

MEETING OF THE PARLIAMENT

Wednesday 14 May 2008

Session 3

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Scottish Parliament

Wednesday 14 May 2008

[THE PRESIDING OFFICER *opened the meeting at 14:30*]

Time for Reflection

The Presiding Officer (Alex Fergusson):

Good afternoon. The first item of business is time for reflection. Our time for reflection leader today is Mr Rob Parsons, who is the executive chairman of Care for the Family.

Rob Parsons (Care for the Family): The apostle Paul wrote:

“When I am weak, then I am strong.”

People who turn to our charity, Care for the Family, are looking for solutions to their problems, but I have discovered that they often have a much deeper need. They need to know that they are not alone, and sometimes that means that we have to share a little of our weakness with them.

When I talk in seminars about parenting, I have discovered that what really gets people’s attention is not when I share 10 tips on how to be a great parent, but when I relate some of the challenging experiences that my wife Dianne and I have had with our children. When we do that, I hear sighs of relief sweep across the audience as parents realise, “It’s not just us.”

We run a bereaved parents network in Scotland. We put parents who have lost a child—through accident, illness or sometimes even murder—in touch with other parents who have experienced that grief. We also run “living with loss” weekends for those parents, and I recently asked one of our senior counsellors, Peter, how a weekend had gone. He said, “It’s completely remarkable. When the parents arrive, some of them—especially the men—sit with their arms folded, as if to say, ‘It was a waste of time coming here. You can’t give us our child back. We should go now.’ Then I tell them how we lost our son Peter when he was 21 years old. I tell them that my wife and I love each other, but she couldn’t get near me. All I wanted to do was walk and cry. I didn’t want to take my life, but I didn’t want to live either. People would come to me and say, ‘Peter, time will heal’, but it doesn’t heal. The pain gets easier, but it doesn’t heal, and it’s not meant to heal. Some would come to me and say, ‘You have three other great kids’, and I’d say, ‘But I want him’.”

He said, “Being honest with those parents has an incredible effect, and by the Sunday afternoon many of them have opened like flowers. They say

to me, ‘Thank you’; and their eyes are filled with tears. I have given them no easy answers, because there are no easy answers—just an understanding that others have walked and are walking that path, and are trying to come through it.”

We have lots of projects in Care for the Family: “How to Drug-Proof your Kids”—a course that is used by Strathclyde police and others; “Quidz In”, which helps parents to teach their kids sound financial management; and events for single parents and for those whose partners die early in life. There are more than 30 projects in all. We take time on research and strive to give people answers to their needs. However, I say to our 100 staff, “Never ever forget that many people can find their own answers, but what they crave more than anything else is to know that they are not alone.” We do not need working for us people who have perfect marriages, or whose kids are perfect, or who have never known trauma. We need the broken: people who can identify with others, and who can reach out a hand and say, “Me, too—I’ve been there.”

That is, perhaps, why Thornton Wilder said:

“In Christ’s kingdom, only wounded soldiers can serve.”

I thank you for the privilege of speaking to you.

Moving Scotland Forward

The Presiding Officer (Alex Fergusson): The next item of business is a statement by the First Minister on moving Scotland forward. The First Minister will take questions at the end of his statement, therefore there should be no interventions.

14:34

The First Minister (Alex Salmond): When I told Parliament that I would make a statement to review the Scottish Government's programme over the past year and share some of our plans for moving Scotland forward, I did not know that the United Kingdom Government would choose to publish its draft legislative programme on the same day. However, it is likely that both statements will be eclipsed by events in Manchester this evening, so I start by conveying the best wishes of everyone in the chamber to Walter Smith and his team for their UEFA cup final match. *[Applause.]*

This coming Friday marks one year since the Parliament voted to appoint the Scottish National Party Government and its ministers. That was a significant day not just for the SNP but—much more important—for the Parliament and for Scotland. It marked the election of the first minority Government in the nation's history, which brought a fresh approach to politics and to government. Let us reflect on that remarkable cultural change and its impact on parliamentary business.

The past year has ended the misconception that having a minority Government and a Parliament of minorities represents a position of weakness. As we see at Westminster, a Government can have a substantial majority and still be forced into dramatic concessions, but as we see in Scotland, a minority Government can still move quickly to implement its programme and ideas.

Minority Government presents opportunities to Opposition parties that have a positive agenda. *[Interruption.]* I refer to the Liberal Democrats and their support for our abolition of student fees and our reintroduction of free education in Scotland. As I said on entering government, both the Scottish national interest and parliamentary arithmetic require us to advance our programme policy by policy and rely on the strength of our arguments rather than the strength of numbers. Most members in the Parliament have been able to advance their priorities when they have put forward a strong case. Even the main Opposition party finds itself in a position where its policy pronouncements are subject to greater scrutiny. That might not always be enjoyable, at least for

the Labour Party, but it shows that a balanced Parliament is an effective Parliament.

Those changes in our political culture show us that a minority Government can be strong and that the Scottish Parliament can also be strong. The changes have enshrined consideration and reflection at the heart of Government. They embody Scotland's renewed sense of purpose and heightened ambition, and they ensure that the national Parliament governs in the national interest. Together, we have changed the mood and tone of Scottish politics for good.

I will outline the tangible achievements of our first year in Government. We have taken important steps towards our purpose of increasing sustainable economic growth in Scotland. We proposed a new economic strategy with clear targets to measure our success. We set out our spending plans for the current session of Parliament, with new investments that are firmly linked to our economic strategy.

Let us recall some of the specific measures to boost sustainable economic growth in Scotland. We are cutting or abolishing business rates for 150,000 small business premises throughout Scotland. We have removed the tolls from the Forth and Tay road bridges. We are strengthening Scotland's comparative advantage by opening a new institute for the life sciences in Dundee, and we are investing in Scotland's vast potential in renewable energy. We are improving our transport and planning systems in order that we can provide a world-class business environment.

It is precisely because we are in tough economic times that such clarity of purpose is valuable and necessary. Our strategic objective is to build not just a wealthier Scotland, but a Scotland that is fairer. At a time when fuel and food prices are rising quickly and the UK Government has threatened to increase the tax bill for half a million of Scotland's lowest-earning households, we are doing everything we can for Scottish families. That is why, through our historic concordat with local government, we provided new funding to freeze the unfair council tax. It is why we are working to move to a fairer local tax that will be based on people's ability to pay, and it is why we cut prescription charges and will abolish them a year ahead of our manifesto commitment. It is precisely because costs are increasing so much for hard-working families that help from Scotland's Government is so valuable.

Let me outline the progress on our other strategic objectives. The Government has made important steps to build a smarter Scotland. We have launched a new early years framework to ensure that our children have the best possible start in life and we are working closely with local government to reduce class sizes for primary 1 to

primary 3. We have launched a new skills strategy and, in addition, despite the tightest spending settlement since devolution, we are providing record funding for our universities and colleges. It is precisely because we must do everything to encourage participation in higher and further education that the Scottish Government has abolished the graduate endowment and restored the historic principle of free education in Scotland.

For a healthier Scotland, we have made significant choices, notably not just in reversing the threatened closure of accident and emergency services in Ayr and Monklands, but in retaining and enhancing children's cancer services in Edinburgh, Glasgow, Aberdeen and Dundee. I know that many members in the chamber, on this 60th anniversary of the national health service, will welcome the Government's decision to proceed with a new southern general hospital in Glasgow—the biggest hospital development in Scotland's history, and one that will be funded entirely by public investment.

To promote a safer and stronger Scotland, we are increasing police presence on our streets, with 150 additional officers recruited in our first year. We have launched the cashback for communities scheme, which will seize the proceeds of crime and put them to positive use. On our prisons, we know that simply trying to build our way out of overcrowding will not work. So, although one of our first actions was to invest in two new publicly run prisons at Bishopbriggs and in the Peterhead area, the Government is also looking to the McLeish commission for valuable advice on strong alternatives to custody.

For a greener Scotland, support for renewable energy is the cornerstone of our climate change policy. We are committed to an 80 per cent reduction in greenhouse gases by 2050—the most ambitious target of any country in the world.

George Foulkes (Lothians) (Lab): On a point of order, Presiding Officer.

The Presiding Officer: Not during a statement, Lord Foulkes.

The First Minister: We have launched public consultations on the forthcoming climate change bill and on flood risk management. In addition, through the greener Scotland campaign we are working hard to encourage our people to embrace sustainable lifestyles.

Those are the steps that we are taking to deliver our programme in government. However, as we are all aware, Governments and people must respond to immediate and unforeseen challenges, so all of us should remember the courageous response of our people and our emergency services to the attacks on Glasgow airport. We should also welcome the resolve of people and

businesses in the face of the recent disruption at the Grangemouth refinery. Furthermore, we should remember that it was this Government that stood up for Scotland's farming communities during the foot-and-mouth disease outbreak. On each occasion, the Government has shown itself to be ready and willing to co-operate with Westminster to meet the challenges that we have faced as a country.

Last year, I said that we had as our guiding star the long-term Scottish national interest. That will continue to be my and the Government's priority as we move the country forward. We will deliver on our legislative programme and the undertakings that we have made to the people of Scotland. We will take forward our manifesto and resist short-cuts or expedient offers that run contrary to it.

Government is not just about legislation or even about a constant blizzard of initiatives and announcements. It is about a positive tone and approach. *[Interruption.]*

The Presiding Officer: Order.

The First Minister: At the heart of the Government's approach is the new relationship with Scotland's local authorities, based around single outcome agreements that enshrine mutual respect and parity of esteem. Before the presentation of next year's legislative programme in September, let me outline key themes for the future. Ambition, innovation and openness are themes that reflect the approach of the Government thus far, and which will reflect it over the coming years and beyond.

The Government's ambition for Scotland is fundamental to our approach in government. That is why we are promoting a climate change bill, which will put Scotland at the forefront of global efforts to tackle climate change.

Further to that, because we understand the positive and unifying role that sport can play in society, we will make every effort to enhance sport in Scotland. Hosting the 2014 Commonwealth games is a great honour for Scotland, and represents recognition of our passion and ambition. We will ensure that the Glasgow games are the most successful Commonwealth games in history. I am pleased, therefore, to announce a new initiative to increase the potential of Scotland's best athletes and to enhance our culture of sporting success. With new support from the Scottish Further and Higher Education Funding Council, the University of Stirling will become Scotland's university for sporting excellence. *[Applause.]*

The Presiding Officer: Order. That is enough.

The First Minister: The University of Stirling will act as the hub of a national network of universities and colleges that provide training and support for Scotland's best athletes.

The Government's ambition for Scotland is well known—it is for the country to take on full responsibility for our destiny, which will allow our people, our economy and our society to flourish. I am therefore delighted to confirm that the Government will press ahead with the national conversation on Scotland's future and thereafter with a bill to provide for a referendum in 2010 on Scottish independence, just as we have always planned. We look forward to the support of the Parliament—particularly that of Duncan McNeil—when we lodge our bill for a referendum in 2010.

To promote innovation, the Government has cut taxes for Scotland's small firms. We will continue to roll out the small business bonus scheme. Following our announcement last month of the £10 million saltire prize, I am delighted to inform Parliament of our decision to direct the annual £2 million saltire innovation fund to Scotland's key sectors of comparative advantage in order to stimulate innovation by our businesses, universities and colleges. The fund's academic strand will take its lead from the outstanding success of the enterprise competition that the Massachusetts Institute of Technology runs, and the business strand will support our economic strategy by encouraging innovation and knowledge transfer in key sectors.

I turn to openness in our Government, in our Parliament and in our public debate on Scotland's future. We have seen what Parliament and Government can do when they work openly and constructively together in the Scottish national interest, so I am pleased to inform Parliament of new reforms to enhance further the Scottish Government's openness and accountability. The Scottish Government will begin a pilot scheme in the environment portfolio that will substantially and proactively increase public access to information. Later this month, the Government will launch Scotland performs—a new framework for public accountability that is based on the successful model in the American state of Virginia, and which will focus on the national purpose and outcomes that are the core of our national performance framework. *[Interruption.]*

The Presiding Officer: Order. There is too much muttering around the chamber.

The First Minister: The Government has an important role in delivering the national outcomes and in shaping a unified partnership with businesses, trade unions, local government, the third sector and our other civic institutions. Tracking of our progress on key indicators—on the economy, health, education, justice and the

environment—with the best available information will allow our people to see at all times whether Scotland's social partnership is bringing real improvements to our quality of life, and to consider whether we can do even more as a country. That change is about reconnecting with the people, putting the citizen first and remembering that government belongs not to the politicians but to the people of Scotland.

A year ago, I pledged to work wholly and exclusively in the Scottish national interest. That is what the Government has done and what we shall continue to do.

The Presiding Officer: As I intimated, the First Minister will now take questions on issues that his statement has raised. I intend to allow about 30 minutes for questions, after which we will move on to the next item of business.

Ms Wendy Alexander (Paisley North) (Lab): I echo the First Minister's good wishes for Rangers in tonight's UEFA cup final.

The First Minister's statement continues the self-congratulation that we have come to expect. Let us be honest—for all the talk of non-stop activity, only two new pieces of policy legislation have been introduced in 12 months. On today's evidence, the approach of style over substance will continue. What the Government offers is not just lightweight; it is positively flyweight. Not only will there be no early referendum bill, but precious little else is new today.

Can the First Minister tell us what is genuinely new in his statement, beyond stealing a Labour idea for our athletes, telling us how the saltire fund will be spent and mentioning an information pilot? Even the Government's spin machine suggested this morning that there would be an announcement on the long-promised measures to tackle the scourge of alcohol abuse in Scotland. We would have been happy to work with the Government on such measures. Where are they?

Overall, the First Minister's statement is more interesting for what is not in it than for what is in it. It talks about moving "quickly to implement" the Government's programme. Perhaps, now that we are one year on, the First Minister could provide Parliament with a timetable for the manifesto commitments to dump student debt, to cut class sizes to 18, to provide a nursery teacher for every child, for free year-round access to council swimming pools, for £2,000 grants for first time home buyers, for matching Labour's school building programme year for year, and for a Scottish futures trust. When?

The First Minister: I remind Wendy Alexander that, under parliamentary procedure, the legislative programme for the year will be introduced in September. As she is aware, we are

currently going through a programme of 11 pieces of legislation that have been proposed for this year. I remind her of the three pieces of legislation that have already been enacted: the Abolition of Bridge Tolls (Scotland) Act 2008, which Labour was formerly against but voted for; the Budget (Scotland) Act 2008, which Labour said it was against, but on which it abstained in the vote; and the Graduate Endowment Abolition (Scotland) Act 2008, which Labour and the Conservatives opposed root and branch, although our historic concordat with the Liberal Democrats and the Greens successfully piloted it through the Parliament. The other eight bills are going through the procedures of the Parliament, and in September, we will announce next year's legislative programme.

I do not mind Wendy Alexander's not wanting to talk about the council tax freeze, the abolition of bridge tolls, saving the hospitals in Ayr and Monklands, or about any other of our blizzard of announcements and measures. Recently, Wendy Alexander has accused the Government of populism. Yes—the Government is popular. That is because we have taken those measures in the best interests of the Scottish people.

Of course, we will proceed with implementing our programme over the four years of this session of Parliament. Wendy Alexander will forgive me if we are not tempted by short-term offers that change day by day, hour by hour and minute by minute.

One of our great national newspapers described Wendy Alexander as the Olga Korbut of Scottish politics, thanks to her political gymnastics. It was actually Nadia Comaneci who got the perfect 10, although she let the judges award it rather than award it to herself.

The Labour Party in Scotland has more in common with Ronnie Corbett than Olga Korbut: far from excelling on the parallel bars, it is in a parallel universe.

Annabel Goldie (West of Scotland) (Con): I, too, congratulate Rangers, which is the second Scottish football club to reach the UEFA cup final in the past five years. We wish Walter Smith and the entire Rangers squad all the best in Manchester tonight.

I thank the First Minister for the advance copy of his statement; there are, of course, measures in it that I welcome. Labour's referendum mess of the past 10 days has meant that the primary purpose of the Parliament and the real role of the Opposition, which is to hold Government to account, have been completely hijacked by a debate, which although it is important, must not be allowed to obscure the reason why we are here.

This week, we have seen Labour make a series of spectacular U-turns, but sometimes U-turns can be positive, so I had hoped to hear some from the First Minister. Why is there no U-turn on the extension of home detention curfews? Why does the SNP's policy remain one of emptying our jails rather than keeping prisoners in them?

Why is there no U-turn on the SNP's unremitting hostility to the private sector's valuable role in delivering our public services? Why is there no U-turn on the SNP's refusal to mutualise Scottish Water, which would free up £200 million of taxpayers' money every year?

Even worse, why is there no U-turn on the SNP's prejudice against housing stock transfer and the First Minister's refusal to collect more than £2 billion from Westminster to write off all Scotland's council housing debt?

I look forward to answers to those questions, and to confirmation that a draft national drug strategy for Scotland will be published by the end of May, as promised.

The First Minister: Let me take three of Annabel Goldie's points. As she will remember, the Scottish Government is moving forward with three new prisons. Two of those were, until this Government took office, what we might describe as being in abeyance, given that no key decisions had been taken. Those decisions have now been made and the building of the prisons is going ahead. Those prisons will be run in the public sector. Most people in Scotland think that that is the right way to run our prison service. I make that point because we recognise that we cannot, as has been pointed out, build our way out of the overcrowding problems in Scottish prisons—hence the establishment of the McLeish commission to consider strong alternatives to custodial sentences. However, it has emerged in debates that in 17 years in Government, the Conservative party did not build a single prison in Scotland, as Annabel Goldie may remember. Therefore, she comes late in the day with arguments about prison capacity in Scotland.

On housing, I am sure that Annabel Goldie and the Conservative party do not want to override the democratic wishes of people in Scotland as expressed in referenda. As she will know, people have voted on housing in a number of areas. I am rather attached to the democratic wishes of the Scottish people in referenda, so I hope that she does not mean to set a precedent. She should also acknowledge that the 19 per cent increase in the social housing budget in the comprehensive spending review will enable us to meet our targets on expanding the housing stock. Already, dozens—perhaps even hundreds—more houses are being built in Scotland, compared to the total

of six council houses that Scottish local authorities built in the years of Labour Government.

Margaret Curran (Glasgow Baillieston) (Lab): You are shameless.

The Presiding Officer: Order, Ms Curran.

The First Minister: On Annabel Goldie's question on drugs, I can confirm that we are moving ahead on the agenda and timetable that has been discussed with her. That is an excellent example of a minority Government in a balanced Parliament working constructively. In the debates on the comprehensive spending review, the budget and, indeed, the abolition of the graduate endowment, most parties in Parliament that have put forward a case and combined with the Government have achieved at least some of their policy objectives. I think that that is right and reasonable and that it is a constructive way for members to consider issues.

On the scourge of drugs, as I have said many times not just to Annabel Goldie but to all parties in Parliament, the Government is willing and anxious to work together with people so that Scotland can see some light at the end of the tunnel in respect of that enduring problem.

Nicol Stephen (Aberdeen South) (LD): As an Aberdeen supporter—and on the 25th anniversary of my team's success in Gothenburg—I wish the Rangers team and fans all the very best for an historic victory tonight.

The thing that people remember most about the first year of the SNP Government is its broken promises: on students, on housing, on class sizes, on school buildings, on university funding—the list goes on. Today, that list gets bigger still. The promise of two hours of physical education each week has been broken and contradicted. The SNP used to say that the provision would be guaranteed with specialist teachers; now it says that walking to school will count. Is that not the sort of policy gymnastics that we have come to expect from Alex Salmond?

Not everyone is as generous as I am in their assessment of the SNP Government. Yesterday's *Financial Times* described the SNP Government's first year as

"doing nothing very much at all".

It went on to talk about

"smugly self-confident politics ... without a hint of modesty".

Does the First Minister expect to keep those elements in the same balance for the forthcoming year? His thin, vacuous statement suggests that he does.

The *Financial Times* also reported that the price of oil is now \$120 per barrel. With that backdrop,

why has there been such an incredible delay on the Government's energy strategy? Last May, the SNP said that a strategy was important. In September, we were promised a statement by the end of this year. By February, that had been downgraded to an overview that would be placed on the website. Will we ever really see it?

The First Minister talked about heightened ambition. This weekend he also told a Sunday newspaper that quite a lot of the time he feels quite a lot like King James V. In the same interview, he wobbled on independence and said that he did not favour separation at all; in fact, he said that he preferred a

"social union ... under one monarch".

What on earth does that mean? Does he see a role for himself in the position of sole monarch?

The First Minister: As Nicol Stephen knows, we will reintroduce Scottish history into Scottish education, which the Liberal Democrats and the Labour Party did not manage to do during eight years in government. I will give the member a starter for 10. For the best part of 100 years, Scotland and England were independent countries sharing the same monarch. Given that the Queen is Queen of another 15 countries around the globe, I should have thought that the concept of countries sharing the same monarch would be clear and easily understandable even for the Liberal Democrats. The member quotes selectively from the *Financial Times*, but in Scotland the verdict on the Government's first year in office is being passed in a series of opinion polls in many newspapers. Those polls seem to indicate that the people of Scotland are content with our performance, even if we have not met the high standards of Nicol Stephen.

I confirm that walking to school does not count towards the two hours of PE that children are to have each week—I hope that I have put Nicol Stephen's mind at rest. As the Government moves into its second year of achievement, I encourage him with a reminder of the one glint of reason and enlightenment that we have seen from the Liberal Democrats over the past year, when they united with us to restore the historic principle of free education in Scotland. If Nicol Stephen chose to employ that tactic, who knows what our achievements could be over the next three years?

The Presiding Officer: We come to back-bench questions. We have far more questioners than we are likely to be able to fit in in the time available, so brief questions and answers would be greatly valued.

Alasdair Allan (Western Isles) (SNP): The First Minister mentioned the international links that Scotland is building in North America and elsewhere. Will the Government continue to build

on those links in order further to disprove the remarks that were made on Radio Scotland a week ago by former Labour minister Sam Galbraith, who said that, but for the guiding hand of Westminster, Scotland would be “an insignificant little country”?

The First Minister: I prefer the verdict of *National Geographic* on the saltire prize for innovation, the world’s largest innovation prize for marine renewables. It described the prize as a brilliant example of how a small country can make a big impact on a global challenge. With due respect to ex-minister Sam Galbraith, I prefer *National Geographic*’s assessment to his. He always was a dismal character and I am sorry that in his retirement he is becoming more dismal still.

Iain Gray (East Lothian) (Lab): The First Minister made a couple of passing references to energy efficiency in his statement but none in his answer to Mr Stephen’s question. At no time did he explain how a year of saying no to nuclear, no to wind and “not really” to microgeneration is moving Scotland forward in any sense. A year ago, on 4 June, the Minister for Enterprise, Energy and Tourism promised an energy strategy for Scotland “in coming months”. His MEP colleague Alyn Smith has now written to him to complain that projects the length and breadth of Scotland are floundering because of the lack of a national framework. Eleven months have passed. How many more months will it be before we have a coherent energy strategy?

The First Minister: I know that Iain Gray was not in the Parliament in the previous session—

Jackie Baillie (Dumbarton) (Lab): Neither were you.

The First Minister: But I paid close attention to what was going on.

I remind Iain Gray that we have made 11 determinations on major electricity generation projects. The average over the previous four years of Liberal Democrat-Labour coalition was four. I should have thought that Iain Gray would welcome the trebling of the number of approvals of energy projects in Scotland over the past year. I hope that he will also welcome the fact that within the next few months we will reach 3GW of renewable capacity in Scotland.

I hoped that Iain Gray would mention the saltire prize, given the nice things that *National Geographic* said about the level and scale of our ambition. Further, in terms of what is bearing down on consumers and companies across Scotland at the present moment, perhaps Iain Gray will look closely at an initiative that the Scottish National Party first introduced during the passage of the Finance Bill in Westminster in 2005: the idea of a fuel price regulator to modulate the horrendous

increases in energy costs that are causing great difficulty for families and businesses across Scotland. In 2005, that initiative was supported by the Ulster Unionist Party, the Democratic Unionist Party, the Social Democratic and Labour Party, Plaid Cymru and the SNP. However, the three main unionist parties combined to vote it down. Perhaps Iain Gray will reconsider whether the introduction of a fuel price regulator might well be a productive and positive step for the Westminster Government to take.

Christine Grahame (South of Scotland) (SNP): On the issue of reconnecting with the people, with particular reference to the health service, I am mindful of Coldstream and Jedburgh cottage hospitals, which, in the face of fierce local opposition, were closed by a board full of anonymous people. Against that background, when does the First Minister intend to press ahead with the local health care bill that is set to democratise health boards and make them more responsive and responsible to their constituents?

The First Minister: That bill will be introduced before the summer recess and will be a valuable part of ensuring that the national health service is the people’s health service. Over the past year, the Government has shown—by the decisions that it has made about the Monklands and Ayr hospitals and about children’s cancer services—that, when the evidence is there, we are prepared to resist the centralisation process that was part and parcel of the previous Administration’s approach and which leads to such a collapse in confidence when it is applied in certain areas of the NHS.

I welcome the fact that the bill will be introduced and I am sure that Christine Grahame will have many constructive things to say during its progress.

Rhona Brankin (Midlothian) (Lab): Even from somebody with the nickname that Alex Salmond has, the smarter Scotland section of the speech was remarkably short on detail and concrete achievements.

For example, the early years framework was launched just as the SNP was withdrawing nursery places from vulnerable two-year-olds, closing nurseries and denying families with disabled children £34 million for respite care. Further, the supposed record funding for universities and colleges will come as a surprise to principals, who are cutting teaching jobs as a direct result of the First Minister’s Government’s spending review. Let us be clear today—

The Presiding Officer: Question, please.

Rhona Brankin: The First Minister has performed a spectacular U-turn—[Laughter.]

The Presiding Officer: Order.

Rhona Brankin: He has performed a spectacular U-turn on the position that he set out in this chamber on 6 September. He said that class sizes would be cut to 18 and that those cuts would be delivered by the end of this parliamentary session.

The Presiding Officer: I must press you for a question.

Rhona Brankin: We know that cuts in class sizes will not be delivered. Two thirds of the councils have said that they are not going to be able to deliver those cuts.

The Presiding Officer: Question, please.

Rhona Brankin: Can I ask the First Minister—poor old Maureen Watt—

Members: Question!

Rhona Brankin: Last night on the radio, Maureen Watt said that walking to school would count. What is the Government's position? The First Minister has not answered that question. He said that two hours of quality PE counts.

The Presiding Officer: Very briefly, please, Ms Brankin.

Rhona Brankin: Is Maureen Watt incorrect, and could the First Minister confirm that he has ditched his commitment to deliver smaller class sizes in primaries 1 to 3 in this parliamentary session? Yes or no?

The First Minister: We took a long time to get there. Mention of U-turns of any kind should be proscribed in Labour members' interventions for the course of this parliamentary session.

I do not understand Rhona Brankin's inability to see the substantial increase in hours of nursery provision that has already been delivered this year and which will move towards a 50 per cent increase over the course of this parliamentary session. I would like the increase to be even bigger, but the fact that she thinks that a 50 per cent increase is inadequate shows the extent of the failure and ineptitude that we had to build on. What does that say about her party and her time in Government?

Murdo Fraser (Mid Scotland and Fife) (Con): There were two points of interest in the First Minister's speech. First he talked about the importance of this Parliament, then he said that his Government would press ahead with its so-called national conversation. When will the First Minister bring his national conversation to this parliamentary chamber, or is he feart?

The First Minister: In early 2010 we will bring referendum legislation to the Parliament, with a

view to enacting it and to people in Scotland voting in 2010.

Whatever differences Murdo Fraser and I may have across a range of issues—on just about every issue, now that I come to think about it—if nothing else, the past 10 days have shown that even people who were entrenched opponents of the idea of Scottish self-determination, of people having the right to decide their own future, can sometimes see the light. Whatever the Labour Party's position now is, the past 10 days have demonstrated that there is no such thing as a lost soul in Scottish politics. I exclusively reveal that I do not regard even Murdo Fraser as a lost soul. He will come round to the idea of the people of Scotland having the right to determine their own future.

Tavish Scott (Shetland) (LD): This morning at a cross-party meeting, the chief economist of Lloyds TSB stated that the Scottish economy was slowing and that the SNP's target of matching the UK's growth rate target would be achieved as the UK economy contracts. Given the First Minister's typically ebullient statement, will he take credit for that?

That meeting also heard about Scotland's relatively poor business start-up rate. Does the First Minister agree that the number of new Scottish businesses that are profitable, successful and still in existence in three years' time will be central to improving our growth rate? Given that the swingeing cuts to Scottish Enterprise and Highlands and Islands Enterprise mean that responsibility for business start-ups now rests with local authorities under the business gateway—a move that business has profound concerns about—can he explain why it is that those arrangements are still not in place in the Highlands and Islands and what impact he expects that to have on growth in that area?

The First Minister: I am sure that, as convener of a parliamentary committee, Tavish Scott will have paid close attention to the poll of business opinion in *The Scotsman* newspaper, which showed that the business community gave this Government's performance a 3:1 approval rating.

Let us be absolutely clear: no country in the western world, and certainly not Scotland, is insulated from the impact of a global financial crisis and credit crunch. However, today's unemployment figures show that employment in Scotland is higher than it is in the UK and unemployment is lower. Retail sales and the housing market are holding up better in Scotland than they are in England. The number of bankruptcies in Scotland is lower than it is in England and our manufacturing exports are increasing at a faster rate. In addition, for the first time in a generation, we have had two consecutive

quarters in which our economic growth has been above that of the UK.

In no sense does that mean that Scotland is immune from worldwide financial trends, but it means that a number of this Government's policies—notably, the small business bonus—have been of enormous help to the small companies sector in these difficult times. I am sure that at some point in the remaining three years of the parliamentary session, Tavish Scott will compliment that excellent scheme, which many businesses in Shetland think is the best thing since sliced bread.

Margaret Curran: The First Minister might be aware of a particularly grievous constituency case that I am dealing with, which relates to the ambulance service. In the interests of the family concerned, I hope that he will appreciate the substance of my question.

All over Scotland and especially in Glasgow, which has the highest rate—39 per cent—of category A calls, there is significant evidence of a lack of appropriate cover because of budget constraints. Can the First Minister confirm that there are fewer ambulances on the streets of Scotland than there were last year? What is he going to do about it?

The First Minister: There has been an increase in the number of emergency vehicles in Scotland.

As regards the constituency case to which the member refers, I would be quite prepared to meet her, or to arrange for the Deputy First Minister to meet her, to pursue her concerns.

Aileen Campbell (South of Scotland) (SNP): The First Minister will be aware of reports about the shameful legacy that the Government has inherited over a range of social indicators, particularly on the welfare of children. How will the Government's programme tackle the scandal whereby one child in four lives in poverty? Is it not correct that Scotland's Parliament and Government need all the powers of an independent country to introduce the massive social reforms that successive UK Governments have failed to deliver on?

The First Minister: We are committed to addressing the targets and indicators on child poverty and are consulting on our anti-poverty strategy. Some of our key policies, particularly the stress on early intervention and the free school meals pilot, drive directly at the poverty indicators, especially those that relate to children.

However, I make it clear that we are talking about an area that, overwhelmingly, is under the governance of the UK Government. Many people are concerned about key social indicators such as child poverty or, for that matter, about weapons of

mass destruction in Scotland and whether Scottish soldiers should be sent to fight in illegal wars. As those people indicate and consider their own priorities while we pursue the national conversation on Scotland's future, one of the things that will decide the issue is the growing realisation among them that this Parliament needs the powers of an independent and equal country.

Sarah Boyack (Edinburgh Central) (Lab): In a month during which we have seen the devastation caused by extreme weather, tough action on climate change is vital. Will the First Minister accept that it is not enough to talk green and that he must act to deliver reductions in greenhouse gases urgently?

The First Minister said that renewable energy is the cornerstone of his climate change policy. When will the Scottish National Party implement its manifesto commitment for renewable generation in every school? When will the Government act to create a mass market for household renewable energy? As yesterday's Energy Saving Trust report highlighted, grants are not enough and we need a scheme whereby householders receive a rebate on their council tax or local tax bill. There is support across the Parliament for such action, so will the First Minister act now?

The First Minister: Sarah Boyack, who has a long interest in this issue, which I share, will have welcomed the substantial increase in funding for microgeneration in the comprehensive spending review. Perhaps that is why the Labour Party decided to abstain rather than vote against the CSR—who knows? I am sure that she realises that that is in the budget line and that we hope to roll out that programme.

I have just been passed that quotation from the *Financial Times*. According to the second part of the quotation, the SNP Government has left its opponents "in abject disarray." I am sure that the Liberal Democrats did not want to mislead the Parliament.

Robin Harper (Lothians) (Green): A climate change bill will be welcome, but a year after the Government came to office we have yet to hear any detail about how the ambitious targets will be achieved. What contribution will come from housing, from transport, from energy and from the SNP's so-called sustainable economic policy? When will the First Minister publish a clear and specific programme of action that sets out not just the direction of travel and the destination, but the steps on the journey to a low-carbon economy?

The First Minister: As Robin Harper knows, we have set targets for the renewable generation of electricity in Scotland. We are well on course to meet those targets, which are hugely ambitious

and involve 50 per cent of Scotland's capacity—in terms of our usage of electricity—being generated by renewable sources by 2020. I agree with them. The European Union's current heating and transport targets are two other aspects that we must consider, which is why we are introducing a climate change bill. I know that Robin Harper's close examination of the bill as it goes through the legislative process will augment its value and importance and add to a shared experience whereby I hope that the Parliament will proudly declare that we have the most ambitious target in the world and a bill and enabling legislation that will allow us to meet it.

Margo MacDonald (Lothians) (Ind): When does the First Minister plan to introduce a programme of education and information on the choices that will be implicit and explicit in the referendum bill? I hope that he agrees that it is not enough to rely on the Scottish conversations. For example, the requirement for benefits to march hand in hand with taxation, to which Aileen Campbell referred, is not understood by most people in Scotland. The Parliament has a duty to ensure that people understand all the implications of all the constitutional choices that are open to them.

The First Minister: As Margo MacDonald knows, the white paper, "Choosing Scotland's Future: A National Conversation: Independence and Responsibility in the Modern World" set out in substantial detail—more detail than has ever been provided before—not just the constitutional option of independence, which we support, but constitutional options that other parties might or might not support. Other parties might find that discussion valuable and insightful as they formulate their policies—who knows?

In phase 2 of the national conversation, which was launched in late March, we specifically moved to a phase of consultation and a conversation with the great institutions and the voluntary sector in Scotland. We are rolling out sectoral conversations with people in the voluntary sector, as they find that their issues are related to the constitutional question and the powers of this Parliament to achieve their ambitions. Relating the constitutional ambitions of the Parliament, and of the parties, to the practical, day-to-day requirements of the Scottish people and our great institutions, will lead to the conclusion that this Parliament needs the powers of an independent parliament if it is truly to serve the Scottish people.

George Foulkes: On a point of order, Presiding Officer. As you will know from a point that I raised previously, I welcome statements to this Parliament. Statements—especially statements from the First Minister—enhance the role of the

Parliament. I think that he will agree with me on that point.

As I understand it, Presiding Officer, all statements have to be agreed by you. I would be grateful if you would explain to the Parliament what arguments were put to you by the First Minister or his office for today's statement, "Moving Scotland Forward", and if you would explain the basis on which you were asked to agree to the statement.

Unlike members of the SNP, I have listened very carefully to every word of the statement. It contained absolutely nothing new; it was a reiteration of points made many times before. The one new point was taken from the Labour manifesto. The statement was interspersed—and this is a serious point—with usually disgraceful, personal abuse from the First Minister, and with continued criticism of the United Kingdom Government. Unlike the statement made in the House of Commons today, which contained many significant legislative proposals—most of which apply to Scotland—the statement made in this Parliament contained absolutely nothing substantial. The statement was an insult to the Parliament and I hope that you will not allow that kind of statement again.

The Presiding Officer: That was not a point of order for me, Lord Foulkes. My only role in agreeing the statement was in chairing the Parliamentary Bureau meeting that agreed to allow the statement to be made. It is not my role to edit the statement in any way.

That brings us to the end of questions on the statement. We have eaten into the time allowed for the next debate, which was already tight. I apologise to the four members whom I was unable to call to ask questions.

Judiciary and Courts (Scotland) Bill: Stage 1

The Presiding Officer (Alex Fergusson): The next item of business is a debate on motion S3M-1717, in the name of Kenny MacAskill, on the Judiciary and Courts (Scotland) Bill.

15:22

The Cabinet Secretary for Justice (Kenny MacAskill): I begin by acknowledging the considerable work of the Justice Committee, and of the Finance Committee and the Subordinate Legislation Committee, in preparing the stage 1 report on the Judiciary and Courts (Scotland) Bill. I also thank the Lord President, his judicial colleagues and the individuals and organisations who gave oral and written evidence. I do not underestimate the work involved in preparing such evidence, and I am sure that all members will wish to acknowledge that contribution. I am also grateful to the members of the judiciary and others who worked with my officials in the lead-up to the bill's introduction, to ensure that it offered a comprehensive and measured package of reform.

The Justice Committee's stage 1 report is considered and balanced. I am grateful to the committee for its detailed and careful attention to the issues, for the constructive tone of the report and for the committee's agreement to the general principles of the bill. I wrote to Bill Aitken on 8 May to place on record my response to the report. I shall not repeat all that I said in that letter, but I should like to say something about the main issues.

First, however, I will set out the context of the bill. The bill is an important constitutional measure. It is timely and significant that this Parliament is considering the relationship between the judiciary and the legislative and executive arms of Scottish government. I firmly believe that the reforms in the bill will strengthen those relationships and bring about improvements for all who come into contact with our courts. I am sure that we can all agree that a strong, independent judiciary, with the capacity and flexibility to meet the challenges and expectations of modern Scotland, is something that we want.

Our justice system is built on traditional values of integrity and fairness, and it has stood the tests of time. However, society has changed. Parliamentary scrutiny has increased, and so have public expectations. We need a modern justice system that has the capacity and flexibility to respond to those changes, while retaining the strong values on which its reputation has been built. The present Government and the previous Administration consulted extensively on the

proposed reforms. Work was started by the previous Administration, with a consultation paper in February 2006. A white paper followed a year later. Twelve months on, we have built on that preparatory work. We worked with the judiciary and key interests and benefited enormously from their involvement as we developed the detailed proposals. The package of reforms that is before members will strengthen the judiciary as an institution and introduce practical reforms to improve the way in which the system operates.

The committee heard at first hand from many senior members of the judiciary, including the Lord President. I am keen to learn from the committee's report and I have said that I will lodge amendments at stage 2 to address the comments on whether the section on judicial independence is drawn too narrowly; on the appointment as temporary judges of Scots lawyers who have held high judicial office in Europe; and on the scrutiny of guidance for the Judicial Appointments Board for Scotland.

However, the debate is about the general principles of the bill, which, in the main, have received broad support. I welcome the committee's support for a scheme to deal with complaints about judicial conduct. To avoid any interference with judicial independence, the scheme will be under the control of the Lord President. I believe that the scheme will strengthen public confidence in the judiciary. There was only majority support in the committee for the proposal to have an independent reviewer form part of the scheme but, if that element were removed, I fear that we would lose public confidence. People who deal with authority figures need to be able to turn to someone independent.

I am also pleased that the committee supports our view that the balance of membership of the Judicial Appointments Board is right. I welcome the committee's conclusion that there is no reason to change the rule that the Lord President is not a compellable witness before the Parliament. The Lord President said in evidence that he would be willing to attend and assist Parliament when invited, which is an encouraging example of the co-operation that will make the proposed arrangements work.

Pauline McNeill (Glasgow Kelvin) (Lab): I, too, welcome the continuation of the principle that the Lord President is not a compellable witness. However, if control of the Scottish Court Service transfers to the judiciary, as suggested in the bill, will the civil servants who support the SCS be compellable witnesses, or will their status change?

Kenny MacAskill: It has already been made clear that the chief executive will be the accountable officer. They will be accountable and,

in the main, they would come to Parliament to answer the appropriate questions.

The committee has a concern about the administrative burden that the proposals may place on the judiciary. As a consequence, the committee members were not unanimous in their support for the new governance arrangements for the Scottish Court Service. The new arrangements will involve the service becoming a non-ministerial department within the Scottish Administration, managed by a governing body that will be chaired by the Lord President. We need the formality of an order under section 104 of the Scotland Act 1998 to achieve that status for the service, and the groundwork for that is in hand.

I understand the concerns that the additional responsibilities that will be conferred on the Lord President as head of the judiciary and as chair of the Scottish Court Service may overburden an already onerous office. However, care has been taken to ensure that the office of Lord President will not be overburdened. The Lord President will be able to delegate most of his new responsibilities, some of which, at least in part, he already carries out on a non-statutory basis. The sheriffs principal will continue to have the major task of running the sheriff courts and, in the new governance structure, the Lord President will be supported by the chief executive and the resources of the Scottish Court Service, including an enhanced private office.

It is fair to say that the Lord President, who welcomed the proposals, does not share the committee's concern about the scale of the administrative burden on him. He made it clear to the committee that he believes that his engagement in the governance of the Scottish Court Service is manageable and is a necessary part of his being head of the judiciary. I respect his judgment on that. I remind members that the creation of a judicially led court service was proposed specifically by the Lord President and his senior colleagues in response to the first consultation paper. They argued persuasively that, if they were to accept greater responsibilities for running the system, they should have control over the administrative support in carrying out those responsibilities. That is difficult to argue against.

It is right in principle to constitute the Scottish Court Service in the way proposed in the bill; the judiciary should have a leading role in the governance of the administrative service that it relies on to support its ability to dispense justice. It is right in particular that the Lord President, whom the bill charges with responsibility for the efficient disposal of business throughout Scotland's courts, should have a leadership role in the strategic management of the administrative service on which he relies for his ability to discharge that

responsibility. The current situation, in which the judiciary relies on ministers for its administrative support, is a constitutional muddle with the potential for tension and future conflict. For those reasons, I believe that the proposals in the bill are right.

However, I recognise the committee's concerns and I am able to tell members that I have commissioned Douglas Osler to carry out an independent assessment of the impact on judicial time of the additional administrative responsibilities. Mr Osler's report on the Scottish Court Service, which is referred to by the committee in the stage 1 report, considered aspects of judicial administration, and he is therefore well qualified to carry out such an assessment. He has been asked to report in time for stage 2.

I also want to touch on judicial training. Among his new responsibilities, the Lord President will be given overall responsibility for the training of the judiciary. The committee recommended that training of the judiciary should be mandatory. People see mandatory judicial training as the answer to a particular problem or issue—such issues will always arise. I can understand that, and I sympathise with those who feel that their case could have been dealt with differently by the court.

However, I am clear that judicial training must lie in the hands of the judiciary. That the training of judges is managed by judges is an important element of judicial independence. It is important that the Lord President should be free from legislative constraints to devise a training regime that takes account of the interests of all litigants. The Lord President said that he wishes it left to him to put in place appropriate arrangements, which could include arrangements that verged on compulsion—that sounds to me pretty close to being mandatory. There is nothing to suggest that sheriffs and judges are not prepared to undertake training. Scotland is already well served by a progressive Judicial Studies Committee, which will be available to advise the Lord President in his new statutory responsibilities.

The bill provides a strong, coherent structure for a modern judiciary and the effective management of Scotland's court system. We have an opportunity to modernise the third element of Scotland's government.

I move,

That the Parliament agrees to the general principles of the Judiciary and Courts (Scotland) Bill.

15:33

Bill Aitken (Glasgow) (Con): The bill started out in a somewhat different form under the previous Executive. Following a call for evidence

that resulted in 15 written submissions, the committee process included three evidence sessions. The witnesses were senior members of the judiciary, including the Lord President; the Sheriffs Association; the Law Society of Scotland; the Faculty of Advocates; the chairman of the Judicial Appointments Board for Scotland; representatives of the Scottish Court Service; and the Public and Commercial Services Union. We also had the benefit of evidence from Victim Support Scotland, Lord McCluskey and Professor Sir David Edward. The sessions concluded with evidence from the Cabinet Secretary for Justice.

The basic principle that differentiates a liberal democracy from a dictatorship is that of judicial independence. Although it is difficult to envisage circumstances pertaining in Scotland in which that principle would come under threat, the most valuable aspect of the bill is that it enshrines judicial independence within the legislative process and strengthens the common-law position. The committee view was unanimous in that regard, and although members had differing views about some of the issues that arose during our considerations, it was felt strongly that judicial independence is a vital component—indeed, a cornerstone—of the governance of any jurisdiction.

Having enshrined judicial independence, the bill moves on to consider the support services for and general administration of the courts. Basically, in future, the buck will stop with the Lord President, who will be responsible for the smooth running of business in Scotland's courts.

It is fair to say that the committee has some concerns about the time commitment that will be necessary for the Lord President to carry out administrative functions as opposed to judicial ones. A Lord President achieves that office as a result of considerable experience and judicial knowledge. That knowledge should be used as much as possible in a judicial function, presiding over civil and criminal appeals, and the committee had genuine concerns about the time commitment that the Lord President might find necessary for administrative functions, albeit that we acknowledged the power of delegation in the bill. I am pleased that the cabinet secretary has recognised those concerns, and we look forward to hearing the result of Douglas Osler's review.

The committee also expressed a view that the Scottish Land Court should be included in the bill. Again, the cabinet secretary concurs, and I note that he will legislate to that effect at a later stage, bearing in mind outstanding matters under other headings.

The Judicial Appointments Board for Scotland was discussed in some depth, and the evidence on it was particularly interesting. It is, of course,

necessary to place the board on a statutory footing, which is what the bill does. The previous system for judicial appointments was archaic, opaque and governed by the establishment. It had everything wrong with it—apart from the fact that it seemed to work.

Having said that, nobody seriously suggests other than that the Judicial Appointments Board is the way forward, although there were some concerns about its operation. No one suggests that it has done a bad job, but the committee has stressed that the assessment system must be as thorough as possible, and there has been some concern that decisions are taken on rather narrow grounds. Although it is clear that, in the course of any year, there will be a large number of applicants for a limited number of potential appointments, the Government and the Parliament must be assured that the assessment system is as thorough as possible. In particular, the committee recognised Lord Osborne's point that the board did not seem to seek information that would have been highly valuable—for example, information from people who have had first-hand dealings in a court set-up with individual applicants.

There was some discussion about the proposal for the number of lay members on the board to equal the number of judicial and legal members. The members of the judiciary who gave evidence were in favour of additional members being drawn from the courts—a view that Victim Support Scotland did not share. That argument may be revisited in time, but the committee took the unanimous view that lay contributions to the selection process were essential.

We also took evidence on diversity. The arguments on that were best encapsulated by Lord McCluskey, who stated that there was merit in the Government ensuring that more people acquired the skills necessary to be a judge. At the same time, he stressed that affirmative action has no place in the selection process. There can be no doubt that, as our society changes, there will be a greater number of applicants for judicial appointments from ethnic minorities, and I expect that those sections of our society will be represented on the bench, just as has happened with women. That is a good thing, but it is necessary to underline the committee's conclusion—which is based on all the evidence taken—that merit must be the criterion for selection. That is an absolute.

Scotland has been and is well served by its judiciary; problems have been virtually non-existent. Two sheriffs have been removed in living memory, and judicial conduct should not overly concern us. The bill sets up a transparent and fair system and, even though there were some reservations—and, indeed, objections from the

Sheriffs Association—the committee took the unanimous view that what is proposed in relation to judicial conduct is appropriate.

There were perhaps some different views on complaints. We all agreed that there has to be a complaints system and that the Lord President should have responsibility for putting in place such a system. It is my view that, although the public should have every opportunity to complain about judicial conduct—as distinct from judicial decisions, of course—we should not use a sledgehammer to crack a nut. I am perfectly prepared to leave the matter to the Lord President, and I would not be happy if some elaborate bureaucratic procedure involving a judicial complaints reviewer was set up. As Lord Osborne rightly said, if we cannot trust the Lord President, whom can we trust?

In some ways, the issue of the transfer of responsibility for the Scottish Court Service is related to the committee's concerns to which I referred earlier. In his letter to the committee of 8 May, Mr MacAskill made some effort to answer the committee's concerns. I am sure that individual members will consider their position before stage 2. However, there would be a degree of inconsistency were we to put the Lord President in charge of the courts but detach the administrative process. We all have to be satisfied that what is being proposed will, in the end, ensure the smooth running of the courts while maintaining the high standards and the high level of time commitment that judges are available to give. A process of delegation will no doubt be carried through, but we still require reassurance.

The committee was extremely well served by the witnesses who appeared before us. We are very grateful to so many people for their time and effort, which enabled us to produce what I think is a measured report. The committee is, as ever, grateful to the clerks, Douglas Wands, Anne Peat and Euan Donald, and to the administrative assistant, Christine Lambourne, for all their efforts.

The legislation has some way to go. It might not attract great public interest, but the committee is conscious that it is a vital piece of legislation. The decisions that are taken today and at stages 2 and 3 will form the way in which the Scottish judicial system operates for many years ahead. The committee is determined to get it right—we all appreciate the consequences of failing to do so. The committee is pleased, at this stage, to recommend that the general principles of the bill be agreed too.

15:42

Paul Martin (Glasgow Springburn) (Lab): On behalf of Labour members, I associate myself with

the remarks of the Justice Committee convener about our support staff. We were served well, and we received high-quality stage 1 evidence. This is a once-in-a-lifetime opportunity to improve how justice is delivered. The previous coalition Government considered the issue, and we now have the opportunity for the bill to proceed.

The bill proposes that the Scottish Court Service will no longer come under the authority of the Cabinet Secretary for Justice and that responsibility for it will be transferred to the Lord President, as the cabinet secretary said. The issue exercised the committee a great deal—both on the record and off the record. Labour members are not convinced that there is evidence to suggest that the status quo does not serve us well. I do not recall receiving great volumes of correspondence or inquiries from constituents raising concerns about how our court services are managed at the moment. We must examine further the proposal for such a change amid a lack of evidence proving that, given his current responsibilities, the Lord President will be able to accommodate the additional demands. There is a need for more objective, rather than subjective, evidence to be provided to make the case in respect of those demands.

We welcome the commitment that the cabinet secretary gave on the review. However, we would welcome the committee receiving further evidence, in some form, on the review's terms of reference, to ensure that the review is carried out objectively, deals with the principle of whether court services should be managed by the Lord President and addresses the issue of additional capacity, which exercised committee members on a number of occasions, both on the record and off the record.

Chapter 4 of the bill relates to judicial conduct and proposes the role of judicial complaints reviewer, which we support fully. I simply cannot agree with the Lord President, who said that there was no need for a complaints reviewer and cited the fact that complaints can be taken up further at the Court of Session. Surely we should take every opportunity to avoid the possibility of further legal action and welcome the prospect of having an independent complaints reviewer.

I welcomed the evidence that Lord McCluskey gave the Justice Committee. I respect Lord McCluskey, given his experience over the years, and found his contribution most informative and helpful. However, I do not agree with some of the points that he made in his evidence. For example, he suggested that a number of individuals simply would not be qualified to judge complaints about procedures. I can think of a number of highly respected individuals who have considered procedural issues over the years. We are well

served by ombudsmen, such as our current Scottish Public Services Ombudsman, and we should respect the roles that they carry out—we in the Labour Party have certainly done that. I see no reason why an independent system cannot be put in place to ensure that the public confidence to which the minister referred is embedded in the system.

Gavin Brown (Lothians) (Con): Under the bill, to whom does the independent judicial complaints reviewer report if they are unhappy with the result of their investigation? My understanding is that they simply report back to the Lord President.

Paul Martin: I confirm to the member that the Lord President will be consulted when the reviewer is appointed by the Cabinet Secretary for Justice. The issue is how to ensure that the procedures are carried out properly. The SPSO and other ombudsmen report back to the authority concerned. The system that we are discussing is designed to ensure that the individuals learn from the experience and take into consideration where procedures were not carried out properly. The judiciary has a genuine opportunity to show humility in accepting and learning from such a system to ensure that there is no recurrence.

Probably the most controversial recommendation in the committee's report was on the issue of mandatory training. We in the Labour Party support strongly the case for mandatory training. A public petition was submitted on the issue, relating it to cases in which there is evidence from children. Given that a great deal of sensitivity is required in such cases, it is simply unacceptable that no arrangements are in place to ensure that the judiciary has mandatory training in that area. We call on the cabinet secretary to reconsider his position, given the symbolic gesture that we would make in sending the clear message that we expect mandatory training to be put in place.

We welcome the bill and ask the cabinet secretary to take seriously the issues that the committee raised and the recommendations that it made in its stage 1 report. I look forward to stages 2 and 3.

15:48

John Lamont (Roxburgh and Berwickshire) (Con): I thank the Justice Committee for its work in connection with the bill and its preparation of the stage 1 report.

Democracy in any country can flourish only if its citizens have access to an independent judicial system—Scotland is no different. I am pleased to contribute to the debate, because I believe that the bill will solve some of the problems with the current judicial system.

The Scottish Conservative party—and, I am sure, everyone in the Parliament—welcomes any proposals that promote judicial independence, because it is of the utmost importance that the judiciary of Scotland remains independent. As we have heard from the convener of the Justice Committee, the principal issue surrounding the bill is judicial independence.

Historically, by ensuring that the pay of judges was not within the whim of the Crown and by providing security of tenure for holders of judicial office, a degree of judicial independence from the Government has always been provided. A number of other conventions within the common law have protected the independence of the judiciary. However, in more recent times, there has been a trend within the United Kingdom to provide statutory guarantees of judicial independence. The bill will continue that trend in Scotland by focusing on four main policy areas: judicial independence itself, the appointment process, the courts and the arrangements for the Scottish Court Service. I will briefly touch on each of those.

Part 1 of the bill sets out the requirements to guarantee that the judiciary remains independent. It will be the duty of the First Minister, the Lord Advocate, the Scottish ministers and any other persons who have responsibility for matters that pertain to the judiciary to uphold its independence. They should not try to influence judicial decisions. They are to support the judiciary and to have regard to its needs to carry out its functions efficiently.

Part 1 also provides a statutory guarantee of judicial independence. The Scottish Government concluded that

“a statutory statement underlining its commitment would be a powerful and obvious reminder of the constitutional significance of judicial independence.”

That is to be welcomed. The guarantee is much like the guarantees in section 3 of the Constitutional Reform Act 2005 and section 1 of the Justice (Northern Ireland) Act 2002 that ensured judicial independence for England, Wales and Northern Ireland.

Part 2 establishes the Lord President as the head of the Scottish judiciary, and places many responsibilities on him. Those responsibilities may be too much. We fear that they will slow down the judicial process for many cases, and will require the Lord President to dedicate much more of his time to administrative work. We therefore welcome the Cabinet Secretary for Justice's announcement that that will be looked into.

More important, part 2 sets out the model for the Judicial Appointments Board for Scotland. The board is another important way to ensure that the judicial bench remains independent, and the

convener of the Justice Committee has commented already that it is a vast improvement on the current system. The board is to be completely independent of the Scottish Executive, thereby ensuring that the judiciary will remain independent. I hope that the new selection process that the bill anticipates will be made more transparent, and that judges will be selected based solely on merit, taking into account interpersonal skills and whether they are of good character. That must be welcomed.

Part 2 also outlines provisions on the fitness of judges and on giving the public a means of voicing complaints of misconduct regarding the behaviour of judges and sheriffs. Although we agree that there is a need for a form of complaint, that may not be the best way to proceed. The general public might view the process in the bill as another appeal process, which it most certainly is not. The public should have the ability to complain and should easily be able to understand the complaints process and feel comfortable using it, but we share the Justice Committee convener's concern that we should not take a sledgehammer to crack a nut on that issue.

Part 3 places yet more responsibilities on the Lord President—responsibilities that have so far been within the remit of judges and sheriffs. Although increasing the efficiency of the court system is an important step towards judicial freedom, the increased burdens on the Lord President could detract from the speed with which some cases are dealt. Overall, however, streamlining the court system will make it easier for the public to access it and make the judiciary more independent.

The Scottish Court Service will become an entirely new body under the bill, and part 4 outlines how that will be achieved. The new SCS will be under the Scottish Administration, but it will not be part of the Scottish Government or under ministerial control, which will ensure the independence of the judiciary and should be welcomed. The new SCS will provide administrative support to the courts, the judiciary of those courts and other specified people. Its principal function will be running the court service in Scotland. However, we are concerned about such a dramatic shift of power. The switch will move all the authority away from the Scottish ministers and give it to the SCS. I urge the cabinet secretary to think carefully about such a move. Part 4 places yet more responsibilities on the Lord President.

In conclusion, the Judiciary and Courts (Scotland) Bill will ensure that the judiciary in Scotland remains independent. Independence within the judicial process is essential for a free and democratic society to operate. I and my party

welcome any proposal that furthers judicial independence, and we are happy to support the Government's motion.

15:54

Margaret Smith (Edinburgh West) (LD): Due to my recent illness, unfortunately I was absent from some of the Justice Committee's deliberations on the Judiciary and Courts (Scotland) Bill. I compliment my committee colleagues on the very good job that they have done and the excellent stage 1 report that they have produced.

The Lord President rightly said that the bill contains draft law of "considerable constitutional significance". Although we support the general principles of the bill, it is imperative that we continue to scrutinise it closely. I have reservations about some aspects of the bill, which I will try to outline in my two speeches—opening and closing. I know that members will be pleased about that.

I thank everyone who gave evidence on the bill to the Justice Committee. In particular, I thank the Lord President for his appearance before the committee. Members appreciated his attendance and were grateful for his unique perspective and contribution.

To a great extent, the bill builds on a series of reviews and consultations that were undertaken by the previous Administration. The Liberal Democrats welcome the fact that the Government is taking matters forward, and we welcome the package of reforms.

It is essential that people have confidence in the justice system. We need to modernise the organisation of the judiciary and ensure its continued independence. The separation of powers is a key principle of our system of governance, and it is fundamental to our constitutional arrangements and the idea of fairness under the law.

Judicial independence is already entrenched in the common law, but enshrining it in legislation will send a powerful message about its significance. Having listened to and read the evidence, I believe that, on balance, the statutory commitment is complementary rather than detrimental to the common law. That commitment is a key aspect of the bill, but it is not enough to cover comprehensively the range of ways in which individuals or Government might seek to influence the judiciary. It would be a matter of serious concern if new legislation in any way narrowed the scope of judicial independence, so I am pleased that the Cabinet Secretary for Justice has recognised that the commitment might be too

narrowly drawn and pledged to introduce amendments to address the issue at stage 2.

Most of the evidence supports the unification of the judiciary with the Lord President at its head. In general, we welcome the fact that the Lord President will be responsible for the efficient disposal of business in the Scottish courts; representing the Scottish judiciary to ministers and the Parliament; laying written representations before the Parliament in respect of the administration of justice; the welfare, training and guidance of judicial office-holders; and the establishment and conduct of a judicial complaints scheme. However, there is concern about that significant workload. We are all keen to ensure that the administrative burden that will be placed on the judiciary—and particularly on the Lord President—is fully appreciated and that the required support is put in place. I therefore welcome the fact that the cabinet secretary has ordered an urgent review of the likely commitment of judicial time that will arise from the bill. I am glad that he accepted the Justice Committee's recommendations in that respect and I look forward to the results of Douglas Osler's review. He is well placed to undertake the role, because he undertook one of the previous reviews.

One of the most important provisions in the bill is the setting up of a formal process for complaints against the judiciary, although, as we heard from the Justice Committee convener, the number of complaints in the past has been relatively low. It must be made clear to the public that the process will consider complaints about conduct and procedure, not complaints that relate to disagreements or disappointment about particular judicial decisions.

The bill proposes the creation of a judicial complaints reviewer. As we have heard, there has been some disagreement about that. However, there is merit in an external view being taken on how the judiciary handles complaints about itself, and I am sure that the public at large agree. The Lord President rejected the need for a reviewer on the ground that complainants can take their concerns to the Court of Session for judicial review, but the vast majority of people would be unlikely and financially unable to take that option.

The bill also proposes that responsibility for judicial training should pass to the Lord President. The chair of the Judicial Studies Committee, Lord Wheatley, has observed in previous annual reports of that body that insufficient training is offered, particularly to new judges, and the Sheriffs Association supports the view that training is inadequate. The Justice Committee considered the Mothers for Justice Campaign's petition on judicial training, which called for mandatory training for sheriffs who deal with child custody

cases. Representations on the issue have also been made by Victim Support Scotland and Scottish Women's Aid, which noted that it is important to provide adequate training for judicial professionals in order to provide the best possible support for vulnerable witnesses, and that input is required from relevant specialist organisations. I share the view expressed in the Justice Committee's report that confidence in the judiciary would be enhanced by mandatory training.

As Bill Aitken said, the Justice Committee also heard concerns about the functioning of the Judicial Appointments Board, regarding how it sources information about candidates and the length of time that it takes to make judicial appointments. The way in which judges are appointed must be entirely free from inappropriate influence, and be clear and transparent. I welcome the placing of the board on a statutory footing. I hope that the concerns that were raised with us will be considered and addressed.

It is important to have a balance on the board between representatives of the legal and judicial professions, and lay members. Sir Neil McIntosh, the chairman of the board, emphasised to the Justice Committee:

"The board's current composition is balanced and representative ... there is no question of any particular group—or of any member in any particular group—becoming dominant."—[*Official Report, Justice Committee*, 11 March 2008; c 621.]

Those of us who have been on the Justice Committee know that the different interest groups within the professions have powerful voices. I am convinced that the voice of ordinary citizens must be heard alongside them.

I accept that the effective administration of justice would be improved by having even closer links between the Scottish Court Service and the judiciary. I welcome the fact that the board of the Scottish Court Service will contain a combination of legal and judicial representatives, and lay people. However, it is fair to say that there were misgivings in committee about the proposal to set up the Scottish Court Service as a separate body corporate rather than maintain the present situation. I will return to that issue in my second speech, so I hope that members will look forward to it.

The Deputy Presiding Officer (Trish Godman): We now move to the open debate. Speeches will be a tight six minutes.

16:01

Stuart McMillan (West of Scotland) (SNP): I concur with earlier comments about the work of the Justice Committee clerks and their assistance during the evidence sessions on the bill.

I am grateful for the opportunity to speak in this stage 1 debate. While the bill covers many aspects of the current and prospective justice systems, I want to start with an issue that has been on all our minds over the past week: independence—however not the national question, but the independence of the judiciary, which has the potential to be contentious.

The recent World's End pub murder trial has been cited as evidence for having more extensive judicial independence. Indeed, the Law Society of Scotland and the Society of Solicitor Advocates have gone on record to state that they are in favour of more extensive judicial independence. It is widely acknowledged, too, that in order for our judiciary to gain a higher state of independence, an appropriate management structure must be put in place.

Part 1 of the bill deals with judicial independence. Its provisions will create for the first time in Scotland a statutory statement of judicial independence. While it is widely thought in court circles that there is—or should be—judicial independence, stating it in statutory form is surely more favourable than having an informal arrangement. In keeping with the fair and democratic practices to which we have become accustomed, courts should have as much judicial independence as possible. I am pleased, therefore, that the Lord President, Lord Hamilton, has stated that he strongly supports part 1.

The Justice Committee asked the Government in our stage 1 report to reassess whether the judicial independence section of the bill is too narrowly drawn. In his response, the cabinet secretary agreed to consider that and lodge an amendment at stage 2, which I am sure will be welcomed.

The bill addresses the responsibilities of various affiliated parties, including ministers, the Lord President and the Lord Advocate. The current situation places the Lord Advocate in a position of responsibility, alongside ministers, for the organisation of the supreme courts. However, it is not unreasonable for the Lord President to gain statutory responsibility for administrative activities in the current court structure, which the bill will implement—indeed, the Lord President and his colleagues currently undertake many of those activities. I concur with the view that those responsibilities should come under a statutory agreement, in order to create clear and official boundaries for all concerned in the running of the court services.

The Justice Committee raised concerns about committing more judicial time to administrative activities, therefore I welcome the cabinet secretary's decision to request an independent review by Douglas Osler of the measures that deal

with administrative activities. I look forward to reading the outcome of the review and to our making an informed decision on the issue at stage 2.

A further area of interest is the Justice Committee's recommendation that judicial training should be mandatory. There was debate about that, to which Paul Martin alluded. I am sure that the issue will be raised again in the debate. The Justice Committee's report is clear that the Lord President should have responsibility for making and maintaining training arrangements for judicial office-holders. The committee also recommended that such training should be mandatory, to improve confidence in the judiciary. The cabinet secretary's response to the committee's report says that all training should be up to the Lord President. I am sure that we will discuss that during stages 2 and 3.

My final point is about statistical data in the Scottish Court Service. I recently had an enlightening meeting with representatives of Children 1st, at which we discussed the lack of statistical data collected by the Scottish Court Service about children. I will lodge questions later today about that, so I do not expect an immediate reply. In this technological age, statistics are vital to inform future decisions. I am therefore sure that such evidence would enable the Scottish Court Service to plan with greater confidence.

I am pleased to support the bill.

16:05

Bill Butler (Glasgow Anniesland) (Lab): As the Justice Committee's deputy convener, I support the motion in the Cabinet Secretary for Justice's name. Like other committee members, I thank the clerking team and Scottish Parliament information centre staff for their sterling efforts to support our scrutiny of the bill.

I welcome the first piece of justice legislation from the Scottish National Party Government in this, the second year of its tenure. The bill's policy thrust is progressive and its principles are worthy of support throughout the chamber. Its introduction follows a programme of reviews and consultations that the previous Labour-led Executive initiated.

In the short time that is allotted to me, I shall mention a few of the bill's noteworthy provisions. The much wider range of administrative and organisational responsibilities that the bill will place on the Lord President has been discussed. I welcome the fact that, in his evidence, the Lord President stressed that his primary function will remain judicial, which is right and proper. However, the Justice Committee was correct to make clear its significant concerns about the administrative burden that could be placed on

judicial postholders and to seek independent quantifiable evidence about the impact of such changes on judicial time.

No one wants administrative pressures to diminish the judicial role. I am therefore pleased that Mr MacAskill has asked for an independent review under Douglas Osler. That is the type of listening approach that the Justice Committee would welcome in all its dealings with legislation that the SNP minority Government's ministerial team introduces.

I respect the view that the Lord President expressed in his evidence that a judicial complaints reviewer "is unnecessary". However, like the majority of Justice Committee members, I do not feel that establishing such a post will undermine confidence or trust in the judiciary. Rather, I agree with Victim Support Scotland, which said:

"There needs to be a vehicle to enable people to make complaints ... That is an expectation in today's business world, but it is not readily accessible in relation to the judiciary."—[*Official Report, Justice Committee*, 18 March 2008; c 656.]

Given that the reviewer will—correctly—concentrate on process and not on reviewing judgments, I see little to fear in having such a post and much to commend it.

In his letter of 8 May to the Justice Committee's convener, Mr MacAskill merely noted that support for the proposed role was not unanimous. I hope that that does not signal a weakening of the Government's position as expressed by Mr MacAskill on 25 March. After hearing him today, I do not think that it does. However, I hope that in his summation he will offer the committee crystal-clear comfort on that point.

It is unfortunate that I need to record my disappointment that, although the cabinet secretary acknowledges in the annex to his letter to Mr Aitken the Justice Committee's recommendation at paragraph 66 that on-going training of judicial office-holders should be mandatory, he says that it is

"a matter for the Lord President to determine whether judicial training should be compulsory and, if so, what topics should be covered by judges."

Mr MacAskill's timid approach is highly uncharacteristic and is, to be frank, unacceptable to Labour members. I ask him to think again about that aspect before stage 2.

The final aspect of the bill that I want to touch on is the judicially chaired Scottish Court Service. The cabinet secretary will be aware that there are still reservations about the removal of the Scottish Court Service from the direct authority of the Scottish ministers. My earnest hope is that those reservations will not prove to be insuperable.

There is merit in the cabinet secretary's observation to Mr Aitken that

"judicial independence is best protected by judicially-led governance of the courts' administration".

I hope that, even though the bill seeks to change SCS's status to a body corporate, Justice Committee members can be persuaded that paragraph 132 of the policy memorandum provides a sufficient safeguard, so that in the event of a

"serious failure by the SCS to carry out its functions the Scottish Ministers may by order made by statutory instrument provide for those functions to be carried out instead by them."

I believe that, in the jargon, that is called a default clause, and I hope that it provides sufficient comfort. I tend towards the view that it does, but we will listen to members as we proceed with stage 2 discussions.

Given that time is tight, and with those reflections on the bill, I commend its general principles to the chamber.

16:11

John Wilson (Central Scotland) (SNP): I welcome the opportunity to speak to the stage 1 report on the Judiciary and Courts (Scotland) Bill and the cabinet secretary's opening remarks. I acknowledge that one of the guiding principles of the bill is to enhance the independence of the judiciary, and independence is always a timely and worthwhile debating point.

Production of the stage 1 report was assisted by a significant number of witnesses who gave evidence to the Justice Committee. I welcome the opportunity to place on the record my appreciation of them, the support staff, the clerks, the Scottish Parliament information centre and other members of the committee for assisting me in considering the bill.

The independence of the judiciary is a principal consideration, and it dates back to the consultation paper "Strengthening Judicial Independence in a Modern Scotland", which was published in February 2006. The benefit of being a member of the Justice Committee is that the evidence-gathering process highlights a need to investigate matters that could fall below the radar. The bill introduces a degree of much-needed modernity to the administration of justice in Scotland. The old adage that justice must be seen to be done is important in introducing an element of glasnost into the system.

It is worth noting that the bill provides a statutory basis for the Judicial Appointments Board and details its principal functions. A transparent process for appointing judges will, I hope, ensure

that the public have confidence and that the system effectively dispenses justice on a daily basis. In evidence to the Justice Committee, there was support for modernising the current arrangements and replacing an essentially ad hoc arrangement, based on custom and practice, with one that places the Judicial Appointments Board on a statutory footing.

It should be noted that written and oral evidence to the committee presented several critiques of the Judicial Appointments Board that had been made over the years. The most notable critic in recent times was Professor Bonnington, who stated in the *Journal of the Law Society of Scotland* in May 2005 that some lawyers

“of less than average legal ability”

had been appointed to the bench. That might or might not be overstating the point, but it would be wrong to dismiss such opinions out of hand.

The Judicial Appointments Board is important, and its role in delivery will increase over the years. Judicial independence is highlighted in annex A to the stage 1 report. The Scottish Government's response stated:

“One of the avenues for securing the independence of individual judges relates to the method by which judges are selected.”

Another key aspect of the Justice Committee's deliberations was the governance of the Scottish Court Service. The backdrop is that, currently, the chief executive of the Scottish Court Service is responsible solely to ministers and the Parliament. The Osler review that the previous Administration established in June 2005 set in train a process of reviewing the governance of the courts and the future relationships among the Scottish Court Service, the judiciary and the Government. The step change that the Osler review proposed brings us up to date with the bill, which envisages that the SCS will have thirteen members and will be chaired by the Lord President. The bill also provides that the SCS will have responsibility for policy implementation and will be independent of the Scottish ministers. That said, the bill proposes that the SCS will operate according to a corporate plan that is agreed by ministers.

The Justice Committee had a vital discussion on wider accountability, particularly in respect of section 66(2). That point is also stated in paragraph 209 on page 35 of the stage 1 report. In questioning witnesses and reviewing the written evidence, my overriding aim was to ensure that, together with the enhanced independence of the judiciary and quasi-judicial bodies, the bill provides accountability. Some people might say that, in real terms, accountability will be diminished, because the bill will establish the Scottish Court Service as a body corporate headed by the Lord President. It

is worth noting that the Lord President is not compelled to give evidence to the Parliament, given his legal standing under the Scotland Act 1998. Equally, the present arrangements for the Scottish Court Service are not satisfactory. As stated in paragraph 209, some members remain to be convinced on the issue.

The Justice Committee's report has highlighted the need to consider other issues relating to the judiciary, including my point about accountability. The committee has been up front and centre about the need for a mandatory requirement for the judiciary to undertake training, as other members have pointed out. Another issue is the need to ensure that the bill stands the test of time. The resulting act must ensure that the role that the current Lord President—Lord Hamilton—sees for himself can be applied to future Lord Presidents.

I commend the Justice Committee's stage 1 report and I look forward to examining the bill further as it proceeds through Parliament.

16:17

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): As other members have reminded us, the Judiciary and Courts (Scotland) Bill is the first piece of legislation that the Justice Committee has considered in this the third session of the Scottish Parliament. Like other members, I thank all those who were involved in giving evidence to the committee and in supporting committee members in their deliberations. The bill has not generated controversy, but the committee felt that it raises several issues that are important enough to merit detailed scrutiny and to draw to members' attention. As time is limited and as it is impossible to touch on every aspect of the bill, I will limit myself to highlighting just three issues on which I would like further debate and, if need be, amendment to make the bill absolutely clear.

First, as the Cabinet Secretary for Justice said, our justice system is built on the values of independence, integrity and fairness. Although there is no question about the judiciary's current independence, part 1 of the bill provides a statutory guarantee of the continued independence of the judiciary in Scotland. Some commentators have questioned the necessity for such a statutory guarantee. Indeed, some committee members posed the same question during our deliberations and evidence sessions. However, on balance, the committee accepted that in principle it could support such a guarantee, symbolic or otherwise. In doing so, we have asked the Government to go further by including the Parliament among those who are required to uphold the independence of the judiciary. I am hopeful that our recommendation will find support

among members and I am grateful that the cabinet secretary has acknowledged the issue.

Secondly, the bill provides for a judicial complaints reviewer. The committee heard evidence that the number of complaints that are received at present is small and that the existing process for making a complaint is not clear, even to those who work in the system. After considering the proposal for a judicial complaints reviewer carefully, I am happy to support it, but details of the reviewer's role must be completely clear. People must know that if they want to use the reviewer to make a complaint, the complaint must be about the process and not about a judicial decision. That will be clear only if the public are aware of and understand fully the reviewer's role. It is the Administration's responsibility to ensure that adequate resources are available to facilitate that understanding. The figure of £24,000 is mentioned in the financial memorandum, but I believe that it is a fantasy figure and is well below what will be required properly to resource the service. I ask the Cabinet Secretary for Justice to reconsider the matter, as I expect that we will want to return to it at a later stage. I hope that he will be able to provide the Justice Committee with further information.

Finally, I express concerns about part 4 of the bill—the proposal to establish a body corporate to be known as the Scottish Court Service. Other members have touched on the issue this afternoon. The proposal represents a significant change to the current arrangements in Scotland and moves responsibility for running the court service from Scottish ministers to the Scottish Court Service, with the Lord President chairing the board and the chief executive of the organisation acting as the accountable officer.

I believe strongly that running our court service is a key responsibility of Government. Although the bill requires the Scottish Court Service to report to ministers on various matters and to have regard to guidance issued by ministers when carrying out its function, I am not convinced that it is in the public's best interest for the Administration to hand over that important function to an unelected body. This is not an area in which ministers should abdicate their responsibilities. I believe that the people I represent support my view, which is that ministers should be responsible to Parliament and the people for the administration and delivery of our court service. So far, I have heard nothing that has convinced me otherwise. However, I look forward to more detailed discussion and debate in the area and expect that amendments will be lodged as the bill progresses.

I am happy to support the general principles of the bill today, but I look forward to continued discussion with the Justice Committee and the

cabinet secretary, so that the bill is able further to modernise our justice system.

16:23

Nigel Don (North East Scotland) (SNP): I intend to sweep up some remaining issues; necessarily, I will be brief.

First, section 1 of the bill relates to the common-law offence of interfering with the judiciary. Eminent people have given plenty of evidence that what we include in the new statute will not affect the common-law offence, but I still wonder whether we should not say what we mean. I have not yet been persuaded that there is any reason for us not to do so, given that we will not revisit the issue for a few centuries.

Secondly, I draw members' and the Government's attention to Lord McCluskey's comments in paragraph 25 of the Justice Committee's report on the various other ways in which ministers might interfere with the judiciary and affect judicial independence. I am grateful to the cabinet secretary for indicating that he will revisit the point, but there is a substantial issue that needs to be considered. It is not clear to me whether that should be done through the ministerial code or by changing the text of the bill.

Thirdly, on whether the Parliament should be bound by section 1, it is difficult to write a statute that binds Parliament, but it is not difficult to include a provision that binds individual MSPs, and that would be a good thing to do. We are sometimes tempted to rush to criticise because we think that that is what we should do, but telling members that they should reflect on what they want to say and comment only very much later would be a good idea.

I am grateful to Margaret Smith for talking about training in more detail than other members have done, which means that there is no need for me to comment on that matter.

On the confidentiality of the information that is received by the Judicial Appointments Board, I point the cabinet secretary and members in the direction of information received from the Law Society of Scotland, which is concerned that making the misuse of such information only a civil matter is probably not the way forward. It wonders whether there should be a criminal offence in relation to the misuse of such information, which would seem to be rather more effective.

There is some slight difficulty around the issue of the complaints reviewers. We need to be clear that the Lord President will be doing the reviewing of complaints and that all we are asking the other reviewer to do is to ensure that the Lord President has used the right procedure. In essence, that is

the kind of appeal on law of process that the legal system itself understands. Provided that that reviewer is seen to be independent and well qualified, the proposal should not cause us any trouble.

16:26

James Kelly (Glasgow Rutherglen) (Lab): Although the bill covers many technical legal issues, it is also important that we remember the communities that we represent, and the need to put together a justice system that is fit for purpose and serves them well.

I want to concentrate my remarks on the new format of the Scottish Court Service, which will no longer be under the direct authority of the Cabinet Secretary for Justice. That raises important issues about accountability and the representation of local communities. The proposals could weaken accountability and undermine democracy.

I will give a practical example of that. On Tuesday, the Scottish Court Service published proposals to close Rutherglen district court and transfer the business of that court to Glasgow. To me, that is an illogical decision. At a time when electoral and health board boundaries are moving away from Glasgow, it does not make sense to move the court towards Glasgow. The decision will cost local people more money, for travel. Further, the local court is recognised as being an effective court that serves a local purpose. I give notice that local people will oppose the decision and will make their views known loud and clear during the consultation process. I have raised the matter with the cabinet secretary, and I raise it again today not only to register my opposition to the proposal, but because it illustrates something that is at the heart of the discussion about the reformatting of the Scottish Court Service. At present, communities can make their views known through directly elected politicians. The new arrangements that are proposed in the bill must be examined closely, in case they do not give communities a proper and strong voice on those legal matters.

I endorse what others have said about getting wider representation throughout the judiciary. I accept the committee convener's comment that people must be properly qualified, but we must do more to ensure that more women and non-white members of the community are represented.

As others have said, mandatory training is important. As the bill progresses to stage 2, I hope that the proposals on that are strengthened. It is important that we have consistency and that people are properly trained to carry out the duties that are required of them.

I have concerns about the format of the Scottish Court Service. I strongly support wider

representation and also mandatory training. I support the general principles of the bill and look forward to some of the ideas being developed at stage 2.

16:29

Margaret Smith: I welcome the fact that the cabinet secretary has been prepared to address some of the areas of concern that the committee raised but, as we have heard, there remain a number of issues on which we would like him to go a bit further. As I said at the end of my previous speech—members will be delighted that I will be able to finish the point now—there were certainly reservations, which Bill Butler, Paul Martin and others have outlined, about the Scottish Court Service being set up as a separate corporate body, rather than as an executive agency of the Scottish Government that is under ministerial control and is, therefore, accountable to us. At present, we are able to hold ministers to account for the SCS.

As others have mentioned, some of the issues raised were to do with the Lord President's workload but, as the cabinet secretary said, the Lord President and others have argued for the proposed change and think that it is reasonable for control over administrative operations to sit alongside the many other additional responsibilities that the Lord President will inherit as a result of the bill.

An issue that the committee spent considerable time examining in detail was that of accountability. Under the bill, the Lord President will be the chair and head of the Court Service and some members felt that that might be problematic, given that he could not be compelled to appear before the Parliament to account for service performance. However, I agree with the view that, as the accountable officer, the chief executive could respond to any issues that concerned the SCS. Furthermore, the Lord President has indicated that, in exceptional circumstances, he would not rule out accepting an invitation to appear before the Parliament. Perhaps surprisingly, his first visit to the Justice Committee has not put him off coming back.

Bill Aitken and others commented on the concept of a unified judiciary. I particularly liked his description of a situation in which

"the buck will stop with the Lord President".

That is a pretty good summing-up of what the proposal is all about. Members feel that it will be of benefit for the judiciary to have a single head who can speak on its behalf to the Parliament and the Government, but they also feel that it would be detrimental to Scotland's judicial system if the responsibilities that are placed on the Lord

President and others as a result were to significantly reduce the amount of time that they spend carrying out their judicial roles. I note the Lord President's reassurance that he is determined to ensure that he is not affected in that way.

Several members commented on the complaints procedure, which everyone agrees is a good part of the bill. However, there are some issues around the judicial complaints reviewer. As things stand, Victim Support Scotland, among other organisations, suggested that many people would be unsure how to go about complaining if they were concerned about the actions of a judge or a sheriff, so the proposal is positive. However, cost is an issue and there were concerns that a formalised complaints and review procedure would inevitably generate a large volume of complaints—it is estimated that the number of complaints would grow from around 180 to around 400 a year.

If, as is expected, the reviewer were to review about 50 of those complaints, it is thought—although not by Cathie Craigie—that that would cost £24,000 year. Cathie Craigie referred to that as a “fantasy figure”, but it is perhaps not the fantasy figure that I would have in my head. If costs are kept to a minimum, the establishment of a reviewer will be beneficial in helping to increase the openness, transparency and accessibility of the system, and will give the public the comfort of knowing that complaints will be examined properly, rather than it simply being a case of judges judging judges. The proposal will certainly be much cheaper than complainants going to judicial review, which is not a helpful suggestion.

The committee and Paul Martin, in particular, strongly support mandatory training for judges. We ask the cabinet secretary to reconsider his position on the matter. The Liberal Democrats support the view of Victim Support Scotland and the Justice Committee that witnesses, especially vulnerable witnesses, should be protected by a guarantee of adequate training for judges, so I am disappointed that the cabinet secretary has not accepted the committee's recommendation. In his recent statement on implementation of the Vulnerable Witnesses (Scotland) Act 2004, he claimed that the Government will

“stand by the previous Administration's commitment to make the system more accessible to witnesses who might otherwise be denied a voice.”—[*Official Report*, 30 April 2008; c 8037.]

I hope that he will reconsider mandatory training for judges, as a way of honouring that commitment.

If the Lord President has ultimate responsibility for making and maintaining arrangements for training, I hope that he will take on board our comments. The Judicial Studies Committee is

considering training issues, which is a positive development, but if additional training is not to be made mandatory through statute it is important that the Lord President should consider different perspectives, including victims' views.

Issues to do with the diversity of judicial appointees were raised during the committee's consideration. It is important that we have a diverse judiciary in Scotland, while ensuring that candidates are selected on merit. I welcome the working group that is considering the matter. We need an holistic approach, to ensure that issues such as access to education and training are taken into account. A more diverse judiciary, which reflects modern Scotland, will help to build confidence in our justice system. That should be—and is—what the bill is all about.

I hope that progress can be made on many of the issues that were raised in the debate and particularly on judicial training, which should be mandatory.

16:35

Gavin Brown (Lothians) (Con): My colleague John Lamont said that the Scottish Conservatives fully agree with the principles of the bill and will support it at decision time. In the time that is available, I will consider various parts of the bill and comment on areas in which it could be strengthened and improved at stages 2 and 3.

Most members mentioned part 1. There is no debate about judicial independence, as all members support that important constitutional principle. The debate hinged on whether the inclusion of a guarantee of judicial independence will enhance that fundamental principle. The Justice Committee considered the matter carefully and came to the right decision, which was that distilling common law and convention into statute will send a powerful message and have the added benefit of bringing our approach into line with that of other countries and making it consistent with the approach in the rest of the United Kingdom.

I add two caveats, one of which was mentioned by Nigel Don. First, the bill confers the duty to uphold judicial independence on a select number of people: the First Minister, the Lord Advocate, the Scottish ministers and one or two others. It is worth reflecting on whether the list should be extended, perhaps to include members of the Scottish Parliament. As we consider one of the first bills to be introduced in the third session of the Parliament, it might be worth making crystal clear the relationships in and functions of government.

Secondly, the examples of what might constitute an attempt to influence judges have been drawn quite narrowly. I think that Lord McCluskey suggested that the insertion of the words “in

particular" into section 1 might make it clear that we do not want to exclude a number of ways in which people might seek to influence judges. The cabinet secretary has hinted that he will consider the issue and ensure that the provision is tight.

On part 2, we support the principle of unification of the judiciary. As members said, a heavy burden of functions will fall on the shoulders of the Lord President, although a degree of delegation will be allowed for most of them. The Lord President said that he would be able to deal with his workload. His view, which was based on consideration of the Irish system, was that the workload would probably be about two days per month. I have not investigated the details of the Irish system but, on the face of it, that seems not to be a large workload. I welcome part 2 of the Osler review, which will consider the burden that will be placed not just on the Lord President but on other members of the judiciary as a result of the transfer of the Scottish Court Service. In evidence, a witness—I cannot remember where I read this—suggested that some 200 days per year of judicial time might be lost to administrative and management functions. If that were to happen, we would have to question seriously the transfer of the SCS. I am sure that the review will come up with the best, most accurate picture.

Much has been said about the Judicial Appointments Board, and the issue has not been contentious. However, I want to add a couple of comments. Schedule 1 says that a member of the Judicial Appointments Board can be removed on conviction of "any offence". The Law Society made a good submission to the Justice Committee, explaining that the provision is a touch draconian and that the wording could be tightened up. Perhaps the wording could be "any serious offence". I am sure that more appropriate wording could be found, but "any offence" seems to me, too, to be a little draconian.

Section 11 describes what happens if the cabinet secretary does not agree with a decision of the Judicial Appointments Board. The cabinet secretary can say no to a decision and send it back to the board for reconsideration. However, the bill stops there; it does not describe any procedure for what should happen if a stand-off occurs between the Judicial Appointments Board and the cabinet secretary. South of the border, the Judicial Appointments Commission can ultimately force its decisions through but, in Scotland, we have left the stand-off in the air, perhaps in the hope that common sense will prevail. However, common sense does not always prevail in a stand-off. We are legislating anyway, so it might be better if the bill catered for such situations.

The biggest disagreements relate to the judicial complaints reviewer. Under sections 26 and 27,

the Lord President will present a process for looking into the conduct of judges. Under section 27, he has a range of disposals available for dealing with judges who are found to have behaved inappropriately. In my view, the judicial complaints reviewer would therefore be a toothless tiger with no real powers. As I suggested to Mr Martin when I intervened on him, if the judicial complaints reviewer finds that the process was not followed, the only power that he has is to go back to the Lord President, who gave him the case in the first place, and say that he does not think that the process was followed. We are therefore not persuaded that the reviewer would add anything to the process.

16:42

Pauline McNeill (Glasgow Kelvin) (Lab): I commend the work of the members of the Justice Committee in producing their report on the Judiciary and Courts (Scotland) Bill.

The main themes of the bill are to put the Judicial Appointments Board on a statutory footing; to ensure transparency in the process of appointing judges and sheriffs; and to ensure that a common-law principle becomes enshrined in a statutory duty. It will be important to increase diversity in the appointment of judges. As other members have said, we have four female judges out of a total of 34, and we have no judges from black or minority ethnic communities. We have a long way to go. However, I emphasise that it will not be only for the Judicial Appointments Board to ensure that we achieve diversity. The whole system will have to operate in such a way as to achieve diversity.

A key theme in the bill is the independence of the judiciary. As others have said, the separation of powers is a cornerstone of a democratic country. That is our common law, which we will enshrine in the bill. We uphold judicial independence, as we should. The bill defines judicial independence by means of the provision that ministers

"must not seek to influence particular judicial decisions through any special access".

"Special access" has been defined as access that ministers might have that the general public might not. I am not convinced that that represents a helpful definition of independence. We should consider it further. We should not tie ourselves in knots trying to define what we mean by independence, but we should do our best to enshrine the common-law position in the bill. In other words, we should enshrine the status quo but go no further.

Members of the Parliament must be free to comment on the justice system and to question

ministers on general issues that have an impact on policy or on our constituents, without those comments or questions being regarded as interference in judicial independence. Our sheriffs and judges do excellent work and they have ensured that Scotland has a legal system of which we are proud and which is envied in the rest of the world. Our relationship with the judiciary is important; it is important that the independence of the judiciary should not preclude dialogue with judges.

The new duties of the Lord President in relation to the training and welfare of sheriffs will come at a cost. Discussions need to take place so that we are clear about those additional costs.

I will comment on some issues that need closer consideration at stage 2. Considerable powers will be transferred from the Scottish ministers to judges. I begin with the power to change the quorum in the Court of Session for a division of the inner house. At present, under section 2(4) of the Court of Session Act 1988, the quorum "shall be three judges". I am not clear why that is a matter for the judiciary. More clarity is required on that and on whether the intention is to change the quorum of three judges, which I think we have had for several hundred years, although I could be corrected on that. I want to know why that needs to change and why we are devolving the responsibility for that without at least being clear about the circumstances in which the power would be used.

Responsibility for the organisation of the courts, including the boundaries of the sheriff and district courts, will transfer from ministers to judges. James Kelly made the point that, under the new summary justice legislation, through which we are unifying the court system, an early decision has been taken to close two local courts. That was never the intention behind unifying the system—it was never intended that we should use that legislation to rationalise the system. As an elected member, I want to have a say on where local courts should be and the boundaries of the sheriff and district courts. I would have concerns if we passed responsibility over those matters to judges.

Judges will have a say in the drafting of any orders on the number of judges. They should have that say and they have done until now, so I have no difficulty with that. However, I have a difficulty with the fact that, a year after passing the Criminal Proceedings etc (Reform) (Scotland) Act 2007, we are to change the provisions again so that the establishment of justice of the peace courts will be a matter for judges. I do not know why that was not thought through a year ago. That is not consistent.

As other members have done, I want to address the issue of where responsibility for the Scottish

Court Service should lie. In relation to the establishment of JP courts, paragraph 120 of the policy memorandum states that the transfer of powers to judges is the right course of action, because otherwise the provision would be at odds with the

"overall policy intention of transferring to the Lord President responsibilities for the judiciary".

I thought that the bill's overall aim was to place judicial appointments on a statutory footing and to enshrine the independence of the judiciary. Throughout the policy memorandum, I read that measures are consistent with the intention to transfer responsibilities. I am not clear why. Are we saying that, without transferring responsibilities, we cannot enshrine the independence of judges? We have operated the Scottish Court Service under elected Administrations since at least 1995. I am not sure whether that matter relates to independence. We need clarity on that.

The policy memorandum goes on to state that the Scottish Court Service will be independent of the Scottish Government. That means that the running of the courts, their boundaries and investment plans for the courts will not be matters on which someone is accountable to the Parliament. We need clarity on the balance between independence and accountability. The cabinet secretary said that the Lord President will have a leading role but, from reading the policy memorandum, I see that it will be much more than a leading role—it says that the Lord President will be independent. I totally and wholly agree that the Lord President and judges should not be compellable witnesses to the Scottish Parliament, but civil servants are compellable witnesses. We need to know whether the chief executive and the staff of the Scottish Court Service will be compellable witnesses. I do not believe that their status should change in relation to how we hold them to account. We need clarity on that.

Ministers do not intend to take a ministerial power of direction, but rather there will be a provision that can be used in the event of serious failure. We need to think that through, too, because ministers might want to direct in some circumstances. Would that, too, be seen to be interfering with the independence of the judiciary?

We need to stop and think carefully about what we are doing before we pass over a Government department that is accountable to ministers and subsequently to the Parliament. We must think how we can hold the body to account if it is under the jurisdiction of judges. As I said to the cabinet secretary in the briefing that I received yesterday—for which I am grateful—the test for me is whether I will be able to ask questions under the parliamentary procedure, under which I am

entitled to an answer from the Scottish ministers, and hold them to account for the running of the courts. Will I receive an answer, and from whom will I receive it? I want to know that I can hold the Administration to account.

It is not good enough that the chief executive has volunteered to come to committee. That commitment is not strong enough for me. I want us to consider those issues before we go much further. I support the strong view of the Justice Committee on the matter, and I hope that we can find a way forward.

16:50

Kenny MacAskill: I welcome members' contributions and the tenor of the debate, which is perhaps understandable, given that the genesis of the bill was under the previous Executive. It was treated as non-partisan by the Scottish National Party and others, and that approach has continued through the change in Administration following the election in 2007.

Individual members have raised legitimate points on a variety of matters, including judicial independence, the Scottish Court Service, the Scottish Land Court, the Judicial Appointments Board and mandatory training. I will attempt to deal with as many as possible.

I am grateful that, like me, Bill Aitken and Pauline McNeill put on record the fact that we are well served by our judiciary and have been throughout the centuries. I have always made it clear that, as a nationalist party, we are grateful that the judiciary was one basis on which Scottish national identity was maintained over 300 years. However, irrespective of where one stands on the constitution, it is accepted that the judiciary has served our communities well. It will continue to serve us well, and the bill seeks to build on that excellent service.

We are seeking today to enshrine in law the common-law principles that were mentioned by Pauline McNeill. The independence of the judiciary is fundamental to any democracy. I have been noted for condemning American foreign policy lately, but the US constitution serves as a model for many. Certain aspects—its treatment of gender, slavery and race—show that it was written in the ethos of its time, but the idea of the separation of powers, which was enunciated initially by the likes of Thomas Paine and contributed to by many of the founding fathers of Scottish descent, has served both the United States of America and other democracies. There has to be an executive arm, a legislative arm and an independent judiciary. That is what the bill will enshrine.

There have been good wishes and support for the general ethos and principles of the bill, but I acknowledge that there are legitimate concerns. I can put one concern to bed at the outset. Pauline McNeill mentioned the accountability and compellability of the chief executive. Section 23 of the Scotland Act 1998 enables the Parliament to require any person to attend its proceedings for the purpose of giving evidence. We can be clear that accountable officers would attend a committee. I am sure that they would never consider not attending but, if there were difficulties, they could be required to attend.

One concern has been on the resourcing of the Scottish Court Service and whether it should remain under the auspices of ministers or, as is proposed in the bill, be dealt with under the aegis of the Lord President as part of an independent judiciary. Both Pauline McNeill and James Kelly commented on the issues. The Scottish Court Service is conducting a consultation on district courts, and no decision has yet been made on courts either in Rutherglen or elsewhere.

Furthermore, even with the changes that are proposed in the bill, any court closure would require parliamentary consent to an order promoted by the Lord President. Parliamentarians would have the opportunity to oppose such an order. The decision would be made by a body standing in a different arm of the tripartite relationship in our democracy, but the Parliament could deal with the matter.

There appear to be two particular matters to address. First, there is opposition in principle to the transfer of the Scottish Court Service to the independent judiciary—that appears to be Mr Martin's position. Secondly, there is the question of resourcing, which has been raised by the committee convener Mr Aitken, Ms Smith and Mr Lamont.

We are carrying out a review of resourcing. There is a draft of Mr Osler's remit, which is to reach an independent view on the extent to which new functions that the bill proposes for the judiciary will require additional time commitments. We are more than happy to share the outline of that with the committee to ensure that justice is seen to be done as well as done.

Bill Aitken: Does the cabinet secretary agree that it would be particularly useful to the committee's considerations if Douglas Osler would quantify the existing judicial commitment to administrative tasks and compare it with what is likely to happen?

Kenny MacAskill: There is a lot of merit and logic in that. My view has always been that it is best to discuss a remit with the person to whom one is ultimately giving it, because they will have

their own views, but I am happy to make Bill Aitken's point clear to Mr Osler.

If we can satisfy the objection on resources, it comes down to the point of principle. Our view is that the transfer of the Scottish Court Service is appropriate. If we are to have a tripartite system with an independent judiciary, logic dictates that those who serve and work under it should be under its remit and responsibility.

There are aspects in which the system will have to interact—Ms McNeill made points about that—and it must always be allowed to develop. There will be matters on which parliamentarians—whether on the Justice Committee, individually or through any office that they hold—will wish to interact with it. However, if we can satisfy the legitimate concerns regarding resourcing, it is best that the independent judiciary for which we strive should have control over the court service for which it has responsibility. Logic dictates that it should be so. If we do not provide for that, there will be a fundamental illogicality and we will, to some extent, undermine the ethos of what we are trying to deliver, which is an independent judiciary to serve us well.

There is equally the question of training. Members have raised matters that cause a great deal of concern. First, I must reiterate and point out that all members have accepted that our judiciary has served us well without a requirement for mandatory training. However, the system and other matters have moved on. There has been a significant change in attitudes. There are younger members of the judiciary and there has been a change in terms of women and ethnic minorities. We must reflect those facts. As with the principle of where the Scottish Court Service should stand, we must realise that it would be illogical for us to say that we are creating an independent judiciary because we recognise that it is fundamentally important in a democracy but that we, as one arm of the trident of that democracy, reserve the right to tell it what it can do.

Secondly, when the Lord President gave evidence at the Justice Committee, he accepted the need for training. He went as far as possible in saying that, although it would not be mandatory, it would be expected. He will have significant powers in that regard. Already, under the Judicial Studies Committee, sheriffs are undertaking a variety of types of training, not simply to ensure that they are up to date with and apprised of all the new laws that Mr Butler and others apparently wish we were spewing out as they were spewed out in the previous parliamentary session, when they all complained that so many bills were coming through that they could not keep pace. The training not only ensures that sheriffs understand the law and are able to implement it to

the benefit of our communities but takes in other matters, such as understanding child psychology or understanding evidence and how witnesses behave. All those matters are accepted and recognised.

We welcome the debate. We have taken on board points that have been made and will reflect on others. If members have raised issues that I have not addressed today, I will be happy to touch on them. However, I reiterate that it is important to declare the judiciary's independence. To refuse to transfer the Scottish Court Service to its control would undermine that independence and would be illogical. Equally, to impose mandatory training on it would undermine the logic of creating an independent judiciary, because it has served us well and we are enshrining its independence to ensure that it will continue to serve our communities well for centuries to come.

Judiciary and Courts (Scotland) Bill: Financial Resolution

16:59

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-1887, in the name of John Swinney, on the financial resolution for the Judiciary and Courts (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Judiciary and Courts (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.—[*Kenny MacAskill.*]

Business Motion

16:59

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-1899, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 21 May 2008

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Ministerial Statement: Smoking Prevention Action Plan

followed by Scottish Government Debate: Hepatitis C

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 22 May 2008

9.15 am Parliamentary Bureau Motions

followed by Scottish Labour Party Business

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time
Education and Lifelong Learning;
Europe, External Affairs and Culture

2.55 pm Ministerial Statement: Fuel Poverty

followed by Scottish Government Debate: Wildlife Crime

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 28 May 2008

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Scottish Government Business

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 29 May 2008

9.15 am Parliamentary Bureau Motions

followed by Scottish Government Business

11.40 am General Question Time

12 noon First Minister's Question Time
2.15 pm Themed Question Time
Health and Wellbeing
2.55 pm Scottish Government Business
followed by Parliamentary Bureau Motions
5.00 pm Decision Time
followed by Members' Business.—[Bruce
Crawford.]

Motion agreed to.

Parliamentary Bureau Motions

17:00

The Presiding Officer (Alex Fergusson): The next item of business is consideration of two Parliamentary Bureau motions, S3M-1900 and S3M-1901, on the approval of Scottish statutory instruments.

Motions moved,

That the Parliament agrees that the draft Transport and Works (Scotland) Act 2007 (Access to Land on Application) Order 2008 be approved.

That the Parliament agrees that the draft Transport and Works (Scotland) Act 2007 (Access to Land by the Scottish Ministers) Order 2008 be approved.—[Bruce Crawford.]

Decision Time

17:00

The Presiding Officer (Alex Fergusson): There are four questions to be put as a result of today's business. The first question is, that motion S3M-1717, in the name of Kenny MacAskill, on the Judiciary and Courts (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Judiciary and Courts (Scotland) Bill.

The Presiding Officer: The second question is, that motion S3M-1887, in the name of John Swinney, on the financial resolution for the Judiciary and Courts (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Judiciary and Courts (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.

The Presiding Officer: The third question is, that motion S3M-1900, in the name of Bruce Crawford, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Transport and Works (Scotland) Act 2007 (Access to Land on Application) Order 2008 be approved.

The Presiding Officer: The final question is, that motion S3M-1901, in the name of Bruce Crawford, on the approval of an SSI, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Transport and Works (Scotland) Act 2007 (Access to Land by the Scottish Ministers) Order 2008 be approved.

Supermarkets (Economic and Social Impact)

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S3M-1679, in the name of Christopher Harvie, on supermarket dominance in Scottish retailing. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes with concern the dominance of large-scale supermarkets in Scottish retailing, as is evident in many of the burghs of Mid-Scotland and Fife, and considers that there should be an impartial study of their economic and social impact on communities and demand for local produce, taking into account other retail modes like smaller specialist shops, street markets or market halls and co-operatives.

17:02

Christopher Harvie (Mid Scotland and Fife) (SNP): My elderly parents, who are in their 10th decade, live in Melrose. Melrose is what the Federation of Small Businesses in Scotland calls a home town, with good butchers and bakers, a fish shop, a greengrocery, wine merchants, ironmongers and, by no coincidence, excellent small hotels and restaurants. Eighty per cent of the shops on its High Street are independent. There is good public transport and plenty of car parking.

Of how many Scots towns can that be said? Steadily fewer. Throughout the country, the high street is under challenge from edge-of-town or even greenfield shopping. Where it wins, the high street gets taken over by mobile phone offices, charity shops, estate agents—at least up until now—fast-food outlets and cheapo dealers. Rest and recreation moves in, along with its twin, accident and emergency. Commerce moves out.

Unlike much of Europe, Britain has gone for United States-style retailing. There has not just been the destruction of the home town by the clone town and the end of the independent traders, there has been a swallowing up of the malls by the megamalls. Gordon Brown used to praise the wonderful productivity of the USA, much of which, the *Financial Times* tells us, involved retail—what was called “Wal-Martyrdom”, in which suppliers and local stores were beaten down by giants using their monopoly power.

That affects the food that is supplied, as can be seen in Joanna Blythman's well-documented study, “Shopped”. Food is picked for market convenience, not flavour. It is dull and often unripe, but it is sold through special offers, which we might refer to as binge shopping—people come back with loads of bargains that they never

eat. Apparently we throw away 45 per cent of the food that we buy every week.

Is our collective binge drinking the result not just of cheap alcohol offers—it is cheaper than water in some outlets—but of the fact that food that ought to be exciting often tastes of nothing much?

Willie Coffey (Kilmarnock and Loudoun) (SNP): We try to impress upon supermarkets the need to support local produce. I draw to the member's attention the fact that the biggest supermarket in Scotland, Tesco, does not shelve the world's number 1 selling whisky, Johnnie Walker red label. It is important to highlight that fact in support of the member's motion.

Christopher Harvie: I commend Mr Coffey for that observation. Johnnie Walker, born in 1830, is still going nowhere in Kilmarnock, presumably. Mr Coffey can be assured that, through its wonderful systems of intelligence, Tesco will know that he mentioned it. Any time that we mention a supermarket in this place, the supermarkets react instantly. Tesco's intelligence service makes Minitruth in "1984" look like "Blue Peter".

The supermarket is deeply dependent on food miles as goods are transported by air or heavy lorry and, at the other end of the system, by the family car—imagine the carbon footprint. Since 1984, there has been a drastic modal shift for shopping trips from public transport or foot to car. That has hit non-motorists, the young, the elderly—a category for which I can now be considered to qualify—and people on low incomes.

When a big supermarket is proposed, we are always told that hundreds of jobs will be created. What sort of jobs will they be? Will they be low-skill, low-wage and part-time jobs? What happens to local service sector jobs in wholesaling, law, cleaning, transport and accommodation for commercial travellers? What happens to Scottish-owned clothing chains such as Mackays and Scottish food suppliers such as Taypack Potatoes of Inchture, which has just broken off its link with Asda because it feels that it will have its prices driven down further?

Tourism provides 10 per cent of our national income. People come to Scotland for the quality of our life and of our cities, towns and villages. Do they come to support supermarkets? Are they going to visit the lord of the isles in the Portree Tesco? Within a few years, will they be able to do so, even if they wish? We are nearing peak oil, north of \$200 a barrel. In 1999, the cost of a barrel of oil was \$10. What will be left of this motorised situation in 20 years?

The important thing is to keep options open, which is why I welcome the Government's round-table to discuss supermarket chains stocking

Scottish-produced foodstuffs. However, ministers must ensure that that is not a purely nominal concession that becomes subject to a combination to reduce the prices paid to suppliers.

How much should the state intervene? It does so on the continent. In Germany, big retailers are handicapped by the prohibition on opening on Sundays and heavy goods vehicles cannot run on Sundays. Subsidies are paid to encourage organic stores and independent bookshops. There is intervention. There is a ministry for the Mittelstand; social insurance for market traders; and a more restrictive approach to granting planning permission for big supermarkets. That is helped by good public transport, town centre parking, recycling depots and local breweries, vineyards and bottling plants.

Cannot we have a trial in which we examine shopping locally, whereby home town is matched and analysed against clone town? The internal patterns of commerce and society within both could be measured, to enable us to get a picture of the economic dynamics that hold communities together or pull them apart.

There is nothing inevitable about what is happening. If we conduct an impartial investigation into the social and economic impact of large supermarkets on communities, in comparison with other modes of retail, we will at least know what we might be letting ourselves in for.

17:09

Helen Eadie (Dunfermline East) (Lab): I congratulate Christopher Harvie on securing the debate. I refer members to my entry in the register of members' interests.

We might reflect on how we marry our aspirations to respond to the ambitions of our constituents and communities with our aspirations to respond to the ambitions of ActionAid and the Fairtrade movement. How do we encourage and support small businesses in town centres, which is an essential part of the debate? How do we reconcile that with the fact that some families and individuals prefer the supermarket alternative, or the American mall style of shopping, because of the shifts that they work and the convenience that that style of shopping offers?

I have lived and worked in Fife for more than 26 years. Over the past half century, Fife has changed from being a county that had more than 60 coal mines, thriving farming towns such as Cupar and a mix of land-holding aristocracy such as the Laird of Wemyss, Lord Elgin, Earl Lindsay, Sir John Gilmour, who owned the Montrave estate, and Sir David Erskine. It was a very rich county at one stage and, to some extent, it still is. There were vibrant town centres in places such as

Cowdenbeath and Lochgelly—members will no doubt mention other towns in the debate. Those towns were vibrant because of the coal mining and the farming, but all that has changed. The coal mines have gone—there is not one left in Fife—and the farming is much diminished from what it once was.

We now have imports of food from all over the world at all times of the year and, given the more sophisticated tastes that we have in this country, people would be loth to depart from that. However, we must take responsibility for our carbon footprints. There is no doubt that there is a great attraction in visiting town centres that are rich in history and retain their character. That is at the very heart of it—when one goes abroad or to another part of the United Kingdom, one comes back with great ideas.

In Devon, a village shop was taken over by the community when its owners retired in 2004. The local people identified the fact that the shop offered a great opportunity for them to continue to provide shopping opportunities for the community. That is the kind of thing that I like to see, and I am sure that the Minister for Enterprise, Energy and Tourism does too, because he has spoken recently about how communities can help to keep their shops open at a time when they are often challenged by shop owners wanting to move on. We have a duty and responsibility in the Parliament to encourage, promote and support the training of individuals so that they can have community co-operatives and community town centres. I have been a great advocate of community businesses in that regard.

The United Kingdom Government has done something about the situation, but we need to keep the pressure on. A competition inquiry into supermarkets has, after two years, passed judgment on how the retail giants do business. There is no doubt that supermarkets are guilty of abusing their suppliers, and we need to acknowledge that. A watchdog is needed to make supermarkets play fair, and it must protect overseas suppliers. We must work with ActionAid, because this is a big debate and we need to consider the impact on employment in countries where people are much less fortunate than we are. Christopher Harvie has provoked a good discussion, and I congratulate him on stimulating the debate.

17:09

Christine Grahame (South of Scotland) (SNP): I thank my colleague for introducing the debate; his speech was—as always—interesting, erudite and stimulating. I will say a little bit about the hypocrisy that surrounds the supermarket sweep before I move on to other things. I shop in

supermarkets and I hold my surgeries in Tesco in Galashiels and Penicuik. That is where the people are, and I am at the end of the conveyor belt where they come past. We must deal with the fact that, although we know the ills of supermarkets, we are—even as we say such things—in them buying our stuff. I tell Willie Coffey that there are great malt whiskies in Tesco, and it did not pay me to say that. I hope that it gets Johnnie Walker in.

I am considering Galashiels as opposed to Melrose—I agree with what was said about Melrose. It is also true to some extent of Peebles. In Galashiels, we have Asda WalMart, Tesco, and Marks and Spencer Food to Go with Per Una. That combination is very useful, and the people like it, but it is devastating for local businesses in Galashiels. Already, a fashion shop has closed and the fishmonger has gone. The greengrocer saw the writing on the wall and moved to Innerleithen. The butcher manages to survive because he fills a niche in the market by presenting meat in a special way and by selling a variety that it is not possible to find in the supermarket. Having dealt with the hypocrisy, we must address the fact that there has to be a balance.

I agree that planners, in considering such issues, should be looking at what is happening on main streets. We know that charity shops are taking over. They have taken over in Galashiels and in Peebles. Even more serious is the lack of choice and the wastage to which Christopher Harvie referred. Buy-one-get-one-free offers are terrible. Who wants two cauliflowers—especially if people live alone or there are only two people in the house? We know that we will throw one out. I object to prices being lifted under such schemes. The suggestion is that customers get something for nothing, but they do not—they pay for everything.

Lack of choice even extends to what is grown. Years ago, I went to see tomato growers in a co-operative in Clydesdale and asked them about the tomato plants that they grow. They do not get to choose the plants that they grow—they grow the plants that the supermarkets say look pretty; that is, if the tomatoes on the vine are all red and are the right shape at the right time. That, however, is not how tomatoes grow: the ones at the end of the vine should be ripe and the rest green. It is about appearance rather than taste, so Christopher Harvie was right to say that quality is giving way to appearance. A generation of children are growing up who do not know what a ripe plum tastes like. While I am on the subject, can we have ripe, in-season plums in the Parliament for a change? The ones that we have are as hard as nuts because it is the wrong time of the year. The caterers could start doing it in Parliament: let us have seasonal

fruit. That is a serious issue, because it has driven people out of business.

I compliment the Scottish National Party—why should I not? About 20 years ago, we ran a campaign to bring local produce into the supermarkets. I know that because I embarrassed my sons by standing outside Asda with a placard that said, “Buy Scottish produce”. My sons said, “Mum, can’t we lead a quiet life?” I said, “Not when I’m around.” We should move things in that direction.

If we are talking about healthy eating, healthy children and healthy grown-ups, let us have local, in-season produce. Who on Earth wants to eat strawberries in December when we all know that Scottish strawberries are best and that they are best eaten in June and July?

17:17

John Scott (Ayr) (Con): I declare an interest as a farmer, as the founder chairman of the Scottish Association of Farmers Markets and as a modest food retailer in my own right.

I congratulate Christopher Harvie on securing a debate on supermarket dominance in retailing at a crucial time, when food security is rising to the top of the political agenda. His motion

“notes with concern the dominance of large-scale supermarkets in Scottish retailing”.

I have to agree. Of course, supermarkets have been hugely successful in respect of shareholder value and have made available to the Scottish public an unsurpassed range of good quality and well-presented food products, of which previous generations could only have dreamed. Supermarkets are here to stay and, to be fair, if we did not have them we would probably be trying to invent them. I agree with Christine Grahame in that regard.

However, their success has come at a cost, particularly to town centres, many of which have as a result lost their bustling local food shops and their character. That is why the Scottish Conservative manifesto proposed a £20 million town-centre regeneration fund.

A cost has also been borne by food producers. Their margins have been squeezed so much that many livestock farmers have moved out of farming and, sadly, many more are considering doing so. For that reason, our party has long supported the introduction of an ombudsman, which cannot happen soon enough.

As I said, we live in changing times. It is regrettable that food security, high oil prices, global warming and a growing world population all, for different reasons, contribute to driving up the price of food. Higher fuel costs and peak oil

suggest that more food will need to be produced and consumed locally. It may become socially unacceptable to fly out-of-season vegetables half way round the world as a result of the need to conserve oil supplies for future generations and because of peak oil.

Farmers markets have taken the lead by reintroducing seasonality into shopping patterns. In-season produce may be all that consumers can afford in the future if oil rises further in price, so I believe that a renewed opportunity exists for farmers markets, for farm shops and for all local food retailers to further develop their businesses.

In Scotland, that means developing better food and drink supply chains. It also means more co-operation between individual food producers and it means taking the specialist advice of organisations such as the Scottish Agricultural Organisation Society Ltd on how best to achieve those aims by, for example, creating distribution hubs and funding new routes to market. That will also give local food, which is by definition often less processed and has less salt and fewer fats added, the opportunity to be used in supporting the healthy eating agenda. The encouragement of more public procurement of locally produced fresh food will benefit the environment, people’s health and the primary producers of food. “Buy local, eat local” should be the order of the day.

The new ombudsman, when it is in place, must ensure fairer returns from the marketplace for fruit producers. Scottish Conservatives look forward to the creation of a new and extended grocery supply code of practice, as well as to the end of abuses of power, such as the demand for lump-sum payments and enforced promotional costs.

Again, I congratulate Patrick Harvie on bringing the motion to Parliament. I hope that the minister will respond favourably to the many points that will be raised during the debate.

The Deputy Presiding Officer: Unless I am mistaken, it is Christopher Harvie’s motion, but never mind.

17:20

Jim Hume (South of Scotland) (LD): I congratulate Christopher Harvie on securing his members’ business debate and, of course, on mentioning Melrose, which is in my region and is famous for its fine foods and for long supporting the Liberal Democrat member whose son has brought this debate.

Back in 1999, the Office of Fair Trading asked the then Monopolies and Mergers Commission to investigate concerns that large supermarkets were bullying suppliers. A code of conduct was subsequently produced, but it was not effective.

Recently, the Competition Commission's report into the grocery sector recommended an independent ombudsman to oversee relationships between larger retailers and their suppliers. That is good news and is something for which Lib Dems and others have campaigned for some time.

We have seen progress recently with supplier co-operatives, aided by the likes of SAOS, and some supermarkets slowly waking up to the idea of having local and sustainable food on their shelves. However, we need sustainability in the supply chain, as John Scott said, rather than just buying what is cheapest. We have seen lamb coming in from New Zealand, but the farmers there are losing money, and there are strawberries at Christmas. Few people realise that the buy-one-get-one-free offers that Christine Grahame mentioned—the BOGOF Christine Grahame—are paid for by the suppliers and not by the supermarkets. I have spoken to local high street traders across the south of Scotland—in Hawick, Galashiels, Dunbar, Haddington, Dumfries and even in fine Lockerbie—and it is clear that larger retailers have an impact on those local businesses. The larger retailers have huge buying power and can reduce prices to such a low that they outcompete the smaller businesses.

Some people may feel that quick and convenient shopping gives them better quality of life because they spend less time shopping and more time at home with their families, while others may feel that a few hours spent shopping on the high street is more beneficial for local business and the community.

Christine Grahame: I thank Jim Hume for the name he has given me, but I do not know whether I agree with it.

The issue is not just about what Jim Hume has talked about. On restricting choice, whether for varieties of vegetables or livestock, does he agree that the supermarkets now determine the range that we have, and that we are losing seed stock in the process?

Jim Hume: I concur with Christine Grahame's view. The control of genetic modification of food is driven by people making big money, and we will potentially lose seeds and so on through that.

I cannot underestimate the economic importance of small local traders, but it is perhaps more important that they keep towns and villages full of life. I have said previously in the chamber and elsewhere that businesses in the south of Scotland are mostly small to medium-sized businesses: that is probably the case in any rural area.

I have visited shops in Dunbar and Galashiels, in which a small part of the business is devoted to selling speciality premium Scottish drink. However,

such trading might have to cease because the businesses cannot afford the new licence fee. Rules should be more flexible in order to accommodate and help smaller businesses rather than to restrict them—that goes for allotment growers as well. At the same time, supermarkets sell alcohol at knock-down prices, with the excuse that they are competing with others. There is an argument for supermarkets showing social responsibility in that respect.

Liberal Democrats have long advocated the use of local produce. I would welcome any measure that would encourage that, including a study. I want the Scottish Government to put in place measures to encourage the use of more local produce. Eleven months ago, in my members' business debate on local food, I highlighted the use of fresh seasonal produce in our hospitals, schools and prisons. The same should go for our supermarkets. I hope that the minister will reassure me on that and on the need for a fairer deal for the whole supply chain.

17:24

Patrick Harvie (Glasgow) (Green): I thank John Scott for giving me the credit for this fine debate, which I am happy to accept. I congratulate myself on securing time for it.

To be serious, I was sitting in the seat behind Chris Harvie's just over a couple of years ago when the Greens introduced a debate on supermarkets, so I am delighted to participate in this debate, which pursues the same issue. At the time, we were slightly ridiculed for suggesting that supermarkets were in any way a bad thing. It is interesting to see how far they have come up the agenda and to hear the criticisms of supermarkets.

We can all list many criticisms, as several members have. Supermarkets have an impact on local retailers, such as those that Chris Harvie mentioned. I happened to be walking back to a train station through one of Scotland's high streets today and I was stopped in my tracks by the sight of what looked like a genuinely independent local baker, because that is so rare in high streets these days.

I am pretty lucky where I live, in Shawlands on the south side of Glasgow. A host of independent shops that sell not only food but other products survive there, but the supermarkets are encroaching—they are at one end of the street and are opening at the other, and little high-street mini-supermarkets are beginning to take over other space. Such developments are happening in many parts of Glasgow. Even this week, people in Partick are waiting with bated breath for the result of Tesco's appeal for yet another supermarket there. Partick is well served by supermarkets, and

the few independent retailers who hang on are threatened by the proposed development.

However, the impact of supermarkets is felt not only by local retailers, as there is a host of impacts on the environment. Supermarket bags have come up the waste agenda. Even though they form one small part of the waste stream, they are iconic, and many more people are aware of them.

I genuinely believe that supermarkets are structurally incapable of doing better at addressing localism and selling local food. They can have a bit of shelf space for a bit of local produce, but they will never fundamentally transform their way of operating, because they operate through national and global structures. They offer the deals that they have only because they operate on a huge scale; that cannot work on a local scale.

There are other reasons why we are beginning to cotton on to the problems of supermarkets. The price issue is a con. We spend more, not less, on our food as a result of supermarket offers. Some supermarket products are sold at cut-down cheap prices, but we spend more on processed foods and ready meals as a result of supermarket promotion. The choice issue is also a con, because when small retailers shut down, we lose that choice.

Above all, apart from all those impacts, supermarkets are just so damn soulless, in comparison with a real high street with real shops that sell real food.

The political response to supermarkets is inadequate. Competition law is failing us, principally because its purpose is to protect companies and to ensure strong competition between them rather than to protect people.

It is time to put supermarkets back in their box. They were initially supposed to be a useful supplement to a healthy and diverse local economy, but they are no longer that; they have become far too dominant. It is time to recapture our food culture from them. One good step forward would be for the Parliament never again to accept commercial sponsorship for an event, as happened at the session 3 ceremony last year, when bags with Asda adverts were given away. However, the issue goes far beyond that. We must recapture our food culture in a local way.

I thank Chris Harvie for the debate. I apologise that I cannot stay for all of it, but I appreciate the fact that he secured it.

17:29

Roseanna Cunningham (Perth) (SNP): I, too, congratulate Chris Harvie on securing the first debate since the end of 2004 that is directly on supermarkets. I also congratulate Patrick Harvie,

because what he said suggests that he is perhaps the only member who never shops in a supermarket. I guess that that is what he implied.

Patrick Harvie: I would not say that I never shop in a supermarket, but I do so as rarely as I can. My point was that we should put supermarkets back in the role that they were supposed to have when they came on to the scene.

Roseanna Cunningham: I thank the member. I made that point to echo Christine Grahame's point about hypocrisy and how careful we have to be. The truth of the matter is that I would be surprised if anyone who is elected to the Parliament does not shop in the supermarket at some point. Some will do so more than others, but we all find ourselves there and, mostly, we will continue to do so. There are very good reasons for that. By the time people get home at night, nothing else is open—the supermarket is the only place that they can go to easily and quickly to get all the shopping done. That is why supermarkets have become so popular.

We should not stop shopping in our local high streets and farmers markets. I recall seeing a figure—I wish that I had kept it because I have never been able to find it again—that showed that if we all made just one purchase a week in our local shops, that would be sufficient to ensure their economic health into the future. We should look very closely at that.

A number of the briefings that we have received refer to the wider benefits of shopping locally. It is not just about the shop local idea; there are social, environmental and health benefits, some of which members have mentioned. That package of benefits adds up to a potential cultural shift: if we shop locally, we could reverse the wholesale cultural shift towards supermarkets that we must accept has taken place. Shopping locally would provide a more even balance.

I want to mention two or three specific issues that need to be considered if we are to start to shift the balance back. First, as Helen Eadie mentioned, we have to tackle the unequal relationship between the multiples and local suppliers. There is no doubt that we will have to get in there and do something if we are to make that relationship more useful for local suppliers and prevent the multiples from bringing huge pressures to bear on them.

One of my bugbears is that we must achieve a level playing field between the multiples, which offer free parking, and the town centre, which does not. It is not rocket science to work out where folk will go if they have to drive around the town centre to find a parking space that they then have to pay for, as opposed to nipping up to the free car park

outside the supermarket. That needs to be considered.

We also need to build on the small business support that has already been put in place, and which is already making a visible difference in rural towns—it is certainly making a difference in Crieff. Such incentives could be put in place to help small shops. However, we also need to challenge some of the small retailers to think about how they deliver what they offer so that they can balance out the primacy of the supermarkets.

I am lucky to live in Crieff, where we have two very good delicatessens on the High Street, both of which feature in “Scotland the Best”. There are loads of other independent shops that sell not only food but fashion and other non-food items. That is all in a town that already has one largish supermarket and a smaller branch of another multiple. Crieff High Street is hanging on. However, another big supermarket row is developing, with two of the big multiples going head to head. That has not yet been resolved, so whether Crieff High Street will continue to hang on is another matter.

The truth is that it is up to each of us to use our purchasing power to make the difference. We should start with our individual commitments today. We should all be a lot less hypocritical about some of these debates, too.

17:34

Claire Baker (Mid Scotland and Fife) (Lab): I thank Christopher Harvie for lodging the motion for this evening’s debate.

Supermarkets have grown in importance in our daily lives, from being virtually non-existent 40 or 50 years ago to being omnipresent and at the centre of much household shopping in Scotland. The convenience of the supermarket and getting there, the parking and the shopping hours that extend well into the evening, or even for 24 hours, together with the range and certainty of supply of stock all under one roof have all been key to the success of the 21st century supermarket. It is very difficult for the high street to compete on that basis. When supermarket convenience is combined with relatively low prices and strong branding and advertising, it is clear why the supermarket has become such a powerful part of our lives.

A supermarket can contribute to regeneration by bringing jobs, shops and a new lease of life to an area. In my region, Glenrothes is set to benefit from two new supermarkets, both of which appear to be adopting a modern and responsible approach to large-scale retailing: one will be an eco-store that will employ renewable technologies, and the other will contribute to the regeneration of

the town’s main shopping area. Increasingly, some retailers are becoming responsible and responsive to their local community—although we must recognise that that happens only when they see it as being good for their business.

However, supermarket development is not always necessarily a good thing in itself. Many have suggested that out-of-town shopping developments, which are often centred on large supermarkets, are a significant contributory factor in the degeneration of many town centres. Equally, more recently, environmental concerns about supermarkets have come to the fore. As a society, we are beginning to question whether it continues to make sense to have large-scale out-of-town—and, therefore, car-reliant—shopping centres, which sell out-of-season goods sourced from around the world and all needlessly packaged in plastic and cardboard. The consequences and contradictions of the carbon emissions of such shopping behaviour are coming into sharp focus. It remains to be seen whether supermarkets and customers are able to adapt to reduce the carbon emissions of shopping on such a scale.

I want to raise briefly the pricing policies of some supermarket chains. Many of our most deprived communities, including those in my region, have only one small store from which to get food and other daily essentials. Many people within those communities do not have cars to take them to the larger and cheaper out-of-town stores. That means that they are very much at the mercy of the prices and offers that are available at the local store. However, as a number of supermarket chains have put in place differential pricing policies that depend on store size, the smaller stores often have higher prices and have fewer offers available. I fear that the double whammy of such pricing policies and lack of transport means that some of our poorest communities pay the most for their daily essentials.

In the energy sector, gas and electricity suppliers provide social tariffs that guarantee cheap rates for their poorest customers, and I believe that it is worth considering a similar voluntary scheme for the retail sector to provide social tariffs for daily essentials. In that way, supermarket chains could ensure that their stores in Scotland’s most deprived communities sold goods at the low prices that are available in the larger out-of-town stores. Today, I have written to the minister and several supermarket chains to seek their views on my proposal. I look forward to exploring the idea in a constructive and consensual manner with all interested parties.

I thank Chris Harvie again for giving us the opportunity to raise these issues.

17:37

The Minister for Enterprise, Energy and Tourism (Jim Mather): I congratulate Chris Harvie on triggering the debate, which I wish had lasted longer as it deals with so much. After all, the issue is the focus of attention of many Government portfolios—including enterprise, tourism, planning, rural affairs, communities and health and wellbeing—and we all have an interest in it. The key concerns that have come through in today's debate include: the potential domination of the high street; the long-term condition of the high street; the potential eclipse of local foods; and the status of Scottish content in the sales mix. The issue is really important because it impacts on health and wellbeing, the economy and everything.

Christine Grahame and Roseanna Cunningham provided a good, sensible voice of balance. They recognised that the supermarkets meet a need and that people exercise choice. The fact that 81 per cent of groceries are sold through supermarkets is not happenstance. Supermarkets also play a big part in employment and in Scotland's supply chain, albeit that they, the entire retail sector and the suppliers could—I will argue—do better. Indeed, I believe that they see the opportunity to do better. Chris Harvie's point that home town may well be better than clone town is a message that will resonate even in some unlikely places.

I accept and support the objective of renewing high streets and invigorating the supply chain. High streets are the heart of our communities, and grocery is a key element in the high-street sales mix. Food and drink and grocery production are at the heart of our rural communities. Food and drink are important to health and wellbeing, quality of life and economic vibrancy. Our high streets are equally important in delivering all of that as well as for tourism, by demonstrating the personality and very character of who we are and why people should come to Scotland.

Planning policy must play a part in the tangible steps to manage the issue going forward, in as much as there must be—and is—a sequential test to ensure that the town centre is the first port of call for any supermarket. The need for an edge-of-town or out-of-town location needs to be severely justified. That issue will come under closer scrutiny as we consider the report of the Competition Commission, to which I will turn in a moment.

Another important factor is the small business bonus, which will encourage small shops to invest, innovate and adapt. I look forward to more town centres learning from other, vibrant, town centres by adapting ideas that have worked elsewhere. The business improvement district initiative is kicking in and is beginning to deliver real results.

Communities are coming together in a concrete way. Resources of £145 million per annum are available from the fairer Scotland fund, which will contribute to improving town centres.

Another issue is the food supply side. We may find that, in light of the Competition Commission's report, supermarkets are more receptive to dialogue with their suppliers and to positive developments. Good business sense and climate change may lead them to source more from local suppliers. Back in 2004, our predecessors dismissed the idea of holding a summit with the supermarkets, but now there is the prospect of such a summit. I am interested in getting the retail sector to talk to us, as other sectors such as construction, food and drink, and textiles have done. On 30 May, we will run a session in Oban that will bring together the food and drink sector, its whole supply chain—including supermarkets and stores—the local council and the national health service to get a debate going. That is evidence of the fact that I was listening when I was down with John Scott for the Ayr by-election back in 2000.

The popular movement to educate people in food is playing a part. Examples include the healthy eating initiative, the Fife diet and the growth of farmers markets, for which John Scott can take credit. The Competition Commission is now on the case. Its final report, hot off the press, was published on 30 April and contains profound findings. The report concludes that some companies have an excessively strong position in certain local markets and that there is an excessive transfer of risk to suppliers. It expresses concern about the negative impact that that has on investment and innovation, calls for closer dialogue and contains some strong recommendations. The report seeks the introduction of a competition test as part of the planning process, favouring new entrants, and includes plans to force companies to relinquish control of sites, again to enable new entrants. It recommends that the provisions of the supermarket code of conduct be tightened and that an ombudsman be appointed. The report is now with the United Kingdom Government and an intergovernmental committee has been set up, to whose response we will contribute.

We will learn from all the comments that have been made here tonight. Helen Eadie's comments on the restoration of local self-sufficiency in all areas of the economy resonate around the chamber. Her comments on generational transfer and the use of social enterprise to keep local businesses in place were very vivid. I can tell her today that Martin Stepek of the Scottish Family Business Association is meeting some interested pro bono lawyers to see how that approach can be facilitated.

Roseanna Cunningham and Christine Grahame spoke about balance and made solid comments about the need for people to make one purchase a week from local shops. Small business support and people power can play a part in levelling the playing field. I was particularly taken by Jim Hume's important point, augmented by Christine Grahame, about the diversity of produce and local traders. Such diversity brings with it a certain strength. As a farmer and food supplier who has watched the gestation of the problem over recent years, John Scott is able to offer an important insider's view.

The Government is aware of the concerns that exist about elements of Scottish retailing: the dominance of supermarkets, their impact on town centres and their treatment of suppliers. We are working on a number of fronts to address those concerns and to ensure that all sections of the community have access to and can benefit from a wide choice of shopping, services and produce, in the knowledge that that will make us stronger in all the areas of Scottish life that I mentioned at the beginning of my speech. It will give us a stronger economy, healthier people, stronger rural communities, a better tourism offering and a more vivid and vibrant Scotland. There is a real chance of recovery.

We are engaged in a process of systems thinking—bringing people in particular sectors together to see how they can work together better to get better outcomes. Many sectors—construction, engineering, electronics and the third sector—have been self-nominating, but we have not yet heard from the retail sector. It may think that the proposed summit is enough, but I am willing to engage with the sector if it comes forward. When the session that we intend to hold with the sector, focusing on groceries, takes place, I will ensure that the supply chain is involved.

Meeting closed at 17:45.

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