people who are likely to suffer from health inequalities. Our approach will take empowering individuals as its first principle and will have improving well-being, both mental and physical, as its goal.

We are keen to look at evidence-based examples from around the globe and to examine whether they can be tailored for Scotland, so I have asked my officials to consider the social norms approach in more detail, with a view to conducting a pilot study on alcohol, if that would be feasible. Although the prime focus might be on alcohol initially, we will explore the scope for widening out that work to include smoking and sexual health. I will take account of the suggestions that Bill Wilson and others have made in that regard.

However, as I said, we must recognise that Scotland does not have a healthy relationship with alcohol. The figures are stark: one Scot dies every six hours as a direct result of alcohol consumption and 35 people die each day as a result of smoking. We must acknowledge that we have a problem; the question is what we do about it. We are clear that a long-term, strategic approach is required if we are to tackle Scotland's complex relationship with alcohol and to denormalise excessive drinking and the behaviour that goes with it, just as we have sought to denormalise smoking. That fits in with the social norms approach.

It is encouraging that awareness is growing of the problems that alcohol misuse causes, which range from short-term and long-term physical and mental health harms to antisocial behaviour and the damage that is done to our communities and to all our efforts to help Scots and Scotland reach our full potential. We are on the right path.

Where do we go from here? We are committed to publishing a five-year smoking prevention action plan early next year that will aim to prevent young people from starting to smoke and becoming regular smokers. We will propose a wide range of measures, including some that are targeted at further education colleges and universities, in the light of the clear evidence that young people start to smoke or progress from occasional to regular smoking once they leave school. We will consider how the social norms agenda can help to reinforce the message about the number of young people

who do not smoke and the message that not smoking is something to aspire to.

Work is under way on the long-term strategy to tackle alcohol misuse, which we aim to publish in the spring. Richard Simpson made an important point about involving young people. Following the recent debate on alcohol, we plan a summit on underage drinking that will involve young people directly in order to feed into the long-term strategy on alcohol their view on what works. We look forward to having their input.

There is no single approach or magic bullet, but we are determined to achieve a healthier Scotland. Nothing is off the agenda to help us to get there. Tonight's debate has made a welcome contribution.

Meeting closed at 17:41.

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