

# **MEETING OF THE PARLIAMENT**

Thursday 8 October 2009

Session 3

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## Scottish Parliament

Thursday 8 October 2009

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

### School Buildings

**The Presiding Officer (Alex Fergusson):** The first item of business is a debate on motion S3M-4988, in the name of Rhona Brankin, on school buildings.

09:15

**Rhona Brankin (Midlothian) (Lab):** I am delighted to have the opportunity to debate this important issue. In opposition, the Scottish National Party spent plenty time making promises, but now it is spending its time making excuses. I am sure that we will hear a plethora of those again today.

The SNP's election manifesto in 2007 pledged that it would

"match the current school building programme brick for brick, and offer an alternative funding mechanism through the Scottish Futures Trust."

On both counts, the SNP Administration has failed. The Scottish Futures Trust is an expensive national joke—I see that John Swinney is laughing at his own joke.

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The joke is on Rhona Brankin.

**Rhona Brankin:** The school building programme that was announced last week by Fiona Hyslop is simply too little too late. If it was the great triumph that she wanted us to think it was, why was none of the education ministers available to face scrutiny about the plans? The Cabinet Secretary for Education and Lifelong Learning was happy to pose for photos but left it to back benchers to explain the SNP's school building programme—and, my goodness, that was amazing. Perhaps she regrets her reticence now, as the MSPs who were put forward to defend the SNP's position ably demonstrated the utter confusion at the heart of the party's school building policy and failed to get their stories straight.

Rob Gibson told the BBC's "Scotland at Ten" programme last Monday that some of the 14 high schools that were announced last week would be funded by the Scottish Futures Trust. Perhaps Mr Swinney will confirm what Mr Gibson said. Will the Cabinet Secretary for Education and Lifelong

Learning clarify in her speech how many of those 14 high schools will be built under the Scottish Futures Trust—not simply branded as Scottish Futures Trust schools but actually paid for through it?

The following day, Brian Adam told "Good Morning Scotland" that the SNP would build 350 schools this parliamentary session. The Government manages to change the figures as the days go by. Will the cabinet secretary tell me today whether 350 schools will be built this parliamentary session?

To top it off, when Joe FitzPatrick was asked on "Newsnight Scotland" last Monday how many of the 14 high schools would be built by the 2011 election, he replied, after a minute or so of complete waffle, that he was confident that some of them would. Will the cabinet secretary clarify whether that is, indeed, the case?

We can but ask; sadly, we will have to wait a long time before there are any answers. What a total shambles. It is one thing for education ministers to be posted absent; it is another for them to leave their colleagues floundering.

Labour members have long drawn attention to the keenness of SNP ministers to turn up at and take credit for schools that were planned and built under the previous Scottish Executive, but Fiona Hyslop took shamelessness to new heights last week when she went to pose for photographs at the new Armadale academy, which was funded under a public-private partnership. She described it as

"an inspirational example of everything a new school can be".

**The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop):** I was delighted to open Armadale academy and will tell Rhona Brankin why. Before May 2007, the Labour Party—and Mary Mulligan in particular—told the people of West Lothian that, were an SNP Government to be elected, that school would not be built. Well, the school was built. I signed off the proposal in August 2007 and I opened it. We said that we would match the previous Administration's schools "brick for brick", and we have done.

**Rhona Brankin:** That is laughable. Armadale academy was a Labour school, planned under the Labour Party.

**John Swinney:** The Liberal Democrats have a Liberal school.

**The Presiding Officer:** Order.

**Rhona Brankin:** That PPP project was planned by the previous Government, which gave West Lothian Council the initial agreement. If Fiona Hyslop wishes to check the record with the

council, she will find that that is the case. If Mary Mulligan doubted that it would be built, that might be because she believed what the SNP said about PPP. The Government has not kept its promise to deliver schools through the Scottish Futures Trust. Absolutely nothing—not one school—has been built through the Scottish Futures Trust.

The cabinet secretary's comment that Armadale academy is

"an inspirational example of everything a new school can be"

is a ringing endorsement of PPP, for which I thank her. Three years ago, she said on her website:

"It's time to end PPP",

but it is difficult to know when to believe her. She pledged on 3 February 2007:

"Within the first 100 days of an SNP government we'd start replacing PPP with a Scottish Futures Trust."

The first 100 days—Mr Swinney is not smiling now.

**John Swinney:** I am always smiling when Rhona Brankin is on her feet.

**The Presiding Officer:** Order, Mr Swinney.

**Rhona Brankin:** Fiona Hyslop continued:

"It would be a not-for-profit trust which would serve as an alternative finance scheme—and it would squeeze out the PPP programme".

However, so far, all the SNP has done is establish an expensive quango that is costing taxpayers £23 million. It is now abundantly clear that the Scottish Futures Trust will not fund any schools for the foreseeable future. The SNP amendment talks about how the trust is playing

"a central role in coordinating, facilitating and managing the new school building programme."

What a load of nonsense. The reality is that it is spending £23 million without buying a single brick for a single new school.

When they are not busy having their photographs taken next to PPP schools, SNP members like to denigrate them. Let us not forget that PPP built 119 of the 328 schools that were built under the previous Scottish Executive, compared with zero schools for the Scottish Futures Trust under the SNP. It is now clear that the 14 new high schools that were announced last week will all be built using capital spend without one brass farthing of Scottish Futures Trust money.

The SNP wasted two and a half years before making an announcement that could have been made in 2007—two and a half years during which it could have got on with providing our teachers and young people with the facilities that they

deserve and a coherent school building programme that could have supported our hard-pressed construction industry. It is a disgrace that 150,000 pupils are languishing in substandard schools and thousands of construction workers are needlessly on the dole.

I make one thing clear: until last week's announcement, the SNP Government had not built or even commissioned a single school. I welcome the fact that it has at last commissioned new schools, including Lasswade high school in Midlothian. However, only 14 schools in two and a half years—about one school every two months—is a record to be ashamed of. I leave members to draw their own conclusions from the fact that three school buildings that were judged in 2008 to be category B, or of satisfactory condition, are being rebuilt in SNP council areas while dozens of schools in category C, or of poor condition, are overlooked. That point is certainly not lost on pupils and teachers at Newbattle high school in my constituency.

The SNP sticks grimly and doggedly to the script that it is matching the previous Administration's programme "brick for brick". The problem is the SNP's dodgy arithmetic—we will hear more about that today. The SNP wants to have its cake and eat it. It is trying to claim credit for school building projects that it inherited from the previous Administration as well as schools that will not even be built by the next election. Whether on timing or on hard numbers, the SNP is failing miserably to match its brick-for-brick pledge.

I urge members to speak up for pupils, teachers and parents and hold SNP ministers accountable for letting them down by supporting the motion in my name.

I move,

That the Parliament notes with concern that the Scottish Futures Trust has yet to fund a single new school building in Scotland despite the 2009 School Estate Statistics revealing that around 150,000 pupils remain in schools classified as being in poor or bad condition; is dismayed that, after more than two years, the SNP government has identified only 14 schools to be built under its first school building programme, that none of these 14 schools will be open to pupils in this parliamentary term and only 55 will be built in total by 2018; further believes that the SNP government's claims on the number of schools that it has commissioned are unsustainable given that its own School Estate Statistics reveal that a majority of schools built or substantially refurbished in the last two financial years were legacy PPP projects, and further believes that it is hypocritical for ministers to criticise PPP schools while praising them at their official opening and that the SNP's record in government is falling far short of its 2007 election manifesto pledge to "match the current school building programme brick for brick, and offer an alternative funding mechanism through the Scottish Futures Trust".

09:24

**The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop):** This is an opportune moment for the Parliament to debate school buildings, as the SNP Government passed two important school estate milestones this week. As a result of at least £2 billion of major investment in the school estate over the period 2007 to 2012, we have passed the 200 new or refurbished schools mark in the two and a half years since May 2007.

**Rhona Brankin:** Will the minister give way?

**Fiona Hyslop:** No, there is more to come.

The previous Administration delivered only 205 schools during the entire four years of its term. I can now tell Parliament that, on top of the 200 schools that are identified on page 3 of members' Scottish Parliament information centre briefing as having been built by March 2009, another 36 schools have been built since then, bringing the total to 236.

**Rhona Brankin:** Will the member share with the chamber how many of those schools are PPP schools? Why is it that the official statistics were miraculously changed the night before the debate, after close of play last night? Can she confirm that there was no discussion with the official statisticians? Was any pressure put on them?

**Fiona Hyslop:** Absolutely not.

There is an issue with the accuracy of the Labour Party's motion. Page 3 of the SPICe briefing indicates that the majority of schools that have been built in the past two years are not PPP projects.

The pace of building and refurbishing schools is quicker under this Government than it was under the previous Administration.

**Rhona Brankin:** On a point of order, Presiding Officer. The minister says that today's motion is inaccurate. Given that the motion is based on the official statistics as they stood until 6 o'clock last night, can you confirm for us that it is competent for us to vote on it?

**The Presiding Officer:** I am perfectly content that the motion is competent.

**Fiona Hyslop:** This Government's investment has supported the delivery of new and refurbished schools at a rate of 1.2 schools per week over the present four-year session, as compared with the rate of just 0.76 schools per week that was achieved in the previous eight years.

From Eyemouth high school in the east to Inverclyde academy in the west and from Papdale primary in the north to Biggar high school in the south, pupils, teachers, parents and communities

the length and breadth of Scotland are benefiting from better schools. We have already lifted more than 100,000 pupils out of schools that were in a poor condition.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Will the cabinet secretary give way?

**Fiona Hyslop:** I am sorry—Ms Brankin has already taken up some of my time.

**Jeremy Purvis:** Is the cabinet secretary seriously claiming Eyemouth high school as one of her schools?

**Fiona Hyslop:** I say to Mr Purvis that £2 billion of investment is being put into the school estate between 2007 and 2012. No school project to which the previous Administration committed has been delayed or shelved by this Government, despite the unfunded PPP revenue payments that we have had to fund, to the tune of £40 million in the next financial year alone. I have signed off eight projects involving 49 PPP/non-profit-distributing schools, including Armadale academy, and have secured funding for them.

On top of that, last week I announced the first 14 secondary schools that will benefit from the new and additional £1.25 billion school building programme, which we are taking forward in partnership with the Convention of Scottish Local Authorities and individual local authorities. More Labour-led councils are benefiting than councils led by any other political party.

**Alex Johnstone (North East Scotland) (Con):** I thank the minister for the fact that last week resources were made available that will enable schools to be built in Ellon and Laurencekirk in the north-east. However, the historical burden of school building in Aberdeenshire is so large that the situation of Kemnay academy has not yet been addressed. Is there any prospect of the Government providing guidance on how the funding for replacing Kemnay academy may be obtained?

**Fiona Hyslop:** Local authorities continue to receive robust levels of capital investment. Between 2008 and 2010, £2 billion will be provided. The member is right to identify the problem of the historical backlog that exists in Aberdeenshire. Indeed, Aberdeenshire Council was the only local authority that benefited from two schools in last week's announcement.

Labour may not have welcomed the new secondary schools that will be provided from Wick to Ellon, Garnock to Dalbeattie, Mearns to Brechin, Harris to Eastwood, James Gillespie's to Auchmuty, Clyde Valley to Ayr and Lasswade to Dumbarton, but pupils, staff, parents and communities have, as have the Conservatives. As

a consequence, 12,500 more pupils who are educated in schools that are in poor or unsustainable condition will be lifted out of that situation.

One reason why Labour was voted out in 2007 is that people wanted to see an end to the one-party state and the semi-feudal, Labour fiefdom approach to government. They no longer wanted a party that claimed schools as Labour schools. They are not Labour schools; they are not Liberal Democrat or even SNP schools, either—they are Scotland's schools, which have been paid for by the taxpayers of Scotland.

The SFT will deliver real benefits for our school building programme, as my colleague John Swinney will explain when he closes the debate. It is clear that the private finance initiative approach that was used in the past has not delivered best value for the taxpayer. Excessive profits have been made on investments, with the result that large windfall gains have been made at the taxpayer's expense. The SFT expects to make savings of at least 3 per cent over the span of the programme, which would equate to a sum of around the cost of an extra new secondary school or about five or six new primaries. Labour prefers models of excess profits; I make no apology for preferring extra schools.

Last week's announcement represents only a quarter of the new schools that will be built as part of the additional £1.25 billion programme. With COSLA, we established a school estate strategy, which Audit Scotland criticised the previous Government for not delivering. The SFT will deliver new schools.

Between 2007 and March 2009, 200 schools were funded and built. The present total is 236. At least £2 billion is being invested in the school estate between 2007 and 2012.

**Margaret Curran (Glasgow Baillieston) (Lab):** Will the minister give way?

**The Presiding Officer:** No. The minister is closing.

**Fiona Hyslop:** An additional £1.25 billion will be provided for 55 new schools. Since 2007, more than 100,000 pupils have been lifted out of schools in poor condition. We will spend an average of £700 million a year on schools over the lifetime of the Parliament. That compares with the £585 million per year that the previous Administration spent over the previous seven financial years. In every community and every corner of Scotland, schools are being built and funded by this Government. That is a record of which I am proud. Labour may not choose to see them, but pupils, parents and communities do.

I move amendment S3M-4988.3, to leave out from "with concern" to end and insert:

"that the Scottish Government inherited a school estate where around 260,000 pupils were in schools classified as being in poor or bad condition; welcomes the fact that this figure has fallen by 100,000 since May 2007 due to the £2 billion of investment in the school estate supported by the Scottish Government; recognises that in excess of 250 schools will be built during this parliamentary term compared with just 205 during the four years of the previous administration and that the Scottish Government will exceed its pledge to match the previous administration's plans brick for brick; commends the Scottish Government and local authorities for the increased pace of school project completions with the rate of delivery up from 0.76 schools per week over the eight years of the previous administration to an anticipated 1.2 per week over the period from May 2007 to April 2011 and further commends the additional investment over and above the schools that will be delivered through the capital budget allocations of each local authority, which will see an additional £1.25 billion deliver a further 55 new or refurbished school buildings across Scotland, and further welcomes the fact that the Scottish Futures Trust will play a central role in coordinating, facilitating and managing the new school building programme."

09:31

**Elizabeth Smith (Mid Scotland and Fife) (Con):** I was about to moan about the fact that yet another Thursday morning in Parliament was being taken up by an education debate, but I have to say that the entertainment is getting better and better. The member who said last week that he was on the point of holding constituency surgeries on a Thursday morning because he knew that that was when debates on education, rather than on a subject for which he had responsibility, would be held—I will not embarrass him by naming him—had better come to the chamber.

That is not to belittle the importance of this morning's subject debate. Given that it remains the case that almost a third of our schools are in poor repair, with almost 200,000 pupils being educated in substandard accommodation, there is obvious concern, and parents rightly expect members of this Parliament to debate the issue as a matter of urgency. We are pleased to join Labour in putting that on record and will support its motion, but I believe that it is incumbent on members to submit alternative proposals.

No one doubts that it is not easy—and probably not possible—to solve the school buildings issue even in the medium term, particularly given the economic circumstances that we face, but we need to be realistic, pragmatic and consistent in our approach. Before I indicate some ways in which I believe that we can do that, I will outline my two main concerns about the Scottish Government's stance on the Scottish Futures Trust.



My first concern is that the SFT has been sold as the only alternative that is on offer for the school building agenda, despite the fact that many PFI and PPP contracts have a well-proven record. We do not accept that line, on the basis that it restricts some potential sources of finance.

Secondly, I am concerned about the Scottish Government's lack of clarity on the criteria that it wants the joint approach between national and local government to use when deciding which schools merit a new building. That confusion is revealed by the difference in the answers that the cabinet secretary provided to me and to Rhona Brankin when we asked, on separate occasions, what the criteria would be.

To me, the cabinet secretary said that

"special consideration would be given to those schools in categories C and D"

and to

"where there could be an impact on the greatest number of children",

although she clarified that by saying that she was concerned about the nature of the research that had been used to define categories C and D.

The cabinet secretary's reply to Rhona Brankin indicated that the criteria would depend on schools' suitability to deliver the curriculum for excellence, additionality—whatever that means—and local authorities' plans and readiness to proceed.

I have two points to make about those answers. First, they lack consistency. I do not doubt that some of features that the cabinet secretary identified are vital, but can we be totally clear about which ones are vital or about the importance that is attached to each of them?

**Fiona Hyslop:** The two responses are completely consistent. We have worked with local authorities to identify schools that merit a new building. The reference to additionality indicates that we are talking about schools that did not previously have identified funding streams. That is the sense in which added value would be provided. It is clear that we have worked extremely closely with local authorities, which have nominated the schools that they think should benefit first. My two statements are not mutually exclusive. We have been extremely open about the criteria that are being used.

**Elizabeth Smith:** I find that slightly strange, given the reaction of some local authorities.

My second point is that if the priorities are related to the readiness of local authorities to proceed, why is the Scottish Government so wedded to the ideology of the Scottish Futures Trust, which is a Government-funded company

that would eradicate any private sector involvement in procurement and which, we are now being told, is not only the funding body but the advisory and co-ordinating body? If the Scottish Government really believes in local democracy, it has a strange way of showing it.

The Scottish Conservatives' overriding concern is to ensure that there is best value for taxpayers' money when it comes to delivering top-class education for our children. That means getting more out of the existing budget through better procurement, asset sales when it is possible to generate more income and plans to make more effective use of school campuses by the local community or other public services. To date, the SFT has not been able to do any of that.

Yet again, there has been a distinct lack of clarity and leadership in relation to this major plank of the Scottish Government's education policy. We agree with Labour that the current situation is not satisfactory, but in our criticism we must be mindful of putting in place more options and ensuring that we are able to get more out of the very limited resources that are available.

I move amendment S3M-4988.1, to insert at end:

" , and believes that the school building programme should be funded so as to deliver best value for money and that all sources of finance, including those in the private sector, should be considered."

09:36

**Margaret Smith (Edinburgh West) (LD):** This is an important debate on an important issue. The importance that Liberal Democrats attach to school buildings is clear from our record in government.

Following her statement on the school building programme in June, the cabinet secretary suggested that

"it is about time that we stopped trading statistics on school buildings on a ping-pong basis".—[*Official Report*, 17 June 2009; c 18452.]

I am not sure how she trades her statistics and whether it is like when we traded cards at school. We all know that statistics sometimes tell us a little bit less than politicians might like to think.

A certain amount of hypocrisy is involved, given that, once again, we are using statistic after statistic in relation to an issue that, for most families in Scotland, remains crucial for the education of their children. Throughout the country there is a continuing sense of disappointment at the way in which the Government is handling the matter.

There is a great deal of hypocrisy in the SNP Government's position on the issue. Not one of the

many schools that the cabinet secretary has told us about today—whether in Eyemouth, Armadale or wherever—was commissioned by the SNP Government.

I join the cabinet secretary in ignoring her own advice on so-called statistics trading on school buildings. The number of schools in Scotland that need to be replaced is 832, and the number of new schools that this Scottish Government, after two and a half years in office, and thanks to its endeavours alone, announced last week is 14. Matching the previous Government's policy "brick for brick" has simply meant that since taking office this Government has continued to support the investment plans that were in place under the previous Liberal Democrat Government.

Audit Scotland has made it clear that the previous Government delivered on our school building commitments—more than 300 schools were rebuilt or refurbished by the Liberal Democrats and the Labour Party when we were in government, and hundreds more were planned and in the pipeline when we left office. That was good news for pupils and communities across Scotland. However, we know that Audit Scotland has also concluded that it will take 20 years to bring all our schools up to an acceptable standard, at an estimated cost of £5 billion. In the face of that staggering statistic, and given that the Government has presided over two years of paralysis thanks to the Scottish Futures Trust shambles, is it not right that Opposition parties should accuse the Government of being more interested in dogma in relation to PPP than in making sure that our pupils have decent schools and our young construction apprentices have jobs?

This is, and should be, about delivery. Our problem with the SFT is not dogmatic; if the SFT had been set up and somehow was about delivering schools, the Liberal Democrats would not have a problem with it. We do not have a dogmatic problem with the SFT in the same way that the Government has a dogmatic problem with PPP.

After more than two years of dithering and indecision—two years in which work on schools could have been well under way—the Government announces £800 million of funding. Has that come about thanks to the SFT? No, it is down to direct capital grant. Even the SFT briefing, which came to us at 10 o'clock last night, states that there will be no new primaries with that funding until at least 2011 and no new secondaries under this tranche until at least 2013, and that many schools will be delayed until 2018. Parents who voted SNP on the basis of the promise of more new schools may well attend their children's graduations before the first new truly SNP school opens.

Of the 150 schools that have been built since May 2007, which the cabinet secretary mentioned in her statistics-free speech, 109 were PPP projects. The SNP condemned those very same PPP projects as "morally criminal", yet the Government takes the credit for each and every one of them. It is as if ministers had become Bob the Builder, put on their hard hats and built the schools themselves. They smile in the photo opportunities and shake hands with teachers as if not scrapping the previous Administration's projects is somehow the same as having commissioned the schools.

**Fiona Hyslop:** Will the member give way?

**The Presiding Officer:** No. I am afraid that the member must wind-up.

**Margaret Smith:** We should not be surprised at the sheer gall of this Administration. The Scottish Government is lowering its standards at an alarming rate week on week. Just two weeks ago, the First Minister was claiming success for a class size policy that has achieved just 13 per cent of its target; this week, the Government is patting itself on the back for a school building programme that has not built any schools. Week on week, the Government ditches policies; today, it should ditch the SFT.

I move amendment S3M-4988.2, to insert at end:

"; deeply regrets the ongoing ambiguity over the future allocation of resources under the school building programme and the absolute failure of the Scottish Futures Trust (SFT); considers that the Scottish Government's centralisation and poor handling of the school building strategy has caused serious uncertainty for local authorities and has undermined the autonomy of councils to determine their local priorities, and calls for the SFT to be scrapped immediately."

09:41

**James Kelly (Glasgow Rutherglen) (Lab):** The importance of this debate was brought home to me on Tuesday night when I attended a school prizegiving at Trinity high—a school that was recently rebuilt under PPP—in Cambuslang in my constituency. I talked to the staff and pupils afterwards and was struck by the excitement and enthusiasm that they felt because they were in a new school building. The 23 per cent of school buildings in Scotland that are still in a poor or bad state must be addressed. The starting position is the 2007 SNP manifesto, which referred to matching building programmes "brick for brick" and told voters that the Scottish Futures Trust would be a low-cost finance option. The reality is that those pledges have not lived up to expectations. The SNP manifesto contains so many broken promises that it is not worth the

paper that it was written on; in many ways, its title should be changed to "Welcome to Fantasy Land".

The SFT is a multimillion pound organisation that has moved at a snail's pace and has delivered nothing. As Margaret Smith said, we got a briefing note in our inboxes at 10 o'clock last night. Members might expect an organisation that is paying film-star wages to be able to get its briefing notes to MSPs more than 10 hours before a debate. The briefing note states that the SFT will "drive forward" the school investment programme. However, as we have heard, the reality is that the SNP announced the first secondary schools only last week, and none of them will be ready until 2013. I do not call that driving anything forward.

The briefing note also states that the

"SFT is rapidly developing innovative funding approaches".

I had to laugh, given that we are two and a half years down the line.

**Fiona Hyslop:** I know that the member was not in Parliament during the previous session, but is he aware that it took Labour five and a half years from announcing its funding mechanism to build the first school? The school in question was Dunbar grammar, and the project was a refurbishment rather than a new build.

**James Kelly:** I point out to the cabinet secretary that we had a rolling programme of investment in schools. The SNP Administration has taken two and a half years to make any commitment to roll the programme forward in future years. It seems to me that the SNP has failed parents and pupils; it has also failed the 8,500 construction workers who have lost their jobs this year. It must open up the funding pipeline so that more capital infrastructure projects can come through, giving us schools that are fit for the 21<sup>st</sup> century and giving jobs to construction workers who are on the dole.

09:45

**Dave Thompson (Highlands and Islands) (SNP):** The motion condemns the state of Scottish schools, but omits to say that they got into that state under the Labour and Lib Dem Governments. The motion also says that the

"majority of schools built or substantially refurbished in the last two ... years were legacy PPP projects",

but omits to say what the financial legacy of PPP has been to our councils. I will try to shed some light on that, so that we can see just how bad PPP was and why it had to go.

Highland Council has undertaken two PPP schools projects, the first in 2001 and the second in 2006. The cost of the first PPP school is now just over £3 million a year, and the cost of the second was predicted to be just over £18 million a

year, after inflation, in the current financial year, which comes to a total of about £21.25 million at today's prices. The strange thing is that figures that were released recently by the Government show that Highland Council is actually paying £24.5 million this year for its PPP schools, which is £3.25 million, or 15 per cent, more than was projected. That is not exactly the best value that the Opposition claims it is.

How did the council get it so wrong? That huge increase in repayments seriously calls into question the value for money of the PPP projects, the way in which the business case was developed and how robust the figures for the public sector comparator were. There is no doubt that the private sector ran rings round the public sector with PPP. Respected figures such as Jim and Margaret Cuthbert have said that there have been gross failures at

"the value for money and affordability stages"

of the PPP process. That is very worrying, and it looks as though we are only now seeing just how bad some of the deals were. I fear that there is much more bad news to come.

Further problems that are linked to PPP are coming to light, and Highland Council is again at the forefront of the failures. The council recently revealed that it has been saddled with an overspend of £754,000 this year due to higher than expected rates payments for its PPP schools. The overspend is so high this year because the council received the first rates bills for the schools only in March—two years after some of the buildings were completed. The council expects the overspend to be smaller in the future, but it will still be £356,000 a year more than expected. That is an additional expense that will be incurred every year for the next 28 years, until the PPP contract ends in 2037. An extra £10.68 million in rates will have been paid by the end of the contract at a time when Highland Council will have been cutting teacher numbers in many of its schools. Good value, indeed.

The council has, of course, blamed someone else. Apparently, it has been let down by consultants and is now making threatening noises about taking legal action. I doubt very much that that will ever happen.

**Alex Johnstone:** I am sorry to break into an extremely eloquent speech that explains the full cost of the PPP projects to Government, both national and local. The problem is that Dave Thompson is not comparing like with like. He is comparing outturn costs—which we all admit will be high—with the initial costs of projects that have been funded by central Government. Those two things are not comparable. Our country has debts that are building at a rate of £175 billion a year,

and central Government grant will cost our grandchildren a fortune. Funding through central Government grant has no demonstrable advantage over funding by any other method, including PPP.

**The Presiding Officer:** I will allow you extra time, Mr Thompson, as that was a rather long intervention.

**Dave Thompson:** There is absolutely no doubt that the costs of PPP are far greater than the costs would be under traditional borrowing methods over the life of the projects.

That episode shows just how dodgy some of the figures for PPP projects are. In order to make the case that the new PPP schools were good value for money, all the stops had to be pulled out, which included ensuring that the projections for costs such as rates were competitive. I wonder whether there was ever a temptation for consultants, advisers or officials to be overoptimistic in their assessment of the likely costs of PPP projects, which led to their appearing to represent value for money. I intend to find out. I have, therefore, lodged a freedom of information request with Highland Council, asking for all documents—including letters, e-mails and reports—relating to the advice that the council received on the level of rates for the PPP schools. They should make interesting reading.

09:50

**George Foulkes (Lothians) (Lab):** As Elizabeth Smith rightly said, this is the second successive Thursday morning on which we have had a debate on SNP education failure. It is the second debate in which you have kindly called me to speak, Presiding Officer. It is also a special one because it is the debut of the Cabinet Secretary for Education and Lifelong Learning in such a debate. Indeed, the SNP is so worried that we have two cabinet secretaries present—not just the Scarlet Pimpernel, but Don Quixote también.

**The Presiding Officer:** I have previously asked you not to use nicknames in the chamber, Lord Foulkes. I would be grateful if you would stick to that, thank you.

**George Foulkes:** I am glad that John Swinney was earlier called to account for his sedentary interventions. I must say, they make mine sound like whispers.

Last week, we debated the breaking of the SNP promise on class sizes and the scandal of unemployed teachers. Now, we are debating SNP failure on the school building programme. My colleagues have already eloquently exposed the hypocrisy of the SNP on that. For years, SNP members attacked the Labour Party for all the

money that we spent on PFI and PPP school building programmes. Now, Dave Thompson and others are saying that we did nothing at all. They cannot have it both ways.

Similarly, they keep moaning on about the United Kingdom Government not providing enough cash for the Scottish Executive, but we know that the Scottish Executive is getting more money now than ever. That is illustrated by the school building programme that we have just heard Fiona Hyslop go on about. Where is the money coming from? It is coming from that wicked Alistair Darling and the UK Government. It is not coming from anywhere else. The SNP cannot have it both ways.

Even with all that money, the SNP cannot get it right, as my good friend James Kelly said. The Scottish Futures Trust is an albatross that is not really flying yet. I will illustrate that with a case involving the City of Edinburgh Council. Under a Labour council and a Labour Executive, there was a continuous programme of the building and major refurbishment of primary and secondary schools, including Craigroyston primary school, Castleview primary school, Forthview primary school, Craigour Park primary school, Craigmount high school and St Thomas of Aquin's high school. I could go on naming all the schools that were built or refurbished under Labour.

**John Swinney:** Lord Foulkes has just told us that we cannot have it both ways. While he is on the subject of the City of Edinburgh Council and capital investment in the city, will he accept that, had he decided not to force the SNP Administration to support the trams project in Edinburgh, that would have liberated capital expenditure investment in schools and, more important, would have liberated the city of Edinburgh from a colossal and increasing financial burden?

**George Foulkes:** Of course, the money for the trams is coming from that wicked man, Alistair Darling and the UK Treasury. It is a question of priorities.

Under Labour, from 1999 to 2007, 34 primary and secondary schools were built in Edinburgh. Since the SNP took over in Edinburgh—I hesitate to say this, but it took over in collaboration with the Liberals—not one school has been built in the city. If Labour had continued in office, locally and nationally, the school building programme in Edinburgh would have continued, with Portobello high school, Boroughmuir high school, James Gillespie's high school, St John's primary school and St Crispin's school all in the pipeline. Instead, we have had two wasted years.

Let us consider the two new schools that are allegedly going ahead. The council has apparently

got the £41 million that is required for Portobello high school, but no site has been agreed yet and the school will not be built by the time the SNP Administration is out of office. So much for matching our previous school building programme “brick for brick”. James Gillespie’s high school will cost £42 million, of which the Scottish Government will find two thirds, while the council will have to find £14 million out of its budget. However, the convener of the council’s education, children and families committee has said that the money is not available. So much for matching our programme “brick for brick”.

That is a legacy of failure, and even the Cabinet Secretary for Finance and Sustainable Growth will not be able to explain it all away.

09:55

**Christina McKelvie (Central Scotland) (SNP):**

To have any school in Scotland in a substandard state is unacceptable; to have 260,000 pupils in schools that are in a poor or bad condition is absolutely disgraceful. However, that is exactly the mess that Labour left behind when it was turfed out of office in 2007; another mess that Labour left us in, another Labour failure, and another Labour round of “It wisnae me” from Rhona Brankin. It is just as well that the SNP ended Labour’s time in office in 2007 and replaced it with a Government that is determined to improve Scotland and a team with the imagination to dream a better country.

We now have 100,000 more children in better schools. The SNP pledged to match Labour’s school building programme “brick for brick” as the first step towards sorting the problems in Scotland’s school estate. We realised that Labour’s plans actually consisted of just a number in a manifesto, that Labour had not planned the 250 schools that it imagined it would build. Unplanned, unfunded and disorganised—that is quintessential Labour. Like so much else that Labour does, there was plenty of packaging but not much product—plenty of fur coat but a distinct lack of lingerie.

The SNP Government has already delivered all the schools that Labour planned and is well on the way to delivering the full 250 schools that we promised to build. In the first two years of this Administration, the SNP has built 200 schools, which means that it has two years left in which to deliver the remaining 50—I think that it will deliver more than that. I think that a Government in this excellent condition should be able to make that pledge.

**Rhona Brankin:** Christian McKelvie is famous for her interview on “Newsnight” in which she condemned the profits of privateers. Is she happy about her Cabinet Secretary for Education and

Lifelong Learning having signed off a PPP contract, as she so proudly said she did? Is she also happy about the fact that Angus Grossart said that the use of private money would be welcome in the Scottish Futures Trust?

**Christina McKelvie:** Rhona Brankin obviously did not listen to what Dave Thompson said about the absolutely disgusting cost and the privateers and the profiteers who were courted by the Labour Party. I inform Rhona Brankin that it took six years of running the Scottish Office and the devolved Scottish Government before Labour even checked on the condition of the school estate in Scotland. I will take no lessons from Labour.

Not only will this Government pass the target of 250 new schools within one parliamentary session, but the cabinet secretary has already started work on the tranche after that. She recently announced another £1.2 billion agreement with local authorities for new schools to be built after the election, with another 14 secondary schools announced and the primary schools still to come. The primary schools will start to be delivered in 2011, and the secondary schools will follow them. Building schools properly instead of building the absolutely rubbish schools that were built at the start of the PPP process is a better way forward.

I take it that Rhona Brankin will want to welcome that forward planning, especially given that a replacement for Lasswade high school in her constituency is featured in those plans. Labour never built it, but the SNP is going to. She will also want to welcome the £25.5 million investment that has already been made in Midlothian Council’s school plus programme and the eight schools that have been completed in her constituency.

Iain Gray will want to welcome the improvement project for 11 schools in East Lothian, as well as the infrastructure investment plans for Dunbar, Letham and Wallyford primaries and the two primaries and one high school that have been finished in East Lothian.

Lord Foulkes will want to welcome Edinburgh’s wave 3 schools, which are to be completed within two years, and the eight primary schools that have already been completed.

In Glasgow, 12 schools have been completed, in North Lanarkshire 16 have been completed, and in South Lanarkshire 22 have been completed. Thousands of pupils are in better schools today because of the actions of the SNP Government—thousands of pupils whom Labour abandoned.

Not only is the SNP Government meeting and beating our manifesto pledge and Labour’s manifesto non-pledge, it is planning for the future. The SNP is investing in the future of our country rather than following Labour’s failures of the past. The SNP is a party that puts Scotland first and

seeks to create a better country. We are building Scotland up; Labour should stop talking Scotland down.

I support the amendment in Fiona Hyslop's name.

09:59

**Patricia Ferguson (Glasgow Maryhill) (Lab):**

The SNP's record on education has been abysmal. It has made promise after promise and has broken every one of them. It is right that we hold this incompetent SNP Administration to account, and education is an area in which its record of failure has been most evident.

On 28 September, Ms Hyslop issued a press release that claimed that the Government and local authorities were

"on track to lift 100,000 school pupils, by 2011, out of tired and crumbling school buildings".

By 1 October, however, the Deputy First Minister was asserting that 100,000 children had already been lifted out of those conditions. She made no mention of partnership with the local authorities and no mention of the fact that Ms Hyslop thought that achieving that goal would take until 2011—in fact, she made no mention of Ms Hyslop whatever; it was just the Deputy First Minister indulging in the usual SNP bluster. Today, however, I notice that Ms Hyslop seems to have adopted Ms Sturgeon's mantra, but has been found wanting again.

I have asked a question—I await an answer—seeking further information on how all those announcements relate to Glasgow. Let me assist Ms Sturgeon and Ms Hyslop by telling Parliament that not one school pupil in my constituency has been lifted out of a poor or bad school by this Government. Across Glasgow, the local authority has reduced its category C and D primary schools in the past year by taking very difficult decisions—decisions with which I did not agree.

**Anne McLaughlin (Glasgow) (SNP):** The member says that the SNP has not lifted any pupils out of poor schools in her constituency. Does she take credit for Glasgow's Labour council lifting so many pupils out of the schools that they wanted to go to, that their parents wanted them to go to and that their local communities wanted them to go to, and putting them into schools that are in poorer condition?

**Patricia Ferguson:** Ms McLaughlin was clearly not listening to me. However, in answer to her, I will quote what the deputy leader of the SNP group in the council said when the announcement of the school closures was made:

"We understand it makes sense to pay for the education of children in good quality accommodation rather than heating half-empty classrooms."

Anne McLaughlin should take the matter up with her own colleagues.

As I said, I opposed those closures, and I called in this chamber for the SNP to support Glasgow to provide new schools in Wyndford and Cadder. However, it failed to do so. I asked the cabinet secretary in a debate what she could offer the children, parents and communities who were affected by the closures but, of course, she could offer nothing.

Labour in Glasgow has rebuilt or refurbished every secondary school in the city. Over 10 years 64 schools have been built—11 secondary and 53 new primary schools have been delivered as part of a phased programme that has seen new school campuses being built in my constituency in Possil Park and Milton, with another planned for Ruchill. On Ms Hyslop's new statistics that have been produced overnight, I can tell her categorically that the plans for the St Monica's campus in Milton, which opened to pupils in early spring, were originally taken forward by the previous Labour-Liberal Democrat Administration. She may not claim credit for that—we will not allow it.

Pupils in those communities are learning in the most modern facilities thanks to their Labour council and the previous Labour-led Executive. Teachers in those schools are working in modern buildings with modern equipment, and the communities around those schools are using the campus facilities that have come with them. The facts speak for themselves: Labour delivers, while the SNP fails the schools test in Glasgow.

The hypocrisy of the SNP is unbelievable. As we know, it promised to match Labour's school building programme "brick for brick" but has not done so. It campaigned against school closures in my constituency but offered no alternatives. It announced the construction of just 14 schools throughout the whole of Scotland, but not even one of those will be in Glasgow.

The SNP Government is once again ripping off Glasgow. Glasgow is yet again being penalised by the Government. We are paying the price for working hard over previous years to provide the best possible education facilities for our young people, and the communities of my constituency and constituencies across Glasgow have been abandoned by the SNP.

Does the Government not see that it is as a direct result of its policy failures that the latest phase of Glasgow's pre-12 strategy—the first under this SNP Government—is the first since devolution to offer not a single new school building in the city? That is a damning indictment of the

SNP's education policy, and is one that the cabinet secretary will not be allowed to forget.

Fiona Hyslop has indicated that she expects to announce the first tranche of primary schools that are planned to be built under the school building programme by the end of the year. She has indicated that she hopes that every local authority in Scotland will benefit from the first phase of the programme. However, those aspirational comments are quite different from the headline on the Glasgow SNP website, which screams "SNP pledge new schools for Glasgow".

**The Deputy Presiding Officer (Alasdair Morgan):** The member should wind up.

**Patricia Ferguson:** Thank you, Presiding Officer.

We know, by the SNP's own recent admission, that that particular website is prone to "glitches" with "100s" of inaccuracies.

Every party in the chamber would assert that it views education as a high priority, but after two and a half years in Government, the SNP has still to prove it.

10:05

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The Cabinet Secretary for Education and Lifelong Learning claimed, when she intervened on Rhona Brankin at the beginning of the debate, that not cancelling a previous PPP school project in West Lothian was an "inspirational" decision.

That surely cannot be the same cabinet secretary who, in 2007, told the Parliament's Education, Lifelong Learning and Culture Committee:

"We think that schools and pupils will obtain far better value from a futures-trust funded school than from a PPP-funded school."

She went on to say:

"However, the futures trust will provide a very attractive option for local authorities and I think that many are waiting with great anticipation to use it."—[*Official Report, Education, Lifelong Learning and Culture Committee*, 27 June 2007; c 40.]

I am not sure when anticipation turns to despair, but I think that we are very much on that threshold.

Every SNP member who has spoken in today's debate has spent the first half of their speech condemning PPP schools, and the second half taking credit for opening them. I was interested to hear the cabinet secretary champion Eyemouth high school, which is one of three PPP secondary schools in Berwickshire. The SNP campaigned tooth and nail against that PPP project in the Borders, and now the cabinet secretary heralds it

in her speech as something for which the Government should take credit.

Fiona Hyslop talks about an "inspirational" PPP school, while her back benchers say that when she opens the school, she should pull the cord and say, "I hereby open this morally criminal school."

**Fiona Hyslop:** We said that we would match the Labour and Liberal Democrat PPP programme, and we did. None of the projects was cancelled: they all went ahead. Construction began on Eyemouth high school in September 2007, and the school opened in March 2009. The schools and the buildings can be inspirational, but I do not think that PPP is the model that we should continue to progress. We have honoured the commitments and spent £40 million each year—

**The Deputy Presiding Officer:** Jeremy Purvis has only got four minutes.

**Jeremy Purvis:** Thank you, Presiding Officer.

Christina McKelvie called the schools "rubbish". Within the space of 10 minutes, "rubbish" schools have become "inspirational" schools, according to the SNP.

As my colleague Margaret Smith said, not scrapping schools that were planned by the previous Executive is not the same as building new ones; just as signing off, announcing, awarding and opening projects is not the same as commissioning new projects. Primary school pupils can tell you that, if they are educated in the right sort of buildings that we hope to build for them.

In March this year, on "Good Morning Scotland", John Swinney was asked, "Hand on heart, cabinet secretary, has the Scottish Futures Trust turned out to be everything that you wanted it to be?" He replied, "Of course it has." The Scottish Futures Trust, which the Cabinet Secretary for Finance and Sustainable Growth said would fund schools, has no funding.

From reading the briefing that members received at 10 o'clock last night—which bodes well for the future efficient delivery of the Government's programme—we should apparently be reassured. What is the Scottish Futures Trust doing with its £5.9 million budget this year? The briefing states:

"SFT is currently visiting recently opened schools to bring best practice"

in delivering more efficiency. Those are obviously not the "rubbish" schools that we have heard about this morning. Is that efficiency, as we have heard, 3 per cent over a decade-long programme, which is considerably less than the existing efficiency targets for local authorities?

The Scottish Futures Trust, in its briefing, gives itself credit for supporting the pathfinder project. It also mentions the East Renfrewshire pilot, for which the Government has set out a timetable. The first school will be ready in August 2013 and the last school will be ready in August 2014, which involves a phased construction programme over 12 to 24 months.

We are not seeing any efficient delivery, nor any co-ordination. The sting could well be in the tail, however, because the SFT has indicated in its own business plan that it will be charging councils for some of the work, which presumably includes the visits to schools that the briefing mentions.

**The Deputy Presiding Officer:** The member must wind up.

**Jeremy Purvis:** Charging councils for visiting a previously-built PPP school is surely not all the cabinet secretary had hoped for from the Scottish Futures Trust.

10:10

**Murdo Fraser (Mid Scotland and Fife) (Con):** Last Thursday really was a sad day for SNP manifesto promises. Until that point, it had been assumed that the Scottish Futures Trust, although seriously ailing, might itself have a future as the provider of funds for capital projects and new school buildings. The matter was put beyond doubt at First Minister's questions, however, when Nicola Sturgeon, the Deputy First Minister, refused to answer a question from Johann Lamont on whether the SFT would provide any cash for Scotland's crumbling schools. It became clear that whatever the Scottish Futures Trust is, it is certainly not a source of funding.

However, the SNP was quite clear in its 2007 manifesto, which stated:

"We will match the current school building programme brick for brick, and offer an alternative funding mechanism through the Scottish Futures Trust. With better value bonds we can release more money to invest in the frontline."

There is no alternative funding mechanism for the Scottish Futures Trust, no better value bonds, and no third way to funding schools as an alternative to traditional methods or PPP.

In case we needed any clarity on that, we received—very late yesterday evening, as James Kelly said—a briefing from the Scottish Futures Trust in advance of today's debate. Note to highly-paid members of the SFT board: it is not helpful to send a briefing for a debate, which contains information to aid members in making their contributions, at 10 o'clock on the evening before we are due to arrive in the chamber.

The briefing states:

"SFT is rapidly developing innovative funding approaches to meet the new challenges."

We are now two and a half years on from the election, and we await those "innovative funding approaches" with bated breath.

We on the Conservative side of the chamber are not churlish. If the SFT actually delivers value for money for the taxpayer, that is a good thing; and we await it with interest. It is now clear, however, that the SFT is a management mechanism rather than a funding mechanism. It is a million miles away from what the SNP promised in its manifesto; Fiona Hyslop and her colleagues should make that quite clear, and apologise for their failure.

Because we are generous in spirit, and we still want to give the SFT a chance, we will not support the Lib Dem amendment.

**Jeremy Purvis:** Will the member give way?

**Murdo Fraser:** If Mr Purvis will forgive me, I want to make some progress.

I am rather confused by the Lib Dem amendment, because I saw a Lib Dem press release dated 3 February 2009, which was headed "Lib Dems secure serious measures for serious times". It states:

"Tavish Scott, Leader of the Liberal Democrats ... has secured an economic recovery plan for Scotland with 'serious measures for serious times' following Budget negotiations with the First Minister."

It goes on to say:

"The SNP have changed their position on the Scottish Futures Trust. They will now give the quango a funding stream to restart school building in Scotland. Local councils and the construction industry had criticised the SFT for paralysing investment."

**Jeremy Purvis:** Will the member give way?

**Murdo Fraser:** In a second.

More recently, on 28 September—just 10 days ago—a Lib Dem press release stated:

"Malcolm Bruce MP welcomes new Ellon Academy announcement".

It quoted Mr Bruce as saying:

"As part of last year's Scottish budget, Liberal Democrat MSPs secured a commitment for a funding stream for the Scottish Futures Trust: I am delighted that this has now borne fruit with this announcement."

Perhaps, Mr Purvis, it is just a "rubbish" press release?

**Jeremy Purvis:** Murdo Fraser said that the SFT is now, in his view, purely a management rather than a funding body. If that is the case, should the



management function not be carried out by Government?

**The Deputy Presiding Officer:** Mr Fraser, you should begin to wind up.

**Murdo Fraser:** Thank you, Presiding Officer. I was enjoying myself so much that I did not realise I was running out of time. All I can say to the Liberal Democrats is that they need to get their lines right, in respect of what their members of the Westminster Parliament are saying and what their MSPs say in this chamber.

For our part, we will support the Labour motion and, of course, we promote our amendment. It is important that we consider all funding mechanisms for new schools, but it is also important that the SNP realises that it has woefully let down Scotland's parents, pupils and teachers.

10:15

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The distinction that Jeremy Purvis sought to make took the contortions that we get in the chamber to a ridiculous extreme. He tried to say that not cancelling a school project is not the same as building the school. I am sure that what matters is the fact that the schools are being built.

Under the SNP Administration, the proportion of schools in good or satisfactory condition has risen from 68 to 75 per cent, with a corresponding fall in the number of schools in poor or bad condition.

**Margaret Curran:** Will the cabinet secretary take an intervention?

**John Swinney:** I ask Margaret Curran to allow me to develop my arguments.

We expect more than 250 school building projects to be completed during the current session of Parliament, with 236 completed already, exceeding our manifesto pledge to match "brick for brick" Labour's manifesto commitment of 250 schools. I cannot imagine how—

**Rhona Brankin** rose—

**John Swinney:** Here is Rhona Brankin about to intervene on me in her usual thankless fashion, despite the Government's achievement in matching "brick for brick" the Labour Party's manifesto commitment.

**Rhona Brankin:** How many of the schools that the Government is promising to have completed by the end of this parliamentary session will be part of the Government's school building programme rather than council programmes?

**John Swinney:** The Government's school building programme will deliver 250 schools during this session of Parliament. How can I marshal the

facts more simply for the people in the Labour Party who do not listen?

Of course, Rhona Brankin has made a speciality of criticising the Government's performance on education policy. It is important that we remind ourselves of the assessment of Rhona Brankin that was given by her own colleagues when she was promoted into the Cabinet on 10 January 2007. Quoted in *The Herald*, a senior Labour figure admitted to being "gobsmacked" by Ms Brankin's promotion, describing it as "a reward for incompetence", so we will take no lectures from Rhona Brankin on these questions.

In this session of Parliament, we will spend, on average, £700 million per annum on schools, compared with the £585 million per annum that the previous Administrations spent in the previous seven years. We will build 1.2 schools per week as opposed to the 0.76 that the previous two Administrations built.

Of course, the issue of school building is materially anchored in how we pay for the proposals, and I will move on to make a number of remarks on that, but let me first make a point about the competence of the previous Administration and its financial planning. If we had not continued the school building programme, that lot would have moaned about the fact that we had not taken all the projects forward. We have taken them forward, but we are also meeting an increased financial liability—between the current financial year and the next one—of £100 million in the cost of repayments for those schools. Members shake their heads, but those are the facts.

**Margaret Curran:** Will the cabinet secretary give way?

**John Swinney:** I will give way to Margaret Curran in a moment.

In the next year, there will be an increase of £57 million. The budget line for PFI repayments is going up at a time when the Administration's budget is falling in real terms. That is not sensible financial planning by Margaret Curran and her colleagues.

**Margaret Curran:** I thank the cabinet secretary for finally giving way to me.

I ask the cabinet secretary why he is replying to the debate. Is he stepping into the education team? When was that decision taken and why? Also, given that he is the finance secretary, can he tell us specifically how much the Scottish Futures Trust will contribute to the building of schools in this session of Parliament?

**John Swinney:** This morning, Lord Foulkes was queueing up to say that it was lovely to have me here; now Margaret Curran is moaning that I am

here. I am here because the motion contains a lot of drivel about the SFT and I am the minister responsible for the SFT. That is why I am replying to the debate. [*Interruption.*]

**The Deputy Presiding Officer:** Order.

**John Swinney:** I cannot move on without referring to Mr Fraser's absolute demolition of the Liberal Democrats' hypocrisy on the issue, but let me add to Mr Fraser's repertoire. I thought that he had perhaps stolen a press release that I had found, but I have another one, from 2 March 2009, which is headed:

"Darling should not attempt to give PFI kiss of life—Cable".

Vince Cable went on to demolish the arguments for PFI, so perhaps there should be a little consistency in that debate.

**Jeremy Purvis:** Will the cabinet secretary give way?

**John Swinney:** I think that the Presiding Officer wants me to draw my remarks to a close.

At the heart of the school building programme will be the expertise of the Scottish Futures Trust. The first phase will be funded through direct capital investment in the schools programme, to allow construction to start as quickly as possible on the buildings that require the most attention. Through the Scottish Futures Trust, different funding models, including the non-profit-distributing model, will be options for later phases. We are asking the Scottish Futures Trust to work actively on that and it will discuss the matter with COSLA, authorities and the Government.

We have made it clear—and Elizabeth Smith's amendment makes the correct point in this respect—that it is important that we deliver maximum value for money for all our investment. I do not think that any of us could fail to see the lack of efficiency in the design, procurement and construction of the early phases of the PFI schools.

**The Deputy Presiding Officer:** I am afraid that the cabinet secretary's time is up.

**John Swinney:** Audit Scotland has criticised that, and we have to address the question of value for money.

10:21

**Ken Macintosh (Eastwood) (Lab):** Last Monday should have been a red-letter day for the Scottish Government. At last, albeit two and a half years late, it had a schools programme of its own. The first new schools to be commissioned by an SNP Administration—that was surely something to celebrate and shout from the rooftops. Perhaps there would be a parliamentary statement, a

debate, or possibly even a comment from Mr Salmond. Instead, here we are, more than a week on, and an Opposition party has yet again been forced to hold a debate to bring the Government to the Parliament to explain itself. At least this time the Cabinet Secretary for Education and Lifelong Learning has had the good grace to join us, although I am surprised that she feels the need to elicit Mr Swinney's support.

We heard a lot of shouting from Mr Swinney. He shouted that he was the minister responsible for the Scottish Futures Trust. I wonder whether he will be shouting that at the next election.

Why the timidity? Why the odd situation of an Opposition party lodging a motion on what should be a flagship Government policy? To fully appreciate the situation, it is helpful to try to imagine what voters thought in 2007 when they voted for a party that promised:

"We will match the current school building programme brick for brick, and offer an alternative funding mechanism through the Scottish Futures Trust."

I wonder whether any of those voters expected to wait two and a half years to hear an announcement about 14 schools, none of which will be built until 2013 at the earliest? I wonder whether any of them expected to wait two and a half years for a new funding mechanism only to hear that it is no such thing.

The trouble with last week's announcement is that, instead of meeting people's aspirations and expectations, it leaves them flat. It reveals a Scottish Futures Trust that does not work and shows up the hollowness of the SNP's repeated but baseless claims of record investment.

It is difficult to know where to start with the Scottish Futures Trust. The point has been made by Margaret Smith, James Kelly, Murdo Fraser and others that £23 million has been spent but there is not a single brick to show for it. That would be laughable if it were not so serious. Last week, we discovered that the SFT spent more than £100,000 on consultants just to advise them who to recruit. What did they say? Those with experience of building schools need not apply? Sending e-mails at 10 o'clock at night qualifies you? The SNP's amendment suggests that the SFT's job is only to

"play a central role in coordinating, facilitating and managing the new school building programme."

There is no mention of funding or building anything. The SFT has been not a way of building schools but a way of stopping school building. For two and a half years, it has given the SNP an excuse not to commission any schools of its own.

We now find that the first 14 schools that the Government has announced will be built using

traditional procurement. As Rhona Brankin pointed out, they could have been announced on day one. No wonder the SNP is not bragging about them. Of course, ministers find it difficult to brag about the 14 planned new schools because they have been pretending to build everyone else's schools since they were elected.

Bizarrely, they seem to have commissioned schools before they were even elected into Government. The Cabinet Secretary for Education and Lifelong Learning pretends that every local authority school is, in fact, an SNP commission; indeed, in an excellent speech, Jeremy Purvis highlighted the hypocrisy of the SNP's position in its steadfast refusal to announce a PPP programme while repeatedly claiming to have commissioned PPP schools right, left and centre. As Mr Purvis pointed out, every SNP member who spoke this morning condemned PPP schools in the first half of their speech, only to go on to claim them in the second half. I should also point out that Christina McKelvie did not just call the schools rubbish; she called them disgusting. The cabinet secretary herself mentioned excessive profits and then went on to talk about Eyemouth high school and her visit to Armadale academy. That is duplicity.

**Dave Thompson:** What does Mr Macintosh have to say to Highland Council, which this year is paying £3.25 million more than expected? It is now spending more than £25 million a year on PPP schools, a figure that was not supposed to have been reached for 30 years. How much will that sum increase in future years?

**Ken Macintosh:** Does Mr Thompson welcome these new schools or does he think that they are a disgrace? Is the SNP proud of the PPP schools and is it commissioning them, or does it think that Scotland's pupils do not deserve them? As Murdo Fraser and Elizabeth Smith pointed out, PPP schools throughout Scotland, including those in my area, have been delivered on time and on budget and are delivering a service. That is more than the SNP has done in two and a half years.

Back in January, in answer to a question from my colleague George Foulkes, the First Minister famously took credit for 71 commissions, some of which the BBC immediately revealed to be half-built before the SNP was even elected into power. The most recent announcement has made it clear that, on top of the 71, the 250 or even the 350 schools that are mentioned, there will be 55 new schools, none of which will be ready before the next election and some of which will not even be built until 2018, or two elections from now. The SNP expects us to believe that asserting something repeatedly and loudly enough makes it true. However, a look at its claims about funding

and investment reveals them to be as overheated as its claims about supposed commissions.

As for statistics, last month we challenged the SNP on teacher numbers, and members were too scared to turn up and debate the subject. This week, when we challenge ministers on school buildings, they try to fiddle the figures the night before. I can scarcely recall a more flagrant or political abuse of Government statistics. Do they have so little confidence in their arguments that they sneak in changes the evening before a debate?

Last week, the cabinet secretary stood outside a PPP school; this morning, she tries to pretend that such schools have no part in the SNP's programme. No matter how the SNP tries to fiddle the figures, it cannot hide the fact that the Scottish Futures Trust has failed to deliver one school.

The SNP promise on school building was not of its own making. In fact, it was an attempt to copy the previous Liberal Democrat and Labour Executive and, if imitation is the sincerest form of flattery, I suppose that it was a recognition of the success of our investment in the school estate. For all their talk this morning of ambitions and record funding, ministers have attempted not to outbid us, as they tried to do with class sizes, but to match us. Sadly, though, the result is the same. The SNP has deceived the people of Scotland, has failed to deliver on its education promises and has let us all down.

## Volunteering

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on motion S3M-4985, in the name of Johann Lamont, on volunteering.

10:29

**Johann Lamont (Glasgow Pollok) (Lab):** Labour has chosen to use its time to debate volunteering and the voluntary sector both in recognition of their importance and because it is concerned about the lack of opportunities for consideration and scrutiny of the Scottish Government's approach that the Government has afforded. The Scottish Government has promoted a wide range of non-debates in the chamber, but I cannot remember when these particular issues were last debated.

We want to give voice to concerns that are being reported to us by people throughout Scotland who are too afraid to speak up or speak out on their own behalf. Indeed, I have been struck by the significant number of briefings that we have received as a result of this debate. I thank everyone who provided a briefing; it is a measure of the subject's importance that they have been submitted.

It is right to recognise and celebrate the voluntary sector's role and we salute the volunteers who make a real difference to people who are very often the most isolated and vulnerable in our communities. We know that volunteers can identify need, help to shape services and reach out into the parts of our communities where the state cannot go. Volunteers such as those who work for Home-Start in my constituency can support and be trusted by vulnerable families who might fear more formal interventions by social work or health staff. We know that volunteers make a massive social and economic contribution and that their influence on community life and cohesion is beyond measure. We know, too, that volunteering enriches the lives of volunteers, both young and old; indeed, we have seen how significant the support for volunteering among older people has been.

Warm words, however, will sustain neither volunteers nor the voluntary sector and, like many others, I remain concerned that in its approach the SNP has been typically high on rhetoric but weak on delivery, with a separation between what it says it cares about and what it provides resources for. I am also struck by the gap between ministers' approach, which borders on the complacent, and the issues that have been raised at a local level, including funding cuts, fears for the future and

increased concern about the conditions of those who work with the voluntary sector. In the time available, I will try to highlight some of those concerns.

First—and I do not say this lightly—I have been struck by the extent to which those involved have suggested that there is an atmosphere in which it is difficult for them to air concerns. I hope that we all believe in and celebrate the independence of the voluntary sector, but the threat of the withdrawal of funding if critical voices are raised seems all too real. That cannot be acceptable, but it has been reflected in the debate on the future of the councils for voluntary service network and the development of local interfaces. Instead of following the principle of voluntary collaboration, we seem to be driving towards a forced measure, with funding being used to create compliance. As I said, that is entirely unacceptable.

Secondly, there is concern that the Scottish Government seems to be of the view that the development of volunteering opportunities does not require resources. The national volunteering strategy seems to have come to an end, and the single outcome agreements say nothing about the need for such strategies to be developed at a local level.

Thirdly, not that long ago, Unite, Unison and the Scottish Council for Voluntary Organisations came together to highlight to the Parliament the crisis in the voluntary sector. Who can forget the image of the hearse, which captured the fear of the sector's destruction? Well, SNP back benchers will have forgotten it, because they did not have the courage to turn up and speak to the people who were raising these concerns.

There is also grave concern at the Scottish Government's lack of understanding of the powerful role that volunteering can play in tackling disadvantage, and we need to be proactive in encouraging such activity in our most disadvantaged communities. After all, volunteering can improve skills, build confidence and form an important bulwark against the consequences of economic recession. We need the Scottish Government to act, especially when we are faced with two contrasting sets of figures. First, 18 per cent of adults in deprived communities volunteer, while the figure for Scotland is 33 per cent; secondly—and in stark contrast to that—the figure for young people not in education, employment or training is 11 per cent for the whole of Scotland, but 25 per cent in our 15 per cent most deprived communities. The Scottish Government must find a way of intervening to ensure that our poorest communities, which would benefit most from the skills that volunteering can bring, are afforded such opportunities.

**Tricia Marwick (Central Fife) (SNP):** Does the member not agree that one of the difficulties that the voluntary sector is facing is the move to compel people who do not want to go into employment or training to accept a place in the sector? Surely the whole ethos of volunteering is that it should be voluntary. Does the member agree that compulsion in this matter is very wrong and will she condemn the United Kingdom Government for trying to force through such a measure?

**Johann Lamont:** I regret the fact that Tricia Marwick wishes to attack the United Kingdom Government, rather than join us in contemplating challenges in our local communities. Young people in poor communities could be afforded the opportunity to volunteer, which would address the fact that disproportionate numbers of them have been hit by the recession. The Scottish Government's answer to that situation is to end funding for ProjectScotland, a body that has a focus on reaching out to young people for whom it is more difficult to access volunteering opportunities and who would benefit disproportionately from them. There are examples of that in my community and, I am sure, throughout Scotland.

Despite that, the Scottish Government is ending ProjectScotland's funding. The Government says that it is a matter of cost, but the reality is that 87 per cent of the money from the public purse that is used to support volunteering opportunities through ProjectScotland goes directly into the pockets of the young volunteers and, from those young people, out into the hard-pressed communities in which they live. We know that 40 per cent of ProjectScotland's volunteers come from the 20 per cent most deprived communities. At a time of economic recession, it is bizarre for the Scottish Government to make that decision, which shows a lack of understanding of the recession's disproportionate impact on poor communities and individuals.

It is time for the Scottish Government to confront the consequences of its decisions. Its budget has increased in real terms by £600 million, but it is devolving responsibility to local level, with a reduced budget. As a consequence, there are cuts in local government budgets. Local government's capacity to find resources is restricted because of the impact of the council tax freeze. The Scottish Government must accept that the funding problems that voluntary sector organisations and local volunteers are experiencing are its responsibility.

The Scottish Government should take a lesson from volunteers and the volunteering spirit. It should take responsibility and recognise that warm words mean nothing without action to make the

commitment real. Having created huge problems for voluntary organisations and volunteering, the minister adds insult to injury by walking by on the other side. I urge him to reconsider his position on ProjectScotland and to listen to and engage honestly with all those in the voluntary sector who wish to volunteer but who tell us that there are significant problems at local level. That will give us confidence that volunteers and the voluntary sector can survive and thrive again.

I move,

That the Parliament recognises and celebrates the role of the voluntary sector and volunteers across Scotland in supporting individuals, families and communities and in shaping and delivering services locally; notes the excellent work of volunteering organisations in encouraging volunteering through offering training and volunteering placements and particularly in reaching out to those who might not otherwise have the chance to volunteer; agrees, given the opportunity that volunteering provides to develop skills and build confidence, that, in this economic recession, volunteering organisations should be given adequate resources to allow them to do that important work, and further agrees that innovative organisations that create structured volunteering placements for young people, such as ProjectScotland, should be recognised and supported by the Scottish Government.

10:37

**Robert Brown (Glasgow) (LD):** It is highly appropriate that we should debate the voluntary sector in the context of the challenges facing Scotland. The Liberal Democrat amendment focuses on the situation of young people in the tsunami that has been wrought by the economic and financial crisis. Young people are our future and our greatest pool of talent and potential. In the 1980s and 1990s, we saw the damage that can be done to the hopes and ambitions of a whole generation for whom there are no jobs and little opportunity. Now, again, the generation coming out of school, college and university, full of possibility and desperate to make their way in the world, find no jobs available to them and vastly narrowed opportunities from those that were available only a year or two ago. Almost one in six under-25s is out of work, with youth unemployment in September the highest since records began. Those young people are at risk of becoming another lost generation and, with every day that passes, their hopes fade a little more. The Parliament and the country will pay a heavy price if we cannot meet the threat as a society.

The challenge is also an opportunity, because the underused talent of our young people is a major resource of enthusiasm, fresh air, manpower and, I have to say in Johann Lamont's presence, womanpower for voluntary sector organisations. Many organisations routinely draw in young people as volunteers, but much more can be done through what I describe as interns or

placements—young people who come not for an evening, but on a daily basis for months or longer. They can be trained to fulfil a role in the organisation, expand its capacity and, in the process, find fulfilment in doing something worth while for the community and build their self-confidence.

That was the role and inspiration that was taken up by ProjectScotland. I say to the minister that it should be a significant embarrassment for the Government that it withdrew funding from ProjectScotland without proper examination of its role or potential and at the very time when its contribution was most needed. ProjectScotland is not the only model. We have the Scottish higher education employability network—SHEEN—student placements project and various other projects. However, one of ProjectScotland's undersung contributions was to provide structured resources to build the capacity of the organisations in which its volunteers were placed. For example, the Scouts at their Fordell Firs headquarters and outdoor centre took on ProjectScotland volunteers, who added enormously to the staff base, to say nothing of the opportunities in youth work that were opened up to those young people.

The voluntary sector is more needed than ever during times of hardship. The citizens advice movement makes a massive contribution in most parts of Scotland. It was funded by the previous Scottish Government specifically to carry out debt advice work that arises from legislation that we introduced. That funding comes to an end shortly, but it must be extended and not lost by becoming merely a part of the local government settlement. Citizens Advice Scotland receives significant funding from the UK Government because of its role in financial and welfare benefits advice. That presents a major opportunity for gearing up with the support of local authorities and the Scottish Government. I am not so interested in the mechanics but, as Johann Lamont rightly said, the Scottish Government has a responsibility to ensure that the national advice service is funded effectively to meet the current expanded needs.

What applies to the citizens advice bureaux applies to many other voluntary sector organisations that can and need to play not only their current role, but an enhanced role in providing flexible services with a human face. Those services are often of a kind that cannot be supplied by the statutory services. I ask the minister to tell the Parliament what weapons he will use to ensure that those organisations can access properly structured and sustained funding that builds their capacity in these difficult times. I genuinely welcome the recent announcement of a resilience fund of £1.7 million but, as a deputy minister in the previous Government—a mere

minion—I put more than that into the youth work strategy alone. Modest crisis funding is no substitute for sustained and structured support of the sector.

In April last year, Parliament debated the voluntary sector, which was perhaps the most recent time that the issue was debated in the round. At my instigation, we passed an amendment that called on the Scottish Government to review the operation of the concordat with local government to provide more stable funding for the voluntary sector and to revitalise the local government compacts with the sector. We have heard little if anything about that recently. Not for the first time, the Government has ignored the will of Parliament. The interests of the voluntary sector are similarly ignored in outcome agreements. Meanwhile, the fairer Scotland fund has followed other funding in being rolled up into the local government settlement. What a contrast that is with the substantial package of voluntary sector support and reforms under the previous Government. That approach genuinely expanded the sector's capacity, supported national infrastructure organisations and tried to deal with the admittedly difficult task of the sector's relationship with local government and other funding bodies.

I know that the minister's expertise is in enterprise, rather more than in the voluntary sector, but I hope that he will tell us what policy levers he retains to ensure that stable and sufficient funds flow into the voluntary sector. We have an opportunity to turn difficulty into hope, instead of aspiration into ashes. We must not again witness the bleakness of another lost generation of young people. The Scottish Government has a crucial part to play in the discussion, debate and, I hope, action.

I move amendment S3M-4985.1, to insert at end:

"considers that young people are a huge pool of untapped talent and potential who are at risk of becoming a lost generation as a result of the current economic downturn; notes that engaging young people in the voluntary sector would provide a valuable resource for the organisations concerned; recognises the pressures put on the voluntary sector by the local government concordat and single outcome agreements, as well as local authorities' tight financial settlement, and believes that, with proper, structured and sustainable funding from central and local government, the current economic downturn presents an opportunity for a strong and active voluntary sector to play an enhanced role in the delivery of frontline services."

10:43

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The debate is timely and is on a subject about which all members are passionate, and rightly so, because that is the only

seemly response to the passion, focus and commitment of volunteers throughout Scotland. Unbidden, they work with others to benefit their community. They are predisposed to altruism and they understand the need for their services, the good that they do, the satisfaction that volunteering can produce and its potential to produce a chain reaction of positive results. They are vital to the success of Scotland; indeed, in many ways, they are Scotland—they are totally representative of the country, with some estimates suggesting that more than a million people take part in volunteering activities. Many of them will not see themselves as volunteers, although they are active in what they do, whereas others see themselves very much as volunteers with clearly focused volunteering organisations.

We will accept and support the Labour motion, recognising that Johann Lamont has sought to engage positively and effectively on the issue and that her strategic direction as a minister was similar to the cohesive approach that we seek to engender, albeit that her rhetoric today has perhaps been skewed by partisan spin. It does not describe the new reality and the new beginning that is taking place, which is the opportunity for the voluntary sector to be at the heart of the community planning partnership decision-making process and to make real progress.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** Does the minister regard it as cohesion when he has outsourced to local authorities £350,000 of support for the CVS senior volunteers programme and failed to agree to the transitional funding that was demanded in the debate last year, with the result that only four as opposed to nine development officers now support an increasing number of people who want to volunteer? The programme is under massive threat from his lack of cohesion.

**Jim Mather:** I note the member's scaremongering tone. I believe that we are seeing a new beginning that brings people together to work cohesively. We are seeing that even in the case of ProjectScotland, which is evolving with Government support to aid transition of £1.4 million in 2008-09, which has helped the project to get European Union match funding. It made a successful application to the third sector enterprise fund that has enabled it to recruit a business development manager to assist in its evolutionary process. It is increasingly clear that ProjectScotland can do more now that it is in the fold as a mainstream service provider. It is in close talks with Skills Development Scotland about creating a pilot study and it is building a positive network of mentors throughout the country.

We will reject the Liberal Democrat amendment.

**Murdo Fraser (Mid Scotland and Fife) (Con):**

Just before the minister leaves the subject of ProjectScotland, does he accept that a great many voluntary groups throughout the country do excellent work that has relied on ProjectScotland volunteers and that the consequence of the cut in funding by his Administration is that the work of many of those groups has been seriously hampered? Will he reconsider the level of Government support for ProjectScotland?

**Jim Mather:** Considering the expense of the ProjectScotland model, I am surprised and disappointed by that intervention from a party that prides itself on efficiency and effectiveness.

I am also disappointed that, in their amendment, the Liberal Democrats see bleak negativity in the local government concordat and single outcome agreements. That is an affront to the many decent people who are pulling together to take advantage of already increased funding and the new levels of collaboration that have been achieved and can be further improved. However, we can build on Robert Brown's final comment about difficulty turning into hope.

The atmosphere of blame, negativity and pessimism among Opposition members is not what I recognise out there in the field. Perhaps that atmosphere is designed to trigger defensiveness, fear and disconnection, but it is not what we are about. We reject that, as do the millions of volunteers who choose to connect and find better ways of doing so. In response to Johann Lamont at question time last week, I made a commitment to do that, and I will honour that commitment. We will make connections. We will happily try to broker arrangements and ensure better outcomes, which is very much what we have been doing of late.

In Glasgow last week, the Scottish Government ran a seminar under Chatham house rules, bringing together 35 key figures from throughout Scotland to think through what is needed to support active communities. That group tabled a wide and rich variety of ideas. It will now produce a framework to trigger a further conversation in Scotland about what needs to be done by whom and what resource will be needed. These are early days, but we feel that we are working on the right track and we are listening.

The key feature of this morning's debate is the huge range of ideas, which will be melded with our approach. Volunteering has no boundaries; motivated people will constantly find new ways of helping others. It is our job through the interfaces, CPPs and single outcome agreements to ensure that that happens. More and more volunteers will come forward. We are now seeing that our work with Volunteer Development Scotland, in which we are investing £11.5 million in the current period, is

having a big effect. That represents only 5 per cent of volunteers, so many more volunteers will come forward.

10:49

**Jackson Carlaw (West of Scotland) (Con):** I apologise to Johann Lamont for missing the opening remarks of her speech.

This is a tricky speech to make. After all, this week sees the climax of the UK party conference season and long-standing tradition dictates our conduct. Last week, Labour said lots of nasty things about the Conservatives; this week, we in turn illustrate dramatically all that is wrong with the failing Labour Government. A fortnight ago, we both shared a universally arrived at national judgment on the Liberal Democrats, but the less said about them the better. On that sentiment, even though I appreciated Robert Brown's speech this morning, I find the Liberal Democrat amendment unhelpful, which will contribute to the outcome at decision time.

However, the motion requires us to rise above the demands of the season, because it touches directly on an unjust sleight of policy executed by this minority Government against ProjectScotland and the wishes of all the other parties in the Parliament. No great issue of principle was at stake; no great financial burden was relieved for the nation. What was achieved, with all the appearance of first ministerial spite, was the emasculation of an organisation that was created by the current incumbent's predecessor, seemingly principally for that reason.

I will return to ProjectScotland later, for the motion invites us to recognise and celebrate the extraordinary culture of volunteering bequeathed by generations of Scots past and embedded in the daily practice of modern Scotland. Some 45,000 structured voluntary organisations, managing £9 billion of assets and marshalling 1.3 million adult volunteers from every sector of Scottish life, work to make Scotland and the wider world a better place. That is a characteristic of modern Scotland that I do not doubt every member of the Parliament welcomes, celebrates and is regularly inspired by.

We have probably all volunteered at some point; it can be an important balance in life. My family volunteers and there is nothing remarkable about it. Like many younger people at school, my sons have come to volunteering through the Duke of Edinburgh award scheme. My wife volunteers with the lifeboats—on the fundraising side of things, I hasten to add. I mention that in passing because all who volunteer would wish the debate to acknowledge the one general irritation felt by all, which is regulation, however well intentioned,

whose consequence is to obstruct the work of volunteers and demoralise many who volunteer. We need to deal with that problem if volunteering is not to suffer, but it is the stuff of a different debate than ours today.

Volunteering will prosper irrespective of the fortunes of ProjectScotland. However, what is at stake is the potential loss of an organisation that affords access to volunteering to sections of our young people who are regularly bypassed. As I observed when we debated ProjectScotland nearly two years ago, ProjectScotland addresses volunteering access inequality, which makes the actions of a Government pledged to address inequality all the more bewildering. In the two years since that debate, has something else turned up? Rather like what happened with the Scottish Futures Trust, we were invited back in 2007 to swoon before freshly invigorated ministers breathily promising something better. But something better is there not. To be fair to the minister, he has at least been emollient, at least until a moment ago when, in one breath, he praised ProjectScotland and, in the next, he attacked Murdo Fraser for asking him to back up that praise with practical action.

The First Minister has been less emollient. On 24 June at First Minister's questions, oblivious to the 50 or so ProjectScotland volunteer champions watching from the public gallery, he descended into a diatribe of ill-informed and ill-judged abuse of ProjectScotland, its volunteer organisers and volunteer successes. At a certificate award ceremony afterwards, there was a heady mix of bewilderment and fury from a new generation of Scots—and model Scots at that—receiving awards for the sheer excellence of their commitment to volunteering on behalf of their country.

Although many voluntary organisations seek out young people in search of life-changing opportunities, and the Government supports many of them in many ways, I remain genuinely perplexed by its indifference to the future of ProjectScotland, which is an organisation supported not just by several of its back benchers—prior to being told to think otherwise by their front-bench peers—but by an extraordinary range of not-for-profit organisations that address volunteering access inequalities in every region and community of Scotland.

Those who emerge through organisations such as ProjectScotland are just the sort of young people whom responsible businesses long to recruit. Businesses recognise that they have journeyed through ProjectScotland from potentially difficult circumstances. Responsible business wants to play its part in giving those young people, who have shown such courage, application and



resolve, a permanent and hopeful future. Eight out of 10 progress to a positive outcome. Some 40 per cent of those young people come from the 20 per cent most deprived areas in Scotland. Through ProjectScotland, more than 3,000 young people have contributed more than 2.2 million hours of new voluntary work, saved the state some £3.16 million in welfare benefits and, through their talent, increased confidence and application, significantly increased the capacity and quality of the service that is provided by not-for-profit organisations. Never has volunteering had a more important role to play. Harnessed successfully, volunteering will give hope, life skills and work to many and will prepare them for the employment opportunities that will surely come. We should learn from past experience, not repeat it.

Structured volunteering placements of the kind offered to young people through innovative organisations such as ProjectScotland deserve recognition and practical support from the Government in these times. Today we set aside, however reluctantly, the tribal rites of this crucial party conference season to join Labour by supporting the motion in Johann Lamont's name. It is for the Scottish Government to do likewise, not just with warm words but with practical action.

10:55

**Bill Butler (Glasgow Anniesland) (Lab):** The voluntary sector plays an extremely important part in the day-to-day lives of tens of thousands of our constituents, so I am particularly pleased that the motion makes specific mention of ProjectScotland, which was launched by Jack McConnell in the spring of 2005 and was based on the AmeriCorps model, which was pioneered by President Clinton in the 1990s. Members will be aware of my long-standing support for ProjectScotland. I thank all those members who signed my two motions on the charity during this diet of Parliament.

Since its inception, ProjectScotland has set about transforming and redefining the image of youth volunteering by creating effective partnerships with hundreds of public and voluntary sector organisations, delivering more than 3,000 placements and facilitating more than 2.2 million hours of volunteering.

Why has ProjectScotland been so successful? Put simply, it delivers what young people want: choice, support and the chance of a better future. It is unique in that its participants receive a subsistence allowance that allows them to take up a variety of opportunities and a wide range of placements. To date, more than 3,000 young people have taken part.

However, change is not confined to the participants. ProjectScotland delivers a unique

double benefit: as volunteers change their lives, they help to improve the lives of those around them by increasing the capacity of voluntary sector partners and making a difference to the communities that they serve. ProjectScotland has changed the lives of tens of thousands of Scots.

Unhappily, in December 2007, the Scottish Government decided to withdraw the funding for ProjectScotland—a decision that has resulted in a drastic reduction in the number of placements made available to our young people and, by extension, a cut in the capacity of partner organisations.

In 2007-08, ProjectScotland provided 1,370 placements. Following the Government's withdrawal of support, that number fell during 2008-09 to 426. Placements were halved in Glasgow and South Ayrshire, cut by more than two thirds in Fife and Perth and Kinross and cut by almost 85 per cent here in Edinburgh. Those statistics make grim reading against the backdrop of the current economic climate.

One can seldom open a newspaper without reading another article about how the recession threatens to leave us with a lost generation of young people devoid of opportunity, optimism and hope, yet no analysis was carried out when the decision was made to stop supporting ProjectScotland and no research into the social return on the investment made was conducted or presented by the Government.

There is a strong economic and social case to be made for directly supporting ProjectScotland. Its activities have resulted in a saving in welfare benefits of £3.16 million to date. More than 90 per cent of its volunteers move on to positive outcomes: employment, education, training, further volunteering or business start-ups. In 2008-09 alone, 40 per cent went on to employment, 29 per cent went on to training or education and 11 per cent went on to further volunteering or business start-ups.

Given those figures, I, and many others in the Parliament, have been part of a campaign to support that excellent organisation. I salute the efforts of colleagues such as Robin Harper, Robert Brown, Jackson Carlaw, Murdo Fraser and Margo MacDonald for their commitment to this very good cause. Like me, they have witnessed the undoubted benefits of the organisation's work in their constituencies and they can testify to the quality and commitment of the young people involved.

Please do not just take my word for it. Ask Kimby Tosh, a young woman from Perthshire whose life was turned around by her involvement in ProjectScotland—so much so that next month she will appear before the Public Petitions

Committee to call on the Scottish Parliament to urge the Government to demonstrate how it supports national youth volunteering opportunities that deliver skills development for all young people in Scotland and to commit to a national youth volunteering policy for Scotland.

In 2004, a relatively unknown senator, Barack Obama, spoke of the “audacity of hope”. Five years later, as President of the United States, he turned that aspiration into action by signing into law the Edward M Kennedy Serve America Act of 2009, which will quadruple the number of AmeriCorps volunteers to 250,000. The Scottish cousin of AmeriCorps, ProjectScotland, has similar potential. The Scottish Government should support ProjectScotland. The answer from the Government has to be, “Yes we should. Yes we will. Yes we can.”

10:59

**Sandra White (Glasgow) (SNP):** I am pleased to take part in the debate; I am just sorry that it seems to be turning into a debate about ProjectScotland. There are many voluntary opportunities out there other than just ProjectScotland.

As others have said, there are many ways to volunteer, from being involved in organisations to working for the local community. Those are the two areas on which I want to concentrate.

The briefing that we received from the SCVO states:

“Volunteering should form part of a broader strategy of civic engagement and community empowerment ... We need to ensure that volunteering is supported as a way of gaining and retaining skills.”

Those aims are commendable but, as I said before, that is not the only way that people choose to volunteer. Last night, I attended the Glasgow community champion awards ceremony in Glasgow city chambers. People who were nominated for the awards, which are sponsored by the *Evening Times* and others, included people from voluntary organisations but also many individuals who work tirelessly for their communities—individuals, not organisations. They included Hugh and Margaret Tavendale, who have served their community for more than 30 years; Glasgow Old People’s Welfare Association, which works tirelessly for older people in Glasgow and which has more than 1,000 volunteers who give of their time; a 21-year-old trainee doctor from the west end who volunteers in his community in his spare time; and the Ruchill Youth Project, through which young people volunteer in their community.

**Dr Simpson:** Does Sandra White agree that those volunteers need support, training and often counselling to fulfil their function in the most

effective way, for their benefit and for the benefit of those for whom they volunteer? Does she agree that the Government must therefore ensure that such support is available?

**Sandra White:** I started by saying that there are many ways to volunteer and that people choose to volunteer in different ways. People choose whether they want to volunteer; we cannot force them to receive training or counselling. People such as Hugh and Margaret Tavendale chose to volunteer. They have never asked for training to be volunteers—volunteering came from their heart. Volunteering comes in many shapes and forms; it is not all orchestrated.

I was disappointed by the contributions from Robert Brown and Jackson Carlaw. Volunteering should not be seen as a way to take over jobs or training. People choose to volunteer. It would be disingenuous to say to young people that volunteering is the only way that they can get into a job. It is rather sad that the speeches that I have heard so far appear to say that young people must volunteer and a job will follow. These kids should be getting real jobs, real training and real apprenticeships. The voluntary sector should not be used to take people off the unemployment list and send them on to a job. We have to remember that volunteering is about choice.

**Johann Lamont:** Will the member give way?

**Sandra White:** I am sorry, but I have less than 60 seconds left.

Everyone seems to be mentioning ProjectScotland. We should be congratulating Kate Mavor on her new job with the National Trust for Scotland—I am sure that she will do very well there.

We have to be honest and look at the figures for ProjectScotland, which show a cost of £8,934 per volunteering opportunity. I remind members of the previous Executive that they said that ProjectScotland should start to look to secure funding from the private sector. It has not done that yet. Please do not lecture anyone else on ProjectScotland.

There are many other volunteering organisations out there. People need a choice; they should not be forced into volunteering. It is about time that members listened to that. The people whom I mentioned chose to volunteer. They did not volunteer because they were told to; they chose from their hearts to help their communities, which is what volunteering is all about.

11:04

**Hugh Henry (Paisley South) (Lab):** I am not surprised that, at the start of her speech, Sandra White said that she did not want to talk about

ProjectScotland, but it was bizarre that, at the end, she launched into an outright attack on the organisation with her ill-judged and ill-informed comments. Far be it from me to leap to the defence of either Robert Brown or—God help me—Jackson Carlaw, but Sandra White completely and utterly distorted what they said. It was grossly unfair and was unhelpful in the context of the debate. On the one hand, it showed that she did not fully understand what was being discussed and, on the other, it showed contempt for all those who volunteer in many capacities that go beyond the very narrow one that Sandra White sought to define.

**Sandra White:** Does the member deny that the figures that I quoted came from the previous Executive? Further, is he saying that people who volunteer from their heart to help their communities are any less worthy than people who belong to a voluntary organisation?

**Hugh Henry:** I often wonder what people mean when they talk about a dialogue with the deaf. I think that I am beginning to experience a bit of that today, because Sandra White is clearly incapable of understanding what is being said. I do not intend to go into the figures around ProjectScotland. I merely point out that she launched into an ill-judged attack.

Johann Lamont was right to point out that, regrettably, there are organisations throughout Scotland—several MSPs, including me, have experience of this—that are profoundly worried about impacts on their budgets, particularly for helping with volunteer activity. Regrettably and tragically, they are scared to speak out. What kind of Scotland are we trying to build when we intimidate those who try to help others, and make them fear that their funding is under threat if they say anything?

I want to put on record the positive aspects of what volunteering can do. In my area, there are a number of projects that provide a fantastic range of services, from the small level of volunteering in the Renfrewshire Law Centre to the larger activities at the citizens advice bureaux, helping people with problems relating to benefits, debt and so on. I also have two WRVS projects in my constituency. One of those, the WRVS at the Royal Alexandra hospital in Paisley, is long established and renowned throughout the west of Scotland. Its volunteers service the cafeteria, the gift shop and the newsagent. It also provides more than 100 volunteers for befriending and lunch clubs. Through the volunteers' efforts, particularly in the cafeteria and gift shop, phenomenal amounts of money are raised to provide valuable and essential services in the hospital. Indeed, Sandra Robertson, the area manager, cannot speak too highly of the service that the volunteers

provide. The WRVS also runs a cafeteria in Causewayside Street in Paisley that not only is a fantastic drop-in facility for the public but helps people to volunteer.

I say to Sandra White that people manage to get back into work through such volunteering. They started out to help through the volunteering ethos, and helped themselves back into work in the process. They did not volunteer in order to get back into work, but they developed their talent, skills and confidence through their volunteering activities.

Last, but not least, I pay tribute to the Renfrewshire Carers Centre and its volunteering project, which provides a range of services, such as one-to-one volunteering and befriending. What is probably most significant is that it helps young people to do volunteering work and supports young carers. It is a truly outstanding service. Our gratitude goes to all those volunteers in the Renfrewshire Carers Centre and elsewhere who do such a magnificent job for the wider community.

11:09

**Tricia Marwick (Central Fife) (SNP):** It is a pleasure to be able to speak in the debate, because it gives me an opportunity to pay tribute to the many volunteers in my constituency who give their time, expertise and energy to assist their communities and the people within those communities.

Talking about ill-judged speeches, though, I think that we just heard one from Hugh Henry. He talked of fear and intimidation in the voluntary sector, but he obviously did not live in Fife for the 40 or 50 years in which Labour held thrall. However, I cannot see any way in which local organisations in Fife are not speaking up about threats to their funding or otherwise.

I spent part of the summer recess visiting projects in my constituency to find out more about their work and to give them my support. There are too many organisations to mention in this short speech, but my thanks go to all of them for the time that they spent with me. I want to concentrate on and highlight the work that is done by organisations that are volunteer led and supported, rather than refer to the voluntary sector that is supported by Government, council or health board funding, because there is a difference.

**Robert Brown:** Will the member take an intervention?

**Tricia Marwick:** No.

I will mention first the Leven community cinema project, which was set up by the community council following a survey of the people of the

town that showed that the overwhelming majority wanted a cinema. The first film was shown in December 2008. Led by Frank Walker, Alan Briggs, Pam MacDonald and Leven community council, the cinema project is going from strength to strength, and is now looking to acquire its own premises. The project was awarded £6,000 from the awards for all scheme. I was delighted to welcome my friend Michael Russell, the Minister for Culture, External Affairs and the Constitution, to present the project with its award.

The Leven community cinema project has managed to attract young people from schools to help with something in which they are interested. So inspired was I by the work of the Leven cinema project that I got together with David Nelson, who is the chair of Auchmuty tenants and residents association and Kingdom FM radio's volunteer of the year, and, following a public meeting in Glenrothes, set up a community cinema group there, which is driven by a new volunteer called Gavin Howe. The first show is likely to be in late November or early December in the Rothes halls.

I want to highlight, too, Auchmuty tenants and residents association, which now has its own community flat, providing a welcoming environment and a place where people can go for support and advice. David, Maureen, Jan, Kenny and a host of other volunteers have worked tirelessly over 25 years, with no reward apart from knowing that they have made their community a better place in which to live. Their garden and the work of the Pitteuchar garden project so inspired the judges in the Britain in bloom contest that Glenrothes was awarded a silver gilt medal.

Among other projects that I want to mention is St Ninian's charity shop and community cafe, which is a haven that offers home-made food at a reasonable price and a welcome to all. The project, which is now looking to extend the premises, donates its profits to other worthy organisations in the town. There is also Home-Start in Glenrothes, which supports vulnerable families and picks up on work that social work cannot do. If I had more time, I would mention many other organisations.

The test of a voluntary organisation or, indeed, any other organisation is what it delivers, who it assists and whether it makes a real difference to its community. The voluntary sector is many things, including people who volunteer and voluntary sector organisations that are supported by central and local Government and health boards. However, the test of the voluntary sector is the one that I laid out; it is not, and cannot be, about simply providing jobs for people within the voluntary sector. They must demonstrate what they can do and assist their communities. That is

the test, now and in the future, for any voluntary organisation.

11:13

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** Like others, I welcome the opportunity to take part in the debate, because it is about an important issue for people in our local communities. Indeed, as we know, volunteers are the backbone of many community organisations and services. We should recognise and value their efforts. Everybody has examples of inspirational volunteers in their areas, and my area is no exception in that regard. There are people such as grandmother Brenda Emmerson, who recently won the Bighearted Scotland carer of the year award and who volunteers as well as taking up her caring responsibilities. There is Pearl Barton in Maybole, who, although she is a pensioner herself, runs a range of activities for older people and organises a charity shop to help others. There is also young art student Karly Burns, who, despite having cystic fibrosis, has sustained a volunteering commitment to the charity Momentum while completing her masters degree.

There are too many people to list and many examples, young and old; what they have in common is that they are willing to give their time for the benefit of the community. However, that does not mean that they should not be supported and that there should not be structure and training when it is necessary. The briefings for the debate from umbrella organisations such as Citizens Advice Scotland, WRVS and Community Service Volunteers highlight the importance of putting in place the infrastructure to support volunteering. As Johann Lamont highlighted, we might expect the Scottish Government to take account of that and to put such support in place. As the voluntary action fund briefing points out, although that support does not need to be expensive or overengineered, it needs to be there. I agree.

I agree, too, with members who called for support for volunteering to be offered to those in the most disadvantaged communities. I say gently to Sandra White—because I thought that she might have picked up on this—that for someone who lives in a disadvantaged area and does not have a lot of cash or support, it can be difficult to make the time and to get to a place where they can use their good will to volunteer in the community. That is exactly why organisations such as ProjectScotland, which was designed to be Scotland's national youth volunteering scheme, were so important in areas such as mine.

Bill Butler has been a great advocate of ProjectScotland, as have Johann Lamont, Hugh Henry and other members who have spoken today. I want to add a couple of words about why it

was so important in my area, where young people had the opportunity to participate in volunteering programmes with the Forestry Commission. Many young people in some of the most disadvantaged parts of my constituency, such as the Doon valley, Auchinleck and Kincaidston in Ayr, had the chance to learn new skills and meet new people. Importantly, they were part of an organisation that was not simply set up for poorer or disadvantaged young people. They met others from different areas and faced new challenges. For many of them, for the first time in their lives they succeeded at something and gained the respect of the community. So why has that scheme not continued?

The argument that it is for ProjectScotland to negotiate with local authorities shows exactly what is wrong with the Scottish Government's approach. I worked in the voluntary sector at the time of local government reorganisation and I know how much more difficult it was to deal with 32 individual local authorities than with the small number of former regional councils. As the director of a charity, I moved from directly supporting work with young people to filling in forms and constantly seeking funding. Every year, I worried whether I would have to make staff redundant. Sadly, we seem to be returning to that rather than moving forward.

I am glad that ProjectScotland is in the process of implementing work in South Ayrshire with the Forestry Commission, funded through the Department for Work and Pensions future jobs fund. The work will be based on the previous successful volunteering projects and will allow young people to take up six-month jobs with the Forestry Commission. That is welcome, but it would be even more welcome if the Scottish Government would reverse the damage that it has done by slashing ProjectScotland's budget, ensure that that funding is restored and give every young person in Scotland who wants it the opportunity to participate in that programme.

11:18

**Jamie Stone (Caithness, Sutherland and Easter Ross) (LD):** The debate is about tackling disadvantage by means of volunteering, and Johann Lamont outlined it very meaningfully. She was the first to touch on the funding problems. Robert Brown's amendment focuses on young people. Despite what Jim Mather and Jackson Carlaw say, ours is a positive amendment because, as Robert Brown said, young people are our future.

Robert Brown made an interesting point about the role of interns and placements. As a member of the Scottish Parliament and as someone who has been in business in the past, I have long felt

that we do not do enough to encourage that. If the Minister for Enterprise, Energy and Tourism feels unable to comment on that when he sums up, he might want to consider it.

The minister talked about the commitment of volunteers and made the interesting observation that not all volunteers see themselves as volunteers. There is a great deal of truth in that, and we might all want to reflect on it. I can think of many people in my constituency who are doing tremendous work but who would be the last to call themselves volunteers. I wonder why that is. It is something that we might learn from.

I look forward to hearing what the minister says; many points have been raised that he must address. Jackson Carlaw—perhaps on orders from further south—challenged the Labour Party then turned his tanks through 90° and laid into the Scottish Government. We can see why he did that, but he observed the niceties of responding to the order to attack Labour at all times.

However, like other members such as Cathy Jamieson and Bill Butler, Jackson Carlaw correctly focused on the loss of funding for ProjectScotland. I view the issue perhaps from the perspective of being far away from the areas that are most directly involved with the organisation. However, when Cathy Jamieson speaks of youngsters getting involved in forestry, I know exactly what she means. In the past few days, I have visited the Forestry Commission and have seen the difference that it makes to young lives. I was told by a forester that it gives the young people a reason to get out of bed in the morning, and one youngster said:

"Because it's been a hard day out there, I sleep so much better."

What Cathy Jamieson said was music to my ears.

I pay tribute to Volunteering Highland in my constituency; it has put in place a system, which is duplicated throughout Scotland, for the recognition of volunteering. When volunteers stand up and receive a certificate or an award for what they have done, that is particularly valuable. It introduces not only the element of pride, but the idea of community thanks for what they do. I applaud Volunteering Highland for its endeavours on that front. A 90-year-old lady in John Farquhar Munro's constituency still helps to run the village hall—she stacks up the chairs at the end of the day. She probably does not think of herself as a volunteer, but my goodness me she makes a contribution.

In my constituency, there is the Caithness science festival. As the minister knows, although enterprise money goes into it, the festival could not be as big or successful as it is on the limited funding available if it was not for the element of

volunteers. I pay tribute to the employers who give their employees time off work to contribute to the festival, and who see it as a form of professional advancement. The idea of volunteering within paid employment as a form of professional advancement, which can advance not just society but people's careers, is sound.

I beg members to support Robert Brown's entirely reasonable and positive amendment.

11:22

**Murdo Fraser (Mid Scotland and Fife) (Con):** I thank Labour for bringing such an important subject to Parliament. My only regret is that just over an hour is not enough time to do justice to the subject. In the short time available to me, I shall concentrate my remarks, as others such as Bill Butler and Cathy Jamieson did, on ProjectScotland and its life-changing work—I use that phrase advisedly—for a great many young people. It is simply a mistake for the Scottish National Party Government to cut the funding for such an excellent volunteer programme.

I confess that when ProjectScotland was set up by the previous Executive, I was initially sceptical. Why should the taxpayer fund volunteers? If they were genuinely volunteering, why did they need payment? My views on that changed as a result of my local engagement with ProjectScotland volunteers. More than 130 young people in Perth and Kinross have benefited from ProjectScotland placements.

As other members, including Jackson Carlaw, have mentioned, staff and volunteers from the Strathmore Centre for Youth Development in Blairgowrie—known as SCYD—came to the Parliament in June, with young people from elsewhere in Scotland, to tell MSPs about ProjectScotland's work with voluntary projects such as SCYD. At SCYD, there is a young woman called Kimby Tosh, who Bill Butler referred to, who has been a trainee youth worker at the centre since the end of 2008. Kimby lives in the same town as me, Alyth, and I know about the difference that ProjectScotland has made to her life. When Kimby came here in June, she explained to MSPs the huge difference that ProjectScotland and SCYD have made.

At the age of 13, Kimby started drinking alcohol on a daily basis. She was getting into trouble and was eventually expelled from school. At that point, she got involved with the local youth centre, where staff worked with her and were so impressed with her progress that they encouraged her to become a ProjectScotland volunteer. Kimby explained to MSPs and other volunteers that the ProjectScotland placement had helped her to grow in confidence and ability. She now delivers local

community-based projects for young people in Blairgowrie and across eastern Perthshire. She is a role model for many youngsters in the area.

When she came to the Parliament in support of ProjectScotland, Kimby said of its work:

“Their support enabled me to volunteer at SCYD and I'm really pleased that I can do something for them in return. If it hadn't been for my placement I'd probably still be drinking and my life would be going nowhere.”

Not only that but, as Bill Butler said, Kimby Tosh is now a leading light in the campaign for ProjectScotland. She has lodged a petition that calls on the Parliament to urge the Scottish Government to keep youth volunteering high up the political agenda and to develop and implement a national youth volunteering policy for Scotland.

Kimby Tosh is an inspiration, and her example proves why volunteering is so important. Here is someone who wanted to turn her life around; volunteering has allowed that transformation to take place. As a result of the SNP Government's cut in funding for ProjectScotland, only 13 young people were able to complete volunteer placements in Perth and Kinross in 2008-09, compared with 67 in the previous year. Organisations such as the YMCA in Perth, which has had a number of excellent volunteers through the programme, are missing out on that opportunity. That also means that young people in Perthshire are missing out on the opportunity to gain experience. The situation is duplicated across Scotland.

We need more young people like Kimby Tosh in Scotland today, but that will happen only if the Government is prepared to restore funding to ProjectScotland. I was dismayed by the minister's dismissive and negative comments about ProjectScotland in response to my earlier intervention. I appeal to him, either in his closing remarks or in quiet reflection afterwards, to accept that the SNP has simply got this one wrong. There is still time for ministers to do the right thing; I will applaud them if they do.

11:27

**Jim Mather:** This has been a genuinely important debate, because volunteering is about community helping community. That is why I will accentuate the constructive aspects of the debate—Robert Brown's comment about turning difficulty into hope and Johann Lamont's comment about joining together to face the challenges. It is clear that the third sector can and will play a role in lifting us to new levels of social cohesion, as well as in lifting us out of recession and giving us a more robust economy in the long term.

There is a great deal of evidence that the pathway back to work is often eased by the

stepping stone of volunteering. A volunteering placement can restore self-esteem, reinstate the routine of daily activity, which is often lost through unemployment, and retain, revive and develop skills. It is good that various organisations across Scotland have been awarded contracts for return to work, which are often associated with pathways that take in volunteering. Members will note that the DWP has awarded £120 million to the Wise Group in Glasgow for its return-to-work programme. More and more people and organisations are working together in common cause. At the other end of the spectrum, the DWP has awarded a contract to Volunteer Development Scotland and its fellow consortium members to use the skills of volunteer centres to bring young people into work.

The new integrated approach to solutions is best delivered at local level. Each area of Scotland is affected in a different way by the consequences of recession, so solutions must play to local strengths and reflect local differences. Our proposals to bring the third sector into community planning partnerships are central to ensuring that CPPs have access to the third sector's knowledge and experience. The new interfaces should be essential to planning the outcomes that CPPs will pursue and devising programmes that will deliver them. That is a key role for the third sector. It is vital that its voice is heard and that it is at the heart of decision making. Ten interfaces with CPPs have already been agreed, and more are emerging each week. When volunteer centres were separate entities, their role in promoting the interests of volunteering was important. Now the ambition is that volunteers will be considered at the centre of CPPs.

**Johann Lamont:** I am glad that the minister has agreed to meet local CVSs, which are concerned about the situation. If at that meeting they say that they feel that they are being forced into merger, through threats around funding, will the minister do something about that, reassure them and ensure that all mergers are voluntary, not forced?

**Jim Mather:** I certainly will. We are ensuring that we address the issue in a mature way and produce valid information that all of us can understand and on which all of us can agree, to enable us to make informed choices. We will monitor vigilantly the effectiveness of what we decide to implement. That is the issue that we are facing today.

Sandra White made a good point about the narrowness of today's debate and the width and scope of volunteering. We have focused heavily on ProjectScotland. I am happy to pay tribute to ProjectScotland for the work that it has done, but it was a niche product, only for full-time volunteers, and today it is a different animal. Cathy Jamieson,

other members and I have spoken about the liaison with the DWP, the Forestry Commission, Skills Development Scotland and others that is taking ProjectScotland to a different place. When the previous Administration allocated £17 million to ProjectScotland, many other volunteering organisations lost out in the search for resources. The agency connected volunteers to opportunities, but those opportunities were provided by other volunteering organisations.

We give credit to ProjectScotland for what it has done to adapt. It now has an opportunity to focus on those in real need—unlike previously, when 80 per cent of volunteers were not in that category. In the future, we will be able to make better, more informed choices, but that requires us to come together now. We know that volunteers need support and strongly believe that they are essential to delivery of the benefits to each member of the community that single outcome agreements set out.

Two weeks ago, we were proud to be associated with a statement by the third sector task force that set out how the Convention of Scottish Local Authorities, the Society of Local Authority Chief Executives and Senior Managers, the Scottish Government and the third sector will work together. Volunteering is a central part of our activity; it is important that we harvest this active citizenry and get it working in a more cohesive way. That will happen. As a result of the interfaces that will be created in CPPs, we will have great success stories that can be broadcast and which will allow people to learn from the work that is being done elsewhere.

Today's debate is evidence of the fact that members from all parties are firmly behind volunteering. We welcome that. Equally, we remain committed to go further. We believe that volunteering is essential to delivering a successful, sustainable economy in Scotland and will continue to work to that end. I look forward to having Johann Lamont attend our meeting with CVSs.

11:32

**Johann Lamont:** The debate has been interesting, because it has captured three elements of the SNP's approach since it came into government. First, there has been further evidence of its willingness to ignore the will of Parliament. Parliament has spoken before on the issue of ProjectScotland, but the SNP has chosen to ignore its voice. Secondly, we have heard warm words that are a million miles away from delivery or any sense of responsibility for what is happening. Thirdly, there has been absolute silence from Government back benchers, who are unwilling to suggest that anything that ministers are doing may not be absolutely correct.

I was chided by an SNP back bencher when I mentioned their craven compliance. She told me that I did not like the fact that SNP members are united. My problem is that I do not like unity that is at the expense of voluntary organisations and others that need members to speak up for them. The great test of the maturity of the SNP Government is whether its back benchers are allowed and have the confidence to raise even a squeak about the problems that our local communities face.

**Tricia Marwick:** Given my record over the past few weeks, when I spoke here opposing the Government on an issue in my constituency, I object strongly to the member's suggestion that I would not criticise ministers. However, I will not criticise them on this occasion, because on this occasion they are right.

**Johann Lamont:** The member is to be congratulated on having the confidence to oppose the Government once; whether that is followed through in voting is a different matter. The point has been made, and the member may want to reflect on it.

I have referred to the Government's warm words. Is the minister seriously saying that there are no concerns in voluntary organisations and among volunteers, and that they do not think that there is a problem? He said that all the pessimism is here in the chamber, rather than in the outside world. What does he think the hearse that was brought to the Parliament was about? Why does he think that Unite, Unison and the SCVO came together to express their concerns? Why, does he imagine, are people talking about the cuts at local level? Are they just making it up, as Tricia Marwick seemed to suggest? I found her comments that the voluntary sector has to be about more than just jobs for those who work in it absolutely insulting to those who have raised issues of concern; she may wish to reflect on that.

In relation to Mr Mather's warm words and the issue of ProjectScotland, I do not think that the whole debate is actually about ProjectScotland. ProjectScotland captures an approach. I would like somebody in the SNP to explain to me why its members have such a problem with ProjectScotland. They are supporting a motion that welcomes

"organisations that create structured volunteering placements for young people, such as ProjectScotland",

and they agree that such organisations

"should be recognised and supported by the Scottish Government."

Are SNP members seriously saying that support does not involve funding, and that it involves only warm words? If so, they need to reflect on that, too.

We are told that there is a value-for-money test for ProjectScotland. As we have said, 87 per cent of the moneys will go into the pockets of young people in the poorest of our communities. Perhaps the minister would have more credibility on the argument around the value-for-money test if he was not promoting a Scottish Futures Trust that is spending £23 million to deliver absolutely nothing.

The minister has spoken about passion. We all have passion about the voluntary sector. However, passion does not deliver services, and it does not in itself make a difference in our communities. The interesting thing about people who volunteer—and about the voluntary sector—is that they have passion in partnership with a hard-headed approach. If volunteers say that they are in dire straits, we should listen to them, rather than dismiss them in the way that has been suggested in the debate.

The Government makes great play of the resilience fund. Apparently, it is wonderful and it will help the voluntary sector when it is under the cosh. Actually, that captures a lack of responsibility. The Scottish Government creates the crisis, cutting funding to local government despite its increased budget; it imposes a council tax freeze; and it uses a single outcome agreement model and the concordat without properly funding it, which is the major problem, rather than the model itself, as is suggested in Robert Brown's amendment. Then, when people say that there is a problem, the Government creates a resilience fund of £1.7 million for one year only—from old, previously announced money—which is a sticking plaster, and then trumpets that as a great success and evidence of its willingness to address the problem.

The minister talks about how the SCVO, COSLA and the Scottish Government have produced a joint statement. That joint statement, on glossy paper, leaves unspoken some of the key issues that voluntary organisations, voluntary sector representatives and volunteers themselves have been addressing, including the difficult issue of full cost recovery.

The minister started by saying that he wanted to accentuate the positive. The problem with that approach, which captures the language of a cheesy song from a cheesy musical, is that the minister is entirely distancing himself from the consequence of his Government's actions. He is creating the impression that being nice about things will make a difference. As I have said, however, the voluntary sector is a tough place, doing tough things, and it deserves a better approach than that.

The minister talked about ProjectScotland as a niche product. As that one phrase shows, could there be a bigger gap between our vision, across



the Parliament, of what ProjectScotland is and the minister's view of it? It is a project that has changed lives. The minister says that the Government wants to focus on people who are really difficult to reach, rather than on people who do not deserve it. The figures about the reduction in placements across Scotland show that those reductions are coming about in the poorest of our communities, not in better-off communities. Where ProjectScotland was reaching out to youngsters in deprived communities, it is now less able to do so.

I urge the minister, SNP back benchers and the Scottish Government to treat volunteering and voluntary organisations with respect. There is a surfeit of warm words wherever we talk about volunteering, but the test must be whether the SNP is willing to recognise that this is not a trumped-up debate by the Opposition but a reflection of serious concerns across Scotland about the way in which Government decisions and actions are hampering organisations' capacity to do what they do best.

When meeting representatives of voluntary sector organisations, I urge the minister to deal with the issue of intimidation and to meet them as genuine partners. We will judge the capacity and effectiveness of such meetings by whether there is a shift in his and his Government's policy.

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

11:40

#### Alcohol Awareness

**1. Andrew Welsh (Angus) (SNP):** To ask the Scottish Government what steps it is taking to promote alcohol awareness week. (S3O-8114)

**The Minister for Public Health and Sport (Shona Robison):** Alcohol awareness week is a key initiative from the Scottish Government's alcohol industry partnership, which brings together Government, industry, health professionals and the voluntary sector to promote joined-up messages about responsible drinking. We work together to promote those messages through a wide range of channels, including press articles, events and advertising.

**Andrew Welsh:** Is the minister aware of reports from Sweden this week that show that restrictions on the price and availability of alcohol there have reduced alcohol consumption by as much as 30 per cent, which contrasts with Finland, where one year of lower alcohol taxation has increased hospital admissions by 10 per cent? In alcohol awareness week, does the minister agree that a minimum pricing policy, as a means of saving lives and of reducing alcohol-based hospital admissions, the incidence of crime and lost working days, is increasingly supported by the evidence base?

**Shona Robison:** Yes, I am very much aware of the Swedish evidence, which is very interesting. It follows on from the in-depth report from the University of Sheffield, which showed the benefits of minimum pricing for saving lives and reducing crime, as well as the economic benefits that can flow from rebalancing our relationship with alcohol. I hope that members across the Parliament will reflect on all the evidence and that we can reach a consensus on the way forward.

**Jim Tolson (Dunfermline West) (LD):** Is the minister aware that, as part of alcohol awareness week, many members were asked to take part and to visit stores in their constituency? I visited a David Sands store in Crossford in my constituency this week, and I met the chief executive of the company. He says that, throughout his stores, he carries out his own test purchasing checks and ensures that anyone who looks under 25 is asked for proof of age. Does the minister feel that that is a good example, which should be adopted throughout the country?

**Shona Robison:** All those things can be considered under the alcohol bill that the Scottish Government is introducing before the end of the year. As I have always said, and as the Government has said, there is no one single solution; we need a package of measures. However, in that package of measures there must be something that goes to the heart of reducing alcohol misuse in Scotland. The evidence tells us that that something is minimum pricing, given the clear links between price and consumption. I hope that the member and his party will reflect on that.

**Dave Thompson (Highlands and Islands) (SNP):** At a time of increasing alcohol problems in society, the proposed closure of the award-winning designated place at Beechwood house in Inverness is extremely worrying. Does the minister agree that Highland Council, Highland NHS Board and the Northern Constabulary must do all that they can to maintain at least a minimum service at the designated place, so that its unique benefits are not lost completely to the Highlands?

**Shona Robison:** I know that Beechwood does a lot of very important work, and it will of course continue to provide rehabilitation services under the contract with the council. As I understand it, the reformed partnership—the Highland drug and alcohol action team—is actively reviewing its service provision, including for drunk and incapable people. I encourage the member to continue to hold discussions with those various partners, as I know he has been doing actively. We need to ensure that a range of services are provided to meet the requirements of the whole of the Highland area. I am happy to keep in contact with the member in that regard.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I thank the minister for her replies so far and, although I welcome the fact that the Government has now published the Scottish end of the University of Sheffield evidence, the figures are based on 2003 data on alcohol problems, whereas the latest figures are from 2008. That is a major criticism from the industry, which is attacking the Sheffield report as not providing a firm basis for minimum pricing. Will she say how minimum pricing will help, given that the additional profits that would result from the policy would go back to retailers rather than into alcohol treatment?

**Shona Robison:** If anything, the figures in the University of Sheffield report are an underestimation of the extent of alcohol misuse in Scotland. I do not think that any member will challenge the evidence that we have a major problem—I certainly hope not. The question is what we do about that major problem.

Not just the Sheffield report but all the international evidence demonstrates a clear link

between price and consumption. The question is whether the Parliament will be bold enough to take the critical action that is required to tackle the biggest public health challenge that faces our nation. The Scottish Parliament has a good track record of being bold—we were on smoking. Minimum pricing is the bold measure that needs to be taken to address alcohol misuse, and I hope that members on the Labour benches will join us in supporting that measure. I know that Richard Simpson is sympathetic to proposals on minimum pricing, and I look forward to continuing to discuss the issue with him.

## Schools

**2. Michael McMahon (Hamilton North and Bellshill) (Lab):** To ask the Scottish Executive whether any pupils will be taught in schools announced as being in the initial phase of its school rebuilding programme in the current parliamentary term. (S3O-8149)

**The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop):** This Government has already lifted 100,000 pupils out of poor-condition schools by supporting £2 billion of investment in the school estate the length and breadth of Scotland in our initial phase of school building. We expect more than 250 school projects to be completed during the lifetime of this parliamentary session. More than 200 have already been completed.

In addition, I set out to the Parliament on 17 June that I expect the first primary school to be funded by the new, additional £1.25 billion school building programme to be open by 2011. That will help to lift even more pupils out of poor-condition schools.

**Michael McMahon:** I think that it is possible to take that answer as a no.

In the false prospectus that the Scottish National Party put forward as its election manifesto, the SNP made a commitment that it would match Labour's school building programme "brick for brick". Does the cabinet secretary genuinely believe that the parents and pupils of Scotland will be fooled by her Government's disingenuous attempts to assert that its pledge is being achieved, in the face of a programme that will deliver only 14 schools by 2013 and the fact that some local authorities might perhaps build some schools by 2011?

In this morning's debate, SNP speaker after SNP speaker rubbished public-private partnership schools, but the cabinet secretary claims those PPP schools. Does she agree that claiming Labour's schools "brick for brick" is not the same as matching Labour's achievements brick for brick?

**Fiona Hyslop:** I say politely to Michael McMahon that his party lost the election in 2007 because people were fed up with a semi-feudal, one-party state in which the Labour Party claimed everything as its own. These are Scotland's schools, not Labour, Lib Dem or SNP schools—*[Interruption.]*

**The Presiding Officer (Alex Fergusson):** Order.

**Fiona Hyslop:** I remind the member that this morning I announced that we have completed 236 schools since 2007, which certainly matches the previous Administration's plans brick for brick. Not only that, but we are funding schools. The previous Administration left a black hole of £60 million per year in the PPP programme. Next year alone we must find £40 million to plug that hole. We are funding and building schools.

### **Genetic Modification (Contamination)**

**3. Rob Gibson (Highlands and Islands) (SNP):** To ask the Scottish Government whether it has undertaken research to determine what losses may be experienced by the food and drink industries if a GM contamination event affects Scottish produce. (S3O-8098)

**The Minister for Environment (Roseanna Cunningham):** I expect that the member's question was provoked by the discovery of unauthorised genetically modified linseed in Canadian imports to the European Union.

Scottish produce benefits from a natural image among consumers. Although the commercial impact of any illegal presence of GM material in Scottish produce would depend on the nature of the material and on which sector or sectors were concerned, the Government's view is that any impact would be negative.

**Rob Gibson:** Given the loss of markets and profits for North American growers when there was contamination from GM rice in 2006, and given the on-going contamination from Canadian GM flax, there is evidence that GM crops cannot be contained in the open environment. Will the minister confirm that the best policy for the future of Scotland's food and drink industries is to maintain a ban on the trialling and growing of GM crops in the open environment in Scotland?

**Roseanna Cunningham:** That is absolutely the Government's position and there is no intention whatever to change it. A great deal of debate is going on in the EU on how GM organisms are handled, and a consultation on the socioeconomic issues that are related to GMOs, into which the Government hopes to make an input, will be finalised in January. It is extremely important that we assess socioeconomic criteria in relation to unauthorised GMO releases and that we continue

our important work to ensure that Scotland's produce can continue to be sold into a high-quality, premium market.

### **Recycling**

**4. Sandra White (Glasgow) (SNP):** To ask the Scottish Government what assistance it provides to local authorities to meet its recycling targets and how it will encourage the local authorities that are failing to meet these targets. (S3O-8115)

**The Minister for Environment (Roseanna Cunningham):** The Scottish Government provided local government in Scotland with record levels of funding—£23 billion in the period 2008 to 2010. To help local authorities to deliver on recycling targets, the Scottish Government has allocated an additional £42 million from the zero waste fund in the period 2008 to 2010 and intends to allocate further funding for 2010-11.

In addition, delivery organisations that are funded by Scottish Government, including the Waste and Resources Action Programme, Waste Aware Scotland and Remade Scotland, provide advice and support to local authorities throughout Scotland, to help them to improve recycling performance.

**Sandra White:** I thank the minister for her comprehensive reply. She will be aware that Glasgow City Council has the worst recycling rate in Scotland and is projected to spend £30 million of council tax payers' money on landfill tax this year alone. Does she agree that Glasgow must address the issue before the impact of increasing landfill tax becomes "catastrophic", as is acknowledged in the council's corporate risk management report?

**Roseanna Cunningham:** I am aware that there has been considerable newspaper coverage of the situation in Glasgow. Glasgow City Council faces a challenging few years, but I understand that in its single outcome agreement it committed to increasing its municipal waste recycling capacity to 31 per cent by 2010. I know that the council is having difficulty, and I understand that a review is being carried out by Glasgow Caledonian University, which will suggest ways forward. I hope that the council will be able to improve its performance in the coming months and years.

**Pauline McNeill (Glasgow Kelvin) (Lab):** I agree that much more needs to be done in Glasgow to increase recycling. However, does the minister fully appreciate that in parts of Glasgow there is a real challenge in that recycling is made difficult by the volume of tenement properties? The proportion is 70 per cent in my constituency, Kelvin, and it is high throughout Glasgow.

Given that much more needs to be done, including the upgrading of the plant at Polmadie,

what assistance will the Government give to Glasgow to ensure that practical issues to do with recycling are dealt with? Are discussions going on with Glasgow City Council about the modernisation of the plant at Polmadie?

**Roseanna Cunningham:** I am aware that Glasgow City Council faces difficulties in managing waste collection at tenemental properties, but Glasgow is not the only part of Scotland that has to deal with that issue, and other councils have to deal with different issues in waste collection.

Discussions go on all the time in respect of local authority finance on the basis of the concordat that the Government agreed with local authorities. In making funding available to local authorities, the Government fully takes on board the challenges in each and every case. I do not expect that that will change in future.

#### **School Estate Strategy (Barrhead High School)**

**5. Ken Macintosh (Eastwood) (Lab):** To ask the Scottish Executive for what reason Barrhead high school has not been included in the list of schools granted funding under the new school estate strategy. (S3O-8148)

**The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop):** On 28 September I announced the first 14 secondary schools to benefit from the new £1.25 billion school building programme. Those schools were identified using the following criteria, which were agreed by the Convention of Scottish Local Authorities: the distribution of needs throughout Scotland; the best available information about schools' condition and unsuitability to deliver the curriculum for excellence; additionality; and authorities' own plans, priorities and readiness to proceed.

The Labour-led coalition in East Renfrewshire Council indicated that Eastwood high school was its top priority for secondary school replacement. Other schools in East Renfrewshire, including Barrhead high school, will, like those in every other local authority, be eligible for consideration in subsequent phases of the programme.

**Ken Macintosh:** The minister should not pretend that it was the local authority that decided that Eastwood high school was the priority: it wants to rebuild Barrhead high school.

The current estates review lasts for the next nine years. Does the minister think that it is acceptable for the pupils of Barrhead high school to wait until 2018 before they are even considered under a new funding system? If not, what does she intend to do about it?

**Fiona Hyslop:** The problems with Barrhead high school have not suddenly appeared in the past two years. I visited the school in August 2008. It has consistently shown in recent core facts publications that it is a category B school. There are issues of unsuitability. I do not want to prejudice the position of other schools in Scotland, but Barrhead high school—if supported by the Labour-led coalition that, in the first instance, put Eastwood high school as its top priority—would be in a legitimate position to apply and be considered for subsequent phases of the programme.

#### **Health Services (Highland Perthshire)**

**6. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the Scottish Executive what recent discussions it has had with NHS Tayside regarding the provision of health services in highland Perthshire. (S3O-8118)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** There are on-going discussions with all national health service boards—including NHS Tayside—which are aimed at constantly developing and improving health care services in Scotland.

**Murdo Fraser:** I know that the cabinet secretary met campaigners from Kinloch Rannoch who are fighting for the restoration of out-of-hours general practitioner cover in that remote and rural area. If NHS Tayside is not prepared to take action to right the wrong that it has perpetrated against that community, will the cabinet secretary be prepared to use her powers of ministerial intervention to force it to do so?

**Nicola Sturgeon:** As Murdo Fraser well knows, the service is a matter for NHS Tayside. He is right that I met people from Kinloch Rannoch a couple of weeks ago when I chaired NHS Tayside's annual review. Their MSP, John Swinney, regularly communicates their concerns to me, so I fully understand the concerns that some people in the community have. That is why I have asked NHS Tayside to remain in dialogue with them to seek to address their concerns.

However—to give an important reassuring message to people who live in Kinloch Rannoch—it is important to understand that all out-of-hours services in Scotland are required to meet standards that are developed by NHS Quality Improvement Scotland to ensure a safe, quality service for patients. It is also important to point out that the arrangements covering Kinloch Rannoch that NHS Tayside has put in place meet those standards, and I hope that Murdo Fraser will take care to communicate that to people as he discusses the issue.

### Unmarried Mothers (Supervised Homes)

**7. Margo MacDonald (Lothians) (Ind):** To ask the Scottish Executive whether it shares the Prime Minister's vision of supervised homes for poor, young unmarried mothers. (S3O-8071)

**The Minister for Housing and Communities (Alex Neil):** I understand that the intention behind the Prime Minister's announcement is to improve support for 16 and 17-year-olds, including teenage parents, who cannot stay with their families and who are provided with housing at public expense. The United Kingdom Government has explained to officials in the Scottish Government that there is no intention to compel pregnant teenagers into supervised accommodation as some reports have suggested.

We have no plans to introduce identical measures in Scotland, but we certainly want all vulnerable young people to receive the housing and any other support that they need. We are working with a range of national and local partners to achieve those goals.

**Margo MacDonald:** I am relieved to hear that the Scottish Government is not thinking of punishment blocks or gulags for bad girls. Will the minister impress on his colleagues that the programme that is aimed at preventing pregnancies among young teenagers has fallen behind the reality and that there should be a Government programme for it?

**Alex Neil:** I and my colleagues are very much aware of the importance of the campaign on avoiding the problems that young females, in particular, get into. More widely, I recognise that there is a need to examine the provision throughout Scotland of supported accommodation and related services for young single mothers and single people of all ages so that we can deal with the problems that are associated with homelessness, which I think lay behind the member's original question.

### First Minister's Question Time

12:00

#### Engagements

**1. Iain Gray (East Lothian) (Lab):** To ask the First Minister what engagements he has planned for the rest of the day. (S3F-1935)

**The First Minister (Alex Salmond):** Later today, I will have meetings to take forward the Government's programme for Scotland.

**Iain Gray:** This week, I have supported the suggestion that the highest salaried public servants should have their pay frozen in 2010-11. I think that the salaries of MSPs and ministers should be frozen next year so that we can lead by example. Does the First Minister agree?

**The First Minister:** As we know, ministerial salaries have been frozen this year. We did not wait for Iain Gray's advice—we have done it already. MSPs' salaries are a matter for the Parliament. I did not detect too much enthusiasm from Labour members when we made the announcement about ministerial salaries earlier this year.

In all seriousness, I support the view that in tough economic times, those on the higher bands of pay scales should bear the heaviest burden. That is an entirely reasonable point of view. If Iain Gray read his newspapers this week, he will know that that was strongly indicated by the Scottish Government.

**Iain Gray:** Indeed, it was strongly indicated, but it is good to hear it from the First Minister's own mouth.

Three years ago, Alex Salmond did more than strongly indicate—he pledged—that if he was First Minister, he would pay council tax on his first ministerial residence. To fail to do so was to set a bad example. Well, Alex Salmond is First Minister, but he is not paying council tax on Bute house. Why not?

**The First Minister:** Because when I asked the permanent secretary for advice, which I received on 4 June 2007, he confirmed that for the independent assessor to amend his treatment of Bute house, which had been set in December 2006, there would have to be no business use at all of Bute house, which would have been a bit of a problem for Cabinet meetings; there would have to be physical separation between the accommodation and business areas, which, in a listed building, would have required consent from the National Trust for Scotland; and the Parliament would have to change current legislation just for the property of Bute house. On those grounds, I

decided to continue with the practice of paying business rates to City of Edinburgh Council of £22,601, which is some 10 times the amount that would have been paid in council tax, rather than engage in what some members might have described as tax avoidance.

**Iain Gray:** But none of that has changed since the Deputy First Minister described the practice as outrageous. The fact is that the taxpayer pays £22,000 in business rates for Bute house and the occupant pays none of what he promised to. The only tax avoidance that is going on here is the avoidance by the First Minister of paying the tax that he promised to pay. I know that Alex Salmond told voters that he would abolish council tax. Is he doing it one person at a time, starting with himself? *[Laughter.]*

**The Presiding Officer (Alex Fergusson):** Order.

**The First Minister:** Not only does the practice have the happy result of City of Edinburgh Council receiving in business rates 10 times the amount that it would receive in council tax, it has the happy result that no claim is made on the Parliament for accommodation allowance to refund the council tax, which many Labour members do. The position that we have taken is entirely reasonable, given the advice that was given two years ago. Would Iain Gray have stopped holding Cabinet meetings in Bute house, would he have built a dividing wall between the accommodation and the area for business use or would he have sponsored a bill in this Parliament to change the assessor's designation of Bute house?

**Iain Gray:** There may be no claim on the parliamentary allowance scheme, but there is a claim of £22,000 on the Scottish consolidated fund. The Prime Minister and the chancellor managed to make that division so that they pay council tax, so I do not understand why the First Minister cannot do so. The rest of Scotland is facing up to the realities of the recession: they are tightening their belts and paying their way. How does the First Minister think they feel when they read that he has dodged the promise that he made on council tax?

The week before, they read that they—taxpayers—paid for the First Minister's London hotel suites when he already had a London flat, paid for by the taxpayer, too. The newspapers call that hypocrisy, but is it not just contempt for the Scots who are worrying about their jobs, their pay, their mortgages and paying their way?

**The First Minister:** The Scots who are worried about Labour's recession, their jobs and their mortgages would have expected the Labour Party

leader to start engaging in a discussion about unemployment and the recession.

It was a pretty bad idea to introduce the chancellor and Prime Minister into the discussion, because, if I remember correctly, they have claimed additional costs allowance ever since they came into office, despite the fact that they get grace-and-favour residences in London.

I know that this is plan B from Iain Gray, because I agreed with his first question about restraining salaries and pointed out that ministerial salaries are frozen. I did not, because I am modest about these matters, point out that every penny of my MSP salary goes to a charitable trust in the north-east of Scotland. One day Iain Gray or anybody else on the Labour front bench might decide to follow suit.

**The Presiding Officer:** It is up to Iain Gray to ask the questions. A very short supplementary, Mr Gray.

**Iain Gray:** First Minister, let us start the debate about the economy and our vision for Scotland. On St Andrew's day, I will debate with you. Why not?

**The First Minister:** Because we debate every Thursday in this Parliament. It is not my fault if Iain Gray cannot think of the right questions—five questions are no better than four questions if he cannot think of the right questions. I look forward to debating with Iain Gray every Thursday in this Parliament, as I have debated with the two previous incumbents of his office. I am on my third Labour leader. The way that Iain Gray is going, I might soon be on my fourth.

## Prime Minister (Meetings)

**2. Annabel Goldie (West of Scotland) (Con):** To ask the First Minister when he will next meet the Prime Minister. (S3F-1936)

**The First Minister (Alex Salmond):** I have no plans to meet the Prime Minister in the near future.

**Annabel Goldie:** We were all devastated by the tragic news that two teenage girls from the Good Shepherd Centre in Bishopton took their own lives earlier this week. For me, the tragedy was particularly poignant because Bishopton is my home and I am a former member of the board of management for the centre.

The centre takes in young girls who have a range of hugely complex needs and come from the most challenging backgrounds imaginable. For those girls, the centre is a source of structure, reassurance, education and stability. The staff and the girls at the centre are now having to cope with their grief and shock on top of the immense challenges which for them are an everyday fact of life. The First Minister has said that there will be

inquiries. Will he assure me that they will be carried out in a sensitive and compassionate manner, so that the traumatised community of the Good Shepherd Centre is not further upset and the excellent work that it does is not further disrupted?

**The First Minister:** Yes, I can give that assurance. I thank Annabel Goldie for the way in which she raised the question and I acknowledge her local knowledge of the circumstances as a local member.

Presiding Officer, with your permission, I wish to say that, like the rest of this Parliament, I have been shocked and saddened by the deaths of young Neve Lafferty and Georgia Rowe at the Erskine bridge on Sunday. The death of any young person is a real tragedy, and our thoughts are with the girls' families and friends at this sad time, as well as with the staff at the school, who—as Annabel Goldie said—do such a demanding and important job.

The incident underlines the acute needs and risks presented by a very small number of young people in Scotland. That is why the Scottish Government works with the Convention of Scottish Local Authorities, care providers and other partners to ensure that support and provision is in place for them.

It would be inappropriate to speculate on the circumstances of the case, as that would pre-empt the investigations that are already being undertaken by the centre, the local authority, Strathclyde Police and the Scottish Commission for the Regulation of Care. However, members can be reassured that ministers will work closely with partners to ensure that any lessons that can be learned from the tragedy are learned and that the inquiries will be conducted in a sensitive way.

It will be for Crown counsel, acting on behalf of the Lord Advocate, to determine whether a fatal accident inquiry is required. That will not be determined until the police investigation is complete and the report has been submitted to the procurator fiscal. However, due to the serious nature of the incident, such a decision will be taken as soon as is legally possible.

**Annabel Goldie:** I thank the First Minister for that full response. Having spoken to people in Bishopton, I know that there is anxiety that there will be a witch hunt that is more concerned with finding someone to blame than with finding a way forward from the tragedy. A chaplain to the centre said to me in a text:

"We only have 11 residential girls and to lose two means we are a community and family in mourning."

Will the First Minister confirm that he will use his best offices in whatever inquiries are proposed or

are taking place—and, indeed, if a fatal accident inquiry is mooted—to influence the overall environment of the inquiries so that they are conducted in a sensitive and compassionate way?

**The First Minister:** As Annabel Goldie knows, I cannot influence the conduct of the inquiries directly. The inquiries will be independent, particularly any fatal accident inquiry. However, at a time like this, given the circumstances of the tragedy, I am sure that all those who are involved will face their responsibilities in a proper and sensitive way.

### Cabinet (Meetings)

**3. Tavish Scott (Shetland) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-1937)

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

**Tavish Scott:** Tonight, the Tories will vote SNP to keep a £23 million quango that will build not one new school in the current four-year parliamentary session. What will the Conservatives get in return for that loyalty?

**The First Minister:** People of all political parties should reflect on the fact that, in this session, 100,000 more schoolchildren in Scotland have been taken out of inadequate school accommodation and brought into accommodation of a decent standard. Most people will welcome the fact that, at last, we are addressing the inefficiencies in capital spending that, during the Labour-Liberal years, resulted in overpayments in capital returns to many providers in the public service. The Scottish Futures Trust addresses that issue.

Given the trenchant criticisms that I used to hear at Westminster from the Liberal Democrat benches about public-private partnerships and private finance initiatives, I wonder why the Liberal Democrats never got out of their arrangement with the Labour Party over those eight long, wasted years.

**Tavish Scott:** I guess that the answer is that the Tories will not get very much.

What bothers me—and, more important, what bothers children, parents and teachers throughout Scotland—is the two wasted years in which schools have not been commissioned. The First Minister has imposed two years of paralysis. Now, he is relying on Tory votes. Does he not understand that, in exchange for Tories voting SNP, Scotland will get to keep the £23 million quango this year, double its budget next year and put off building new secondary schools until 2013

or 2018? Why will he not concentrate on building new schools instead of new quangos?

**The First Minister:** I live in hope of a conversion before decision time, but I take it that Tavish Scott intends to support Rhona Brankin's motion at 5 o'clock. The motion suggests that the schools that have been commissioned are PPP legacy schools. That point was made recently in a debate, so I had a look at the number of non-PPP schools that have been commissioned and for which the contracts have been signed since 2007. There are 62 instances of such accommodation. Given the fact that Tavish Scott now has that valuable information—that list of non-PPP legacy schools that have been commissioned by the SNP Government and for which the contracts have been signed—and given the fact that the Liberal Democrats always pay close attention to the facts and, unlike the rest of us, are not affected by political prejudice, will Tavish Scott relent and vote for the SNP amendment and for common sense in Scottish school building?

**The Presiding Officer:** I will take a constituency question.

**Trish Godman (West Renfrewshire) (Lab):** Much has been said about the tragic deaths of the two young girls at the Erskine bridge in my constituency. Like Annabel Goldie, I have a strong connection with the Good Shepherd Centre, as I used to work there. Our thoughts, of course, are with the girls' families and friends and with the staff and residents of the Good Shepherd. I will add my support to a fatal accident inquiry, if that is necessary.

There have been three suicides this month from the bridge—indeed, the bridge has a bad history. I impress upon the First Minister the urgent need to increase the height of the barriers along the bridge's walkways. The barriers are scarily low—believe me; I have walked along there many times. Research shows that suicide barriers are a deterrent. I have written to the Minister for Transport, Infrastructure and Climate Change along those lines. However, I would like a commitment from the First Minister that he will ensure that, if a decision to increase the height of the barriers is taken, it is implemented speedily, so that there is no delay between the decision being made and action being taken to prevent other such tragic deaths.

**The First Minister:** Any lessons that are to be learned will be acted on quickly and without delay.

I acknowledge the constituency member's concern, and I repeat my appreciation, which I expressed to Annabel Goldie, of the manner in which the subject has been raised. It is worthy of the Parliament that issues concerning this tragedy are raised in a very responsible way.

I shall look at the correspondence and write to or meet the constituency member, as she wishes, to see whether those lessons can be implemented.

As I stated, the Lord Advocate must determine on a fatal accident inquiry. As Trish Godman will know, one of the great advantages of the FAI system that we have in Scotland is that it can roam widely in investigating the circumstances, and the sheriff or whomever conducts it can make specific recommendations across a range of areas.

I will meet Trish Godman and other constituency members to talk about this issue, if they so choose.

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** Does the First Minister share my concern at the loss of 100 jobs in my constituency as a result of the decision of Johnston Press to print its titles in Sunderland and in the west of Scotland, without creating any additional jobs in those areas? Will he raise concerns with Johnston Press about the betrayal of its loyal Edinburgh workforce, the severing of the historical connection between *The Scotsman* and Edinburgh, and the folly of printing the *Edinburgh Evening News*, with its tight deadlines, at the other end of a busy motorway?

**The First Minister:** The constituency member has made the point, and I will raise those concerns with Johnston Press. We are concerned about any job losses in Scotland in these difficult times.

## Drugs

**4. Nigel Don (North East Scotland) (SNP):** To ask the First Minister what assessment the Scottish Government has made of the problem of illegal drug use. (S3F-1947)

**The First Minister (Alex Salmond):** Two new reports, commissioned and published by the Scottish Government, give us the most complete picture ever of Scotland's drug problem. The reports show that there were an estimated 55,283 problem drug users in 2006, which is around 7 per cent more than there were in 2003. That is the worsening problem that our new drugs strategy, outlined in "The Road to Recovery: A New Approach to Tackling Scotland's Drug Problem", is designed to tackle.

The focus of this Government is on delivery. The early signs are that we are moving in the right direction. Drug seizures by the Scottish Crime and Drug Enforcement Agency are now at a record level; front-line services are benefiting from an 18 per cent increase in funding since 2006-07; and, for the first time ever, we are developing a national target to improve access to services for problem drug users to help them on their way to recovery.



**Nigel Don:** I encourage the Government to put recovery at the heart of the services that it provides.

I am pleased to be able to welcome a drop in the number of those waiting for 26 weeks for treatment in my home city of Aberdeen, which has fallen from 500 to 117 in the last quarter. That is a dramatic improvement.

Can the First Minister confirm the Government's intention to continue to invest in the drugs strategy, both in the health service and, of course, in policing?

**The First Minister:** Yes, I can, and we should, as a Parliament, acknowledge that there have been significant improvements in a number of areas in Scotland, not least in the city of Aberdeen.

In June 2009, 117 people had waited more than 26 weeks for an assessment. That is still a high number, but we can compare it with the 622 people who did so in 2007. We welcome that progress, but there is still some way to go in Aberdeen and other parts of Scotland, and we must continue to drive down waiting times if we are to tackle drug abuse effectively.

We have tried—Fergus Ewing has, as Minister for Community Safety, made the most strenuous efforts—to get an all-party consensus on the issue. It was not particularly helpful for Richard Baker to say—on the front page of *The Sun*, as it happened—that the serious report that was published was an indication of the Government's lack of action, given that the report was for 2006. That was one of the most foolish pieces of politicking on the issue that I have ever seen.

**Richard Baker (North East Scotland) (Lab):** Given the 4 per cent increase in drugs offences last year and the 3 per cent increase in the number of drug misusers in 2008, does the First Minister agree that ministers should give Parliament a further opportunity to debate the drugs strategy? That should include a debate on action on tackling drug offences, in which I am afraid the most recent statistics show that the Scottish Government is not succeeding.

**The First Minister:** Yes, I think that Parliament should have further opportunities to debate the drugs strategy, but I understand that we may require a wee bit of flexibility and fancy footwork from Richard Baker. I would still like to know why, when a serious report is published that indicates the depth of the problem and gives us the first examination of it, and which is dated 2006, the Labour spokesman holds it up as an indication of Government failure, when it is actually reporting his Government's failure in 2006. The question that people in the Parliament and outside are asking is, "Did Richard Baker realise the date on

the report, or does he just do rent-a-quote on every issue, regardless of the subject?"

**Mike Pringle (Edinburgh South) (LD):** The enormous financial and social cost of drug abuse to Scotland, which has risen to around 55,000 problem drug users and is costing nearly £3.5 billion a year, will not decrease without access to treatment and support services. Is the First Minister aware that beds are lying empty at Castle Craig hospital in Peeblesshire, which is a world-class rehabilitation facility? Does he agree that that is a hugely unsatisfactory use of resources? Will he agree to take action to address the situation?

**The First Minister:** I will examine the specific situation and write to the constituency member. I certainly agree that the significant improvements that are taking place throughout the country in reducing the waiting times for assessment are important, and I hope that no local decisions will interfere with that process.

**John Scott (Ayr) (Con):** As the First Minister will know, a report this week from the University of Glasgow showed that the NHS Ayrshire and Arran area has the second highest rate of injecting drug use of all the Scottish health board areas, with only NHS Greater Glasgow and Clyde experiencing a worse problem. He will also know that there were 40 drug deaths in Ayrshire and Arran last year—the highest number during the past decade. What further steps does the Government propose to take to crack down on those who deal in drugs, in particular the organised criminals who profit so massively from pushing illegal substances?

**The First Minister:** As I noted in my first answer, drug seizures by the police and enforcement agencies are now at a record level. I am also aware of the Cabinet Secretary for Justice's announcement about the organisation of the serious crime division in Scotland, which will help us enormously, particularly in tackling the drugs trade.

As the member will recognise, there is consensus—across most of the Parliament, at least—on the new direction that we are taking in trying to confront the problem. We all recognise that the problem has been generations in the making, and that it will not be solved overnight. I believe that most of us are more comfortable with the direction that we are taking with the anti-drugs strategy than with the direction that was previously taken.

### Students (Financial Support)

**5. Claire Baker (Mid Scotland and Fife) (Lab):** To ask the First Minister what the Scottish Government is doing to provide financial support

to students from lower-income backgrounds or who have dependent children. (S3F-1948)

**The First Minister (Alex Salmond):** Since 2007, as Claire Baker knows, the Government has introduced a range of measures to better support students from lower-income backgrounds and those who have dependent children. We have abolished the graduate endowment fee, which has benefited more than 50,000 graduates and students by more than £2,000 each. We have made available up to £38 million to replace loans with grants for part-time learners, which has benefited up to 20,000 students a year. We have increased the threshold for the non-medical personal helper element of the disabled students allowance by 60 per cent. We have also increased the higher education discretionary funds by £2.4 million or 17 per cent.

Only yesterday—after Claire Baker lodged her question—we announced an additional £30 million of investment in full-time higher education student support for students from lower-income backgrounds and students who have dependent children, which was, of course, the focus of Claire Baker's question.

**Claire Baker:** We have known about the £30 million that the First Minister mentioned for the past two years in the budget. On the details that were published yesterday, as always with the Scottish Government, we find that the devil is in the detail.

Today, however, I want to press the First Minister on bursaries. Does he recognise that reports suggest that almost 20,000 students are still waiting for their bursary support from the Student Awards Agency for Scotland, despite having started their courses? Will he give an assurance that those reports will be fully investigated?

**The First Minister:** Not only have they been fully investigated, they have been corrected by *The Herald*, which published a correction yesterday, pointing out that the reports were without foundation. I had assumed that the Labour Party's further and higher education spokesperson would be familiar with the facts, but clearly she missed the correction in the newspaper. I suspect that, in the way of the press, the correction was slightly smaller than the original story, but, nonetheless, I think that Claire Baker should find out the facts before she comes sallying into the chamber with her question.

### Prisons (Human Rights Cases)

**6. Bill Aitken (Glasgow) (Con):** To ask the First Minister how many human rights cases are pending against the Scottish Prison Service from prisoners held in segregation units. (S3F-1942)

**The First Minister (Alex Salmond):** Twelve cases relating to periods of detention in segregation are outstanding against the Scottish Prison Service, some of which date from as far back as 2002. However, the Government has closed the legal loophole that the Somerville judgment highlighted so that we do not face a repeat of those circumstances in future. I know that that closing of the loophole was heavily supported by Bill Aitken as determined action, even if he forgot to mention it when he responded on the issue a couple of days ago.

**Bill Aitken:** In the spirit of generosity, I fully acknowledge that the loophole was closed—with the co-operation of the entire Parliament, as I remember. However, is the situation not that the Scottish taxpayer is being ripped off by some of Scotland's least deserving citizens? When we add the outstanding liabilities to the £11 million that has already been spent on the slopping-out cases, the Scottish taxpayer must be looking askance. Is it not time for the Scottish Government, in conjunction with the Parliament, to review the operation of the European convention on human rights as it applies to Scotland and, after that review, to approach the United Kingdom Government with a view to changing some of the aspects?

**The First Minister:** Of course, the Scotland Act 1998 determines that we must follow the European convention on human rights, so the proposal would require primary legislation. I see Bill Aitken nodding in response to the idea of primary legislation to amend that act. As he probably knows, I would like to amend it with primary legislation in a whole range of ways.

I am sure that none of us wants to pay money to convicted criminals, but the settlement was made on compelling economic grounds. Settling the 20 cases, some of which went back seven years, cost about £40,000 in compensation. Continuing to defend them would have cost £1 million in legal costs. We did not accept that the periods of segregation were unlawful. The offer to settle was made purely on economic grounds. I do not see that there was any alternative to taking that action.

I am glad that Bill Aitken has found it in his heart to recognise that the Government took decisive action to close the Somerville loophole so that we do not face the same circumstances in future. I happily welcome and acknowledge that generosity.

**Robert Brown (Glasgow) (LD):** I am grateful to the First Minister for his explanation of the basis of the settlement, which will be helpful to the chamber. However, might any cases that are still to come through the system render the Scottish Prison Service vulnerable? I know from professional experience how these things work,

and economic settlements, although understandable, sometimes tend to raise expectations in future cases.

**The First Minister:** As I indicated in my first answer, 12 segregation cases are outstanding in the system. However, the legislative action taken by this Government and Parliament to close the loophole will prevent all such cases from being pursued in future.

Bill Aitken has reminded me that the legislation had all-party support in the Parliament. I do not think, however, that on that occasion the Liberal Democrats received any benefit from supporting the Government. Nevertheless, I welcome that support, and we should hold it up as an example of the way in which the Scottish Parliament can take determined action to ensure that, in future, we are not faced with such circumstances with regard to segregation or, indeed, other issues. We really should be capable of saying that we took the right legislative step to prevent money being paid to convicted criminals in future.

12:31

*Meeting suspended until 14:15.*

14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Finance and Sustainable Growth

##### Active Travel (Funding)

**1. Patrick Harvie (Glasgow) (Green):** To ask the Scottish Executive how the draft budget for 2010-11 will support the aim of achieving a significant increase in walking and cycling compared with other transport modes. (S3O-8121)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** In 2010-11, the draft budget will continue to support local authorities, Sustrans, Cycling Scotland, Living Streets and other delivery bodies to increase the numbers of people cycling and walking. For example, we will continue working in partnership with the seven smarter choices, smarter places communities in Scotland, which aim to increase active travel.

**Patrick Harvie:** For the past two years in a row, the Transport, Infrastructure and Climate Change Committee has agreed unanimously on the need for a substantial increase in funding if more journeys in Scotland are to be undertaken by active means—walking and cycling—for climate change, health and a host of other reasons. However, we continually see reductions in funding for those modes of transport and the Government pouring money into road building projects. How is it to be remotely credible that the Government wants a substantial increase in cycling journeys—for example, under the cycling action plan—when, this year again, there is an overall reduction in the funding for active travel?

**Stewart Stevenson:** An interesting thing was illustrated when I was in Elgin on Sunday participating—to some limited extent—in a mass cycle ride to raise money for the Grampian Society for the Blind. Moray Council gets no more money than any other council but delivers four times as much cycling as others do. That illustrates that a change of approach may be required of Government, councils and many others to deliver improvements. Of course, we need to provide the funding—we have increased the active travel budget from £33 million to £35.7 million—but money alone is not enough: we need to think smarter and spend smarter.

**Shirley-Anne Somerville (Lothians) (SNP):** What impact has the climate challenge fund had on encouraging modal shift? I draw the minister's

attention to the awards of £283,000 given to Greener Leith's active Leith project, £182,000 to recyke-a-bike in Stirling and £47,000 to biketown Huntly to name a few. What effect do funds like those, which are not included in the active travel budget, have on the Government's wish to increase the number of people who cycle in Scotland?

**Stewart Stevenson:** Ms Somerville is correct to point to the benefits and impacts that derive from Government expenditure that is outside the active travel budget. The climate challenge fund draws together interests beyond Government in the decision-making process and ensures that the funds are targeted where they will be most effective. The progress that has been made so far is commendable indeed.

**Des McNulty (Clydebank and Milngavie) (Lab):** I took the point about Moray that the minister made in his response to Patrick Harvie. It is unfortunate that the cuts in Moray include cuts to the active travel co-ordinators who have driven the increase in cycling so effectively.

I know that the minister has a high regard for the United Kingdom Secretary of State for Transport, Lord Adonis, who announced last week that he would make £40 million available for, I think, up to eight cycling transport hubs at major stations. That will implement ideas that have been very well developed in Holland, where there are cycle parks at major stations so that people are encouraged to cycle to them. If there are budget consequentials from that announcement, I encourage the minister to consider an equivalent approach in Scotland—particularly in Scotland's major cities.

**Stewart Stevenson:** I get on very well with Andrew Adonis and respect much of the activity that he undertakes. He is certainly on the case.

I will illustrate my point about Scotland's stations by referring to my visit to Attadale station, which has fewer than 100 passengers a year, in common with every other station in Scotland, it has parking space for cycles—a Sheffield rack. Therefore, in some ways, we may be ahead of what is happening south of the border. Perhaps they are playing catch-up.

### **Glasgow Airport Rail Link**

**2. Patricia Ferguson (Glasgow Maryhill) (Lab):** To ask the Scottish Executive what criteria it used when deciding to remove the funding for the Glasgow airport rail link from its budget. (S30-8133)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The overriding criteria that resulted in our decision to cancel the branch line element of the Glasgow airport rail link project were the significant

pressures that arose in our budget for 2010-11, including the budget reductions that were imposed on us by the United Kingdom Government, and the expectation that those pressures would grow. It is essential that all projects are affordable and all budgets sustainable.

**Patricia Ferguson:** Why did the cabinet secretary previously tell the chamber that the cost of the Glasgow airport rail link was £397.5 million, when a significant element of that figure relates to the Paisley corridor renewal project, which, as I understand it, has not been cancelled? Furthermore, why, in answer to questions from my Labour colleague Charlie Gordon, have the cabinet secretary and the Minister for Transport, Infrastructure and Climate Change contradicted each other on the costs and savings associated with the project? Finally, why have Scottish Government officials already commenced cancellation procedures, which, by the Minister for Transport, Infrastructure and Climate Change's own admission, will have negative cost implications for the reinstatement of the project, given that its axing is, at this stage, only a proposal in the minority Government's draft budget?

**John Swinney:** I stand by all the detail that has been provided to Parliament on the financing of the project. If the member has specific concerns about information that has been provided to her by ministers, she can, of course, write to me and I will address them, as it is my duty to do.

In connection with the operational decisions that ministers have taken on the arrangements for the branch line element of the GARL project, it is prudent for the Government to take steps to deliver the commitments that we have set out in the budget. It is open to Parliament to work to amend the Government's budget, but I respectfully point out that the expenditure that Patricia Ferguson seeks would have to be found from another part of the capital programme. If she or any other members of Parliament wish to make a proposal to reinstate the Glasgow airport rail link, they would have to identify how the capital budget could be made to balance because, as all members know, budgets must be met from a fixed settlement. The Scottish Government has put forward its proposals; I await with interest the proposals of others.

**John Scott (Ayr) (Con):** Can the cabinet secretary confirm that the capacity and signalling improvements on the line between Glasgow and Paisley that formed part of the overall GARL scheme are to be progressed? Subject to its receiving budgetary and parliamentary approval, what is the likely timescale for that project, which is vital to improving the quality and frequency of

rail services in Ayrshire and to developing the county's economy?

**John Swinney:** I assure Mr Scott that the signalling and capacity improvements on the line between Glasgow and Paisley are unaffected by the decision to cancel the branch line element of the GARL project. That means that for many of his constituents and people in other parts of Ayrshire, there will be a significant increase in the capacity and dependability of that line. I have no changes to the timescale for the development of that project to report to Parliament.

### **PFI/PPP Payments**

**3. Linda Fabiani (Central Scotland) (SNP):** To ask the Scottish Executive what effect inherited private finance initiative/public-private partnership payments will have on its future budgets. (S3O-8095)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The estimated total unitary payment cost for PFI/PPP projects covering the spending review period from 2008-09 to 2010-11 is £2.2 billion. The estimated total unitary payment cost for PFI/PPP projects covering the future spending review period from 2011-12 to 2013-14 is £2.9 billion. The estimated total annual payment cost peaks at over £1.1 billion in the year 2024-25. The funding that the Scottish Government provides in support of those PFI/PPP projects impacts on its departmental expenditure limit resource budget.

**Linda Fabiani:** Is the cabinet secretary concerned about the effects of PFI/PPP projects on local authority budgets? An illustration is that the total cost for South Lanarkshire PFI/PPP schools over the lifetime of the contracts will be more than £1 billion. Revenue budgets over that period, which are already restricted as a result of cuts from Westminster, will be further restricted by servicing those contracts. Is the cabinet secretary concerned that local authorities are in that position? Does he agree that the previous Administration in Scotland was lax in not making better use of the public's money by using traditional procurement?

**John Swinney:** I will again make a point that I tried to make to members this morning. In the forthcoming years, there will be an increase in the repayment costs for PFI/PPP projects. For example, between 2009-10 and 2010-11, there will be a £100 million increase in the costs of PFI repayments. In the subsequent year, there will be an additional cost of £57 million, and in the following year, there will be a further cost of £43 million. Those sums of additional money must be identified, committed and paid with a revenue budget that will decline in real terms. Members must be made fully aware of the financial strain

that the increasing costs of PFI/PPP projects will place on the revenue budget, which, as I say, will decline in real terms. The point that my colleague Linda Fabiani makes applies as strongly to central Government as it does to local government.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Can the cabinet secretary confirm that the same applies to Scottish National Party non-profit-distributing schemes that have a unitary payment over a lifecycle of 20 to 30 years? Is the budgetary treatment for them the same? Why does the current tender shortlist for the hub Co through the Scottish Futures Trust invite equity stakes in a public-private partnership? That was done over the summer. Is it a PPP and will the return on the equity investment for that be the unitary charge that he has just castigated?

**John Swinney:** Of course, Mr Purvis is correct to say that NPD repayments are part of the numbers that I have just given. The NPDs are not just SNP NPDs; they are NPDs that we inherited from the previous Administration. The costs are new additional costs that must be met while the budget is reducing in real terms. Members cannot constantly ignore the reality of that factor in the financial planning that the Administration has to undertake. There are rising cash commitments in the years to come while the budget is reducing in real terms. That is the difficult financial management exercise that the Government must address.

### **Budget (Purchasing Power)**

**4. Dr Richard Simpson (Mid Scotland and Fife) (Lab):** To ask the Scottish Executive for what reason it has not publicised the fact that it has an extra £880 million in purchasing power available in its 2010-11 budget due to lower rates of inflation. (S3O-8159)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** That has not been done because it is not the case. Freeing up an additional £800 million as the member suggests would require us to cut salaries for Scotland's teachers, health staff and police officers, which the Scottish Government is not willing to do. The resources that are available to the Scottish Government will not increase in 2010-11. Even after accounting for the expected lower rate of inflation, the Scottish Government's budget will still fall by 0.9 per cent in real terms between 2009-10 and 2010-11. That is the first real-terms cut since devolution.

The Scottish Government has been entirely open about the scale of the financial pressures that need to be addressed, and our budget calculations clearly reflected the lower inflation forecasts. The member will find that the foreword

to the draft budget document contains exactly that point.

**Dr Simpson:** I would like to confirm some of the basic facts to find out whether we have any agreement between us.

First, is the cabinet secretary aware that £880 million is not my or my party's figure, but is from the Scottish Parliament information centre? It gave an independent view and suggested that there is additional headroom in the budget. Secondly, does the cabinet secretary agree that the inflation rate will probably be between 1 and 1.5 per cent, whereas the original budget estimates last year were based on an assumption that inflation would be 2.75 per cent? If we can agree on those facts, we can begin to discuss why projects such as the Glasgow airport rail link have been cut although there is further headroom within the budget.

**John Swinney:** If Dr Simpson looks at page 15 of the budget document, he will see that the real-terms calculation has been made using an assumed gross domestic product deflator of 1.5 per cent, which is exactly the GDP deflator that has been identified by Her Majesty's Treasury. If I had set the budget figures on the basis of the GDP deflator in the 2007 comprehensive spending review, I would not have identified a 0.9 per cent real-terms reduction in the budget; I would have identified a 2.1 per cent real-terms reduction in the budget. I am normally criticised for not defending Her Majesty's Treasury, but I have purely and simply followed the guidance of Her Majesty's Treasury in applying the appropriate GDP deflator. Those are the basic facts that underpin the budget.

If Dr Simpson looks at page 6 of the draft budget, he will see that I state:

"The Scottish public sector already has an excellent record of setting and meeting challenging efficiency targets. Of course success in the past means progressively greater difficulty in achieving further reductions in future. However, sharply lower general inflation rates since budgets were first proposed in 2007 will provide some help."

That has been stated clearly and openly in the budget document.

Dr Simpson also asked for an explanation of why projects such as GARL have had to be cancelled. I will give him a simple explanation. In 2010-11, the reduction in the Scottish Government's capital budget applied by Her Majesty's Treasury will be £129 million. That is a consequential impact of a decision to reduce the Department of Health baseline figure in the United Kingdom budget by about £2 billion. I decided not to apply any of that reduction to the health service in Scotland, so I have used end-year flexibility to cushion the impact of that. I can do that only once, however, in 2010-11. In 2011-12, we will face a

further, additional £129 million cut in the budget. I must ensure that the capital budget remains sustainable not just in 2010-11, but into 2011-12 and 2012-13, when we know that capital budgets will be under significant pressure.

I hope that that explains the matter to Dr Simpson. I apologise for the length of that answer, Presiding Officer, but those are important facts to put on the record concerning the difficult decisions that the Government has had to make.

### Single Outcome Agreements (Zero Waste)

**5. Elaine Murray (Dumfries) (Lab):** To ask the Scottish Executive what discussions the Cabinet Secretary for Finance and Sustainable Growth had with local authorities in relation to zero waste in finalising the single outcome agreements. (S30-8154)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** I have met a number of local authorities to discuss single outcome agreements. Scottish Government directors with responsibility for overseeing the single outcome agreement process have held discussions with all the community planning partnerships over the past year on issues of common interest, including zero waste.

**Elaine Murray:** The cabinet secretary is aware that £25.3 million was transferred from the environmental protection, sustainable development and climate change budget to local government in the current financial year and that there are plans to transfer a further £26.3 million next year. However, the Government's consultation on its zero waste strategy does not close until 13 November and we do not yet know when the finalised strategy will be published.

The cabinet secretary is responsible for signing off local authorities' single outcome agreements. How many local authorities have waste reduction outcomes in their SOAs; do those outcomes relate to the implementation of the waste hierarchy or simply to reductions in landfill; and who is ultimately responsible for ensuring that Scotland's waste reduction responsibilities are met—is it Mr Swinney, is it the Cabinet Secretary for Rural Affairs and the Environment or will the buck be passed to local authorities?

**John Swinney:** That was a cheery end to the question.

Obviously, I am answering the question because it has been lodged to be answered during the finance and sustainable growth question time and, of course, I have dialogue with local authorities about general financial issues and the contents of single outcome agreements. However, I cannot profess to have the encyclopaedic knowledge of the zero waste fund approach that Dr Murray has

asked about, so, in the interests of ensuring that she gets a quality answer, I will write to her after question time to address the specific points that she raises.

Dr Murray asked where responsibility lies. I do not carry policy responsibility for the zero waste strategy; I carry policy responsibility for issues around climate change, which, of course, is associated with the debate on waste. We take forward those commitments with our local authority partners, discussing the approach that we can take together by using our resources to achieve the objective of establishing a zero waste strategy for Scotland.

As I said, I will write to Dr Murray with further details following further examination of the questions that she has raised.

### **Enterprise Budget (Economic Recovery)**

**6. Ms Wendy Alexander (Paisley North) (Lab):** To ask the Scottish Executive in what way it considers that real-terms reductions in the enterprise budget promote economic recovery. (S3O-8122)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The chancellor has cut the Scottish Government budget for next year by £500 million. As a responsible Government, we have delivered a budget to promote economic recovery and protect front-line services. Changes to the enterprise budget in 2010-11 reflect the widely supported earlier acceleration of capital expenditure, the streamlining of the enterprise bodies as a result of the enterprise network review, and the transfer of the business gateway and regeneration to local authorities. Furthermore, the budget to help enterprise in Scotland is much wider than the enterprise budget, and this Government will continue its focus on delivering economic recovery in Scotland.

**Ms Alexander:** Given that the Scottish Government's economic strategy involves asking Westminster to bring forward capital spend next year, why has the Scottish Government chosen to cut its own capital budget by more than £600 million—a 17 per cent cut in real terms, which is 17 per cent larger than the 0.9 per cent that the minister claims that he is facing overall? Is it not hypocrisy to be cutting capital expenditure by 17 per cent in real terms next year while calling for Westminster to bring forward capital expenditure?

**Jim Mather:** In essence, what we have here is a Government that is focusing on optimising the totality of Scotland. That is happening also in our enterprise budget, when we adjust for what has been happening with the transfer to local government of the business gateway and the £35 million of capital expenditure that we have

accelerated from 2010-11. The argument focuses, as it always will, on the financing of Scotland in totality.

The member might be interested to know that, at 10 o'clock on 12 October in the Royal Society of Edinburgh, the authors of the paper on fiscal federalism that was presented as part of the Allander series of seminars that she led will launch their new book, which contains their proposition that Scotland should fully fund itself through fiscal autonomy.

**Kenneth Gibson (Cunninghame North) (SNP):** During a meeting of the Finance Committee, David Whitton asked the chief executives of Highlands and Islands Enterprise and Scottish Enterprise whether the changes had had any adverse impact on delivery. Mr Cumming of HIE replied that there was

"no evidence of any negative impact",

and Mr Perry of Scottish Enterprise replied:

"the answer is no. We have driven year-on-year productivity improvement within the organisation ... the head-count reductions were of our design—they were not mandated by the Scottish Government ... We have seen nothing but an improvement in our productivity, and our output measures have actually increased over the period."—[*Official Report, Finance Committee*, 5 May 2009; c 1216.]

Is the minister aware of that exchange?

**Jim Mather:** Our enterprise agencies have streamlined themselves, resulting in an annual net saving of £10 million. They have aligned with economic growth, and they are aligning with local authorities. They are working with the strategic forum and opening themselves to engagement with the wider community through the national economic forum. Scotland is getting a line. Scotland is focused on delivering better and better services and better and better economic development. That is happening here, and it will continue to happen.

**Gavin Brown (Lothians) (Con):** Can the minister name any department in the Scottish Government that faces a deeper cut than that which is being faced by the enterprise budget?

**Jim Mather:** Gavin Brown might rely on the calculations that I gave in my previous response. When we add the £35 million of capital expenditure that has been drawn forward, regeneration and the business gateway—[*Interruption.*]

**The Deputy Presiding Officer (Alasdair Morgan):** Order.

**Jim Mather:** When we add the savings that have been made and when we consider the small business bonus scheme—which Gavin Brown and his party endorsed—we find that things are

moving forward. Scotland is more cohesive: all sectors and public and private agencies are working together.

**David Whitton (Strathkelvin and Bearsden) (Lab):** I am flattered that Kenny Gibson follows my questions at the Finance Committee, but I remind the minister that the question was about capital budgets. Would he care to try to answer—in totality—Wendy Alexander's question?

**Jim Mather:** I wonder whether David Whitton has been asleep for a year. We have accelerated capital and brought forward £350 million, which has gone towards projects such as the Edinburgh BioQuarter, the structural work on the quayside at the Fife energy park and the development of the Scottish Exhibition and Conference Centre. Scotland is aligned to deliver better. I am sorry if the member does not like that.

### Non-domestic Rates

**7. Bob Doris (Glasgow) (SNP):** To ask the Scottish Executive what contribution the collection of non-domestic rates makes to raising funds for the Scottish Government. (S3O-8094)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** Non-domestic rates income funds expenditure by local government in Scotland. In 2009-10, the total amount of non-domestic rates income that is being distributed as part of the local government finance settlement amounts to £2.165 billion.

**Bob Doris:** That is a significant figure. With regard to local authorities' collection of non-domestic rates to reach that figure in raising funds for the public purse, I draw the cabinet secretary's attention to the top 10 non-paying businesses in Glasgow. The total amounts to almost £1.8 million going missing from the public purse, including £450,000 alone from the company Hutchison 3G UK.

Will the cabinet secretary ensure that Glasgow City Council and all Scotland's local authorities take seriously their responsibility to collect non-domestic rates? I suggest that there may be some complacency on the matter in Glasgow, because when Scottish National Party councillors asked about that figure, they were told:

"due to the NDR national pooling arrangement the Council does not keep the rates it collects and therefore the collection of arrears has no direct impact on how much money the Council has available to spend."

Surely Glasgow must do better.

**The Deputy Presiding Officer:** That question was a minute long. If everybody takes that long to ask a question, we will use up question time very quickly. I will stop members before they get to that stage.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The same should apply to the answers.

**John Swinney:** Answers need to be very long when we are dealing with questions in this portfolio.

It is essential that all local authorities in Scotland engage effectively in collecting non-domestic rates income that is due to public authorities. I take Mr Doris's point that the pooling arrangement does not create the direct link that is required between non-domestic rates income that is raised in one authority and the proportion that is allocated for funding purposes.

Nevertheless, non-domestic rates income, as a proportion of local government finance, is a very significant amount, and if local authorities do not collect it effectively, there is an impact on the overall finance that is available for local government throughout Scotland. I do not think any member of Parliament wishes there to be such an impact.

### Marine and Fisheries Budget

**8. Karen Gillon (Clydesdale) (Lab):** To ask the Scottish Executive whether the Cabinet Secretary for Finance and Sustainable Growth considers that the decision to cut the marine and fisheries budget over and above capital reprofiling is in line with his priority of economic growth. (S3O-8135)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The reduction in the non-capital element of the marine and fisheries budget represents a share of the £500 million cut from planned spend by the United Kingdom Government. Marine Scotland will ensure that the resources that are made available in 2010-11 will be used effectively to contribute to ensuring sustainable economic growth in the marine environment.

**Karen Gillon:** The cabinet secretary will no doubt be aware of the difficulties that the fishing industry currently faces and the difficult economic situation that may result from the talks on quotas in Europe this year. Will he undertake to work with the Cabinet Secretary for Rural Affairs and the Environment to ensure that sufficient finance will be available to support our fishing communities if the talks in Brussels do not go as well as we hope they will?

**John Swinney:** I assure Karen Gillon that the Cabinet Secretary for Rural Affairs and the Environment and I work closely on those matters. Clearly, our budget has to take account of the total volume of resources that we have available, but it must also take account of issues that were not planned at the outset of the financial year but which arise during it. Those issues are kept under



review and the opportunity exists, should circumstances change, for the budget to be amended either through parliamentary consideration of the 2010-11 budget or, if that budget is agreed, in the autumn or spring budget revisions. The matter will be kept under review.

#### **Dalmarnock Station (Commonwealth Games)**

**9. Robert Brown (Glasgow) (LD):** To ask the Scottish Executive whether it supports the redevelopment of Dalmarnock station as a key public transport hub for the 2014 Commonwealth games. (S3O-8074)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** Yes.

**Robert Brown:** I congratulate the transport minister on the commendable brevity and clarity of his reply, although I remind him that the last time he gave such a brief answer was shortly before the cancellation of the Glasgow airport rail link project.

Will the minister clarify Transport Scotland's involvement in the project? Can he confirm the planned completion date? Will the design and development work—the guide to railway investment projects 31 process—be completed by the end of the financial year, as required by Network Rail, in order to ensure that the thing is done before the 2014 Commonwealth games?

**Stewart Stevenson:** The project is an important one for the 2014 games. It involves Transport Scotland, the transport directorate, Glasgow City Council and Clyde Gateway and it is led by Strathclyde partnership for transport. Network Rail and First ScotRail have also been playing their part in the emerging thinking. We are certainly confident that the project, which is focused on a station that is in key need of investment, will deliver well in time for the Commonwealth games. Of course, by taking the action that we have taken on GARL, we have protected projects throughout Scotland from the effects of the cuts from Westminster.

#### **Scottish Enterprise (Restructuring)**

**10. Mike Pringle (Edinburgh South) (LD):** To ask the Scottish Executive what assessment has been carried out of the impact on the economy of restructuring Scottish Enterprise. (S3O-8080)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The Government has not carried out a formal assessment of the impact on the economy of the restructuring of Scottish Enterprise. However, the reforms have allowed Scottish Enterprise to focus on activities that should have the greatest economic impact. That will enable it to maximise its contribution to sustainable economic growth, but it will do so in

the context of the Government economic strategy, which sets out a clear purpose for both the Government and its public bodies and provides a basis for close collaborative working towards that purpose. A formal assessment of the specific impact on the economy of the restructuring of Scottish Enterprise would therefore not be particularly meaningful, given that radically changed context.

The Government is, of course, keen to ensure that the restructured Scottish Enterprise maximises its contribution to sustainable economic growth. It will be a continuing operational matter for Scottish Enterprise to consider how best to review, evaluate and demonstrate that contribution, working within the national performance framework.

**Mike Pringle:** Parliamentary questions have revealed that the Government undertook no prior assessment of the likely impact of the refocusing of the enterprise network. It is astonishing that neither the Government nor Scottish Enterprise had any idea how many businesses fall into the category of significant, high-growth businesses, which the restructuring was intended to target. The Government slashed Scottish Enterprise's budget with no idea of the effect that that would have on economic recovery.

Now that the minister has admitted that no independent assessment has been carried out, will he confirm that Audit Scotland will be tasked with carrying out an evaluation of the restructuring at the earliest opportunity so that the impact of the Government's cuts can be properly and independently assessed?

**Jim Mather:** Audit Scotland's workload is a matter for Audit Scotland, and successful implementation of the reforms and responsibility for evaluating their impact and effectiveness is an operational matter for the individual enterprise bodies. However, when we look at the headline issues of what has been happening with Schering-Plough, TSC, Welcon Towers, Barclaycard, Goldfish and Rosyth-Zeebrugge, and the new investment such as that by Tesco Personal Finance in addition to what has been done with the Scottish manufacturing advisory service, we can see that Scottish Enterprise is performing well and is very effective.

#### **Borders Railway**

**11. Rhona Brankin (Midlothian) (Lab):** To ask the Scottish Executive whether it will provide an update on the progress of the project to reopen the Waverley railway line linking Midlothian and the Borders with Edinburgh. (S3O-8127)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** Good progress continues with the necessary procurement development for the main works, which will benefit from the acceleration of the utilities and advance works. Recent market testing has revealed that contractors and financial investment organisations still continue to express a strong interest in the project.

All land and property required to construct the works has been successfully acquired, and design works and ground and structural surveys have also been completed. Preparatory work to allow major utilities and advance works to be undertaken over the next two years is well under way, with utilities diversion works due to start before the end of the current financial year.

**Rhona Brankin:** At the moment, my constituents in Midlothian, where most of the new stations on the Waverley line will be situated, do not have access to a local railway service and many are concerned by the Scottish Government's recent silence on the subject. Given the recent scrapping of the Glasgow airport rail link just months after he said that he remained committed to the project, can the minister unequivocally tell the chamber that the Waverley line will reopen as promised in 2013? Will he provide members with an updated cost projection for the project?

**Stewart Stevenson:** Yes. Unchanged.

**The Deputy Presiding Officer:** Question 12 is not lodged.

### New Railway Stations

**13. Jamie Hepburn (Central Scotland) (SNP):** To ask the Scottish Government what support exists for the creation of new railway stations not identified in the strategic transport projects review. (S3O-8100)

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** We will consider proposals for new stations on the rail network where the surrounding population, workplace or visitor need is sufficient to generate a high level of demand and if they contribute to the Scottish Government's policy of improving overall journey times. The fact that a proposal might not have been taken forward by the Scottish Government as part of the strategic transport projects review does not preclude regional transport partnerships and local authorities from considering the value of local interventions.

**Jamie Hepburn:** I thank the minister for that reassuring answer. He will be aware of my calls to open stations at Abrohill in Cumbernauld and Grangemouth and Michael Matheson's calls for a station at Bonnybridge. I realise that the minister might not be able to commit to supporting those

projects here and now—although he is welcome to do so—but is he able to assure me that he and Transport Scotland will keep an open mind on those requests?

**Stewart Stevenson:** We will certainly keep an open mind in that respect. However, as the current control period for regulatory asset base funding for rail projects runs from 2009 to 2014, it is likely that any significant additions to our plans for the rail network will take place in the next control period, which will run from 2014 to 2019.

**Cathy Peattie (Falkirk East) (Lab):** As the minister will recall, he kindly agreed to meet Grangemouth transport forum in June. Among the presentations made by the forum, which brings together the community council and businesses in Grangemouth, was a discussion on Grangemouth's rail links as part of the STPR and the national planning framework, from which emerged the possibility of a spin-off in the form of a Grangemouth railway station. Does the minister recognise the importance to the Scottish economy of reconsidering the proposals in NPF 2 with regard to the Grangemouth transport hub? If so, will he agree to look at them again?

**Stewart Stevenson:** I thank the member for bringing Grangemouth transport forum to meet me. The meeting was very useful, particularly because so many strands of the local community, including business, trade unions and the local council, were represented.

By putting Grangemouth docks into the national planning framework, we signalled the need to improve transport connections to the town. However, among the potential difficulties of adding passenger traffic to the proposals is the fairly certain need for a chord to be built from the current line into Grangemouth and on to the eastbound Edinburgh line in an area where the gradients are challenging. However, we are continuing to consider such matters, and I would be very interested to see any low-cost options that might be proposed.

### Scottish Futures Trust (Consultants)

**14. Bill Butler (Glasgow Anniesland) (Lab):** To ask the Scottish Executive what spending limit it has set for the use of consultants by the Scottish Futures Trust. (S3O-8128)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Scottish Government is committed to utilising external consultants only for appropriate projects, and the use of consultancy support in the Scottish Futures Trust's establishment is consistent with that approach. Through its expertise and its purpose of fostering co-operation and aggregation in the delivery of capital projects, SFT is able to

help public bodies across Scotland deliver infrastructure investment fit for Scotland's needs while ensuring value for the taxpayer.

**Bill Butler:** The cabinet secretary will be aware that, last week, I discovered that the SFT has paid out nearly £120,000 to consultants since June, including £50,000 to Hays recruitment to

"assist in the recruitment of seven senior Scottish Futures Trust staff."—[*Official Report, Written Answers*, 18 September 2009; S3W-25603.]

Some might argue that that is bizarre, given that the Scottish Government already has a well-staffed and trained recruitment department. Will the cabinet secretary therefore consider setting clear limits on the use of consultants and capping the amount that the SFT is allowed to pay for their services?

**John Swinney:** The Government already has in place extensive measures to minimise and keep under control the amount of resource that is deployed for consultancy purposes. As I set out in my original answer, we utilise external consultants only for appropriate projects. That is the Government's approach. I assure Mr Butler, as I can see that he is very concerned about the issue, that the Government keeps it under constant review.

## Civil Justice

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on motion S3M-4987, in the name of Fergus Ewing, on civil justice. I call Kenny MacAskill to speak to and move the motion.

14:56

**The Cabinet Secretary for Justice (Kenny MacAskill):** Scots law and the Scottish courts have served us well in civil matters for many years but, last Wednesday, the Lord Justice Clerk, Lord Gill, presented me with the "Report of the Scottish Civil Courts Review", which is a hard-hitting report and the first system-wide review in modern times. I begin by thanking Lord Gill, his colleagues and his staff team for all their work. I also thank Cathy Jamieson for her foresight in commissioning the review during her tenure as Minister for Justice.

In his opening paragraphs Lord Gill pulls no punches. He says:

"The basic structure of civil jurisdictions in the Scottish courts remains much as it was in the late nineteenth century".

He continues:

"changes in the social and economic life of Scotland ... have left us with a structure of civil justice that is seriously failing the nation. Reform is long overdue."

Those conclusions are unavoidable. Our civil courts now operate in a rights-based, property-owning, consumer-oriented, insurance-reliant society of a sort that would have been unrecognisable a century ago. A reliance on ad hoc reforms has delivered a system of civil justice that is unfit for today's purposes. Lord Gill states:

"The practitioners of 100 years ago would have little difficulty in picking up the threads"

of today's courts. The severe summary is that the structure is "seriously failing the nation."

Lord Gill has diagnosed failures in efficiency, economy and expedition; his is a diagnosis of notorious and sometimes scandalous delays that ill-serve our people. His proposals for change include that there should be stricter management of cases, with sanctions for breach of the rules; that there should be a major transfer of jurisdiction to the sheriff courts, with cases that are worth less than £150,000 taken out of the Court of Session; that most appeals should be handled in the sheriff courts from where they sprang, with a requirement for inner house permissions; and that the simplest cases should be dealt with under a new procedure before a district judge. There is also a host of proposed technical improvements. The report has been broadly welcomed by all those who believe that the people of Scotland deserve an accessible

system of civil justice that delivers fairly, economically and promptly.

I cannot address all Lord Gill's recommendations today. His report extends to 700 pages, with evidence presented in 11 informative annexes, which detail the disproportionate cost of litigation, excessive delays and volumes of business, as well as lessons that are to be learned from other jurisdictions. I broadly welcome the recommendations and accept the twin thrusts of jurisdictional adjustment and procedural change. Cases must be dealt with at the level that is appropriate for their importance and complexity, and the courts should ensure that cases are properly managed, with an end to drift and repeated procedural hearings. Reforms in the commercial court and summary criminal cases have shown that that can be done and it must now be done throughout the system.

It is absurd that more than half the cases that come before the Court of Session cost more to sue than the sum being sued for: an average of 222 per cent more in the lowest-value cases.

It is increasingly odd that the average time for a case to reach its conclusion continues to grow. Without access to today's technology, the *Roe v Wade* decision was issued in three months, including holidays, and the Nuremberg trials were concluded in 10 months. Our delays are not justified. They delay justice and they contribute to Scottish businesses choosing other jurisdictions for their litigation. So we should all agree on the needs driving reform: modernisation, a change of culture and a whole-system approach.

We will carefully examine the detail of the specific proposals. Some could be implemented soon, others will require careful costing and a different public finance climate. Some solutions are at the disposal of the court, others are for the Government and others still are shared, but that does not diminish the urgency of our moving forward in this general direction. I therefore invite the Opposition spokespeople to reach early agreement with me on which recommended changes can be rapidly progressed.

**Robert Brown (Glasgow) (LD):** The cabinet secretary will be aware that Lord Gill said specifically that his report was not to be cherry picked and should be dealt with as a whole. I do not necessarily agree with that, but I would appreciate the cabinet secretary's view.

**Kenny MacAskill:** I accept both Lord Gill's direction and Robert Brown's comment. Obviously, certain matters will require primary legislation, but others can be dealt with more expeditiously. I do not want us to go all round the houses and wait until every matter has been fully canvassed, and experience procedural delays. I make this offer: if

each and every one of us can agree on action that will advance civil justice, let us act. If we cannot agree, we will not seek to proceed but, as I said, where we can make progress for goodness' sake let us make progress. Where we require to deliberate, we are happy to do so.

**Margo MacDonald (Lothians) (Ind):** I will press the minister further. Has he identified areas where we might start?

**Kenny MacAskill:** Some areas will not be within the Government's jurisdiction; they will not require primary legislation but will be within, for example, the domain of the Court of Session Rules Council and a variety of other bodies.

If we can agree politically, and if we accept that we might have to wait some time for primary legislation, we should try to make progress where we can. If the matter is one on which the Government or our legislature has an input, we should press on. If it is a case of encouraging others, either within the rules council or elsewhere, let us do that. Margo MacDonald is correct to ask her question and I agree with Mr Brown. The package needs to be viewed in its totality. Equally, we do not have to wait until every t has been crossed and i dotted before we deliver change. If we can, let us resolve issues while we work towards the general thrust of the recommendations.

**David Whitton (Strathkelvin and Bearsden) (Lab):** Is one of the issues on which the cabinet secretary thinks we can all reach agreement the introduction of the McKenzie friend process?

**Kenny MacAskill:** I am more than happy to consider it. Lord Gill commented on that process, as did those involved in providing support through citizens advice bureaux and others. I am more than happy to meet Mr Whitton or his front-bench colleagues to discuss it because we are genuinely open to ideas. We do not insist on any formula. As I said, if we can agree on changes that are within our control, we will seek to introduce them. If changes are within the domain of others we will encourage them to act, if that is Parliament's view. Other matters will require to await the outcome of an election and, presumably, the availability of legislative time. The shape of reform will require endorsement and, in some cases, enactment by this Parliament. There will be those in the chamber and beyond with particular interests in the course of reform, whether that involves McKenzie friends or other ideas. They will want to ensure that their interests are protected, be they of the cause or constituency type. That is to be expected and welcomed. The ethos of Scots law needs to be upheld; the special requirements of island communities and sparsely populated rural areas need to be taken fully into account and to be fully protected.

The chamber should not lose sight of the original diagnosis that the current system is “seriously failing the nation”. That is why, when we have an opportunity to advance matters, even in a minor way, we should take it. Neither vested nor narrow interests should have a part in our debates. There is no place for protectionism or parochialism.

We will all have our work cut out: the Government, the Parliament and the soon-to-be-reformed Scottish Court Service. However, these recommendations can help us to meet the challenge.

We await with interest the report of Professor Neil Walker, who is considering the issue of the final appellate jurisdiction in the Scottish legal system, the new Supreme Court. As Lord Gill says, we need a proper hierarchy of appeal courts, and the whole system must be considered, as Robert Brown mentioned.

Lord Philip recently reported on the future of tribunals in Scotland. Those have proven to be an effective way of delivering civil justice in areas of public law, but the system in Scotland is fragmented and, similarly, outdated.

We need to determine whether an integrated tribunal service for Scotland can improve the operation of existing tribunals; it may perhaps develop the capacity and expertise to handle cases that are currently before the courts. We will take that work forward in parallel with the consideration of Lord Gill’s and his team’s review.

Lord Gill also acknowledged the value that can be added by alternative mechanisms for resolving disputes and by mediation services in particular. We have already introduced the Arbitration (Scotland) Bill and strengthened protections for home owners, and we will be implementing the European Union directive on mediation. We will also consider further recommendations for public legal education and advice services.

Parliament will be presented with our detailed proposals after public consultation. We have a generational opportunity to seize and we must all meet the challenge. I anticipate the debate and I look forward to changes.

We are happy to accept the amendments. As I said earlier, we are more than happy to speak to individual members and front-bench spokesmen.

It is correct to say that we must deliver the whole package of measures. Equally, we must all agree that there are aspects that can be dealt with and we should not wait until the final chapter has been concluded before we make progress. If we wait, we will simply replicate the delays that are causing significant problems now. Sadly, some Scottish businesses and other interests are choosing to litigate in London—despite the fact that it costs

significantly more and is less expedient—because we cannot provide the service. That is simply not satisfactory.

We have to get the balance right between the points made by Robert Brown—

**Margo MacDonald:** How urgently must the matter of clients in Scotland choosing to use the English jurisdiction be addressed? There is talk of large English firms doing much more business in Scotland.

**Kenny MacAskill:** We must address the matter urgently. The Government is already on the case, because the matter was flagged up to me by Stephen Pearson, the head of legal services at the Royal Bank of Scotland, which, after all, is our single largest institution here in Scotland. We are doing what we can. To the credit of the Scottish Court Service, rules for commercial actions in the Court of Session have been brought in under Lord Reed, but significant progress has still to be made. Further changes are necessary, some of which might require primary legislation, as Lord Gill says. There is an obligation on each and every one of us to do what we can to improve the system and to end the absurdity of Scottish clients choosing to litigate elsewhere. That is why we have been seeking to interact with financial services and with companies that are choosing to litigate elsewhere, to work out what we can do to change that. We are proceeding in a variety of ways, such as through the Arbitration (Scotland) Bill.

There is not one simple solution. This is a package of measures. As Mr Brown and Ms MacDonald have said, the ultimate framework must be taken in its totality. Equally, it is incumbent on each and every one of us to make what progress we can to improve the system, which, as Lord Gill said, is not serving us well.

I am proud to have served in the Scottish legal profession. It is an institution that has, in the main, served us well, but, because of the changes in the social and economic life of Scotland that Lord Gill correctly mentioned, it is not doing so now. We must change in a thought-through manner, which is why I pay tribute to Lord Gill, but we must do what we can, even if not everything can be done immediately. We are having this debate because a great deal must be thought out, discussed and consulted on. Equally, there are matters that are a no-brainer to deal with and it is incumbent on us to do so.

I move,

That the Parliament welcomes the Report of the Scottish Civil Courts Review conducted under the chairmanship of the Lord Justice Clerk and the reports of the Administrative Justice Steering Group conducted under the chairmanship of Lord Philip; looks forward to the report of final appellate jurisdiction in preparation by Professor Neil Walker, and believes that the people of Scotland deserve a reformed

and modernised civil justice system that is fit for purpose in the 21st century.

15:10

**Richard Baker (North East Scotland) (Lab):** In February 2007, Cathy Jamieson wrote in the foreword to “Modern Laws For a Modern Scotland: A Report on Civil Justice in Scotland” of the need for reform in our civil justice system and for laws that provide accessible ways to sort out problems and protect rights. She announced then that Lord Gill would lead a review, and today we have a welcome opportunity to discuss its conclusions. It is important that Parliament recognises Lord Gill's and his colleagues' great contribution in producing the report. It has been the work of over two years and it does not disappoint in making bold proposals. They need to be debated and tested, but the report makes it clear that, while we are rightly proud of our justice system, it needs reform.

Our amendment to the Scottish Government motion stresses the importance of two fundamental principles that inform our approach to these issues: access to justice and efficiency in our justice system. The key perspective must be that of the person who seeks access to the justice system. Justice for them must be dispensed fairly and speedily, and they should not be excluded from the justice system because of lack of means or any other barriers that they face. They have a right to have their case heard in the most appropriate setting and by a court with the appropriate expertise.

There is clearly benefit in having a number of sheriffs designated as specialists in particular areas of practice, which is the case that family law practitioners made. In such cases, there are advantages for continuity and consistency in decision making in having sheriffs who specialise in family law. The argument is also well made in terms of cases becoming protracted because of the pressure of other court business, particularly criminal business. It is clearly undesirable when cases involving adoptions or referrals from children's hearings are affected, because such cases are sensitive and emotive, particularly for the child involved.

A compelling case has therefore been made for sheriffs to specialise in one or more areas, and for the creation of the new judicial office of district judge to hear summary criminal business and civil claims of a modest value. It is to be hoped that that will make court procedures more efficient. Too often, we hear from constituents whose cases, which are often for relatively small claims, have taken far too long to resolve, and so long in some instances that they have not been able to continue them. That is clearly not fair or just. I welcome the report's emphasis on sheriffs taking a greater role

in managing cases and on the use of lay representation where that is appropriate—David Whitton referred to that in his earlier intervention. That will be of clear benefit to those who otherwise could not afford to be represented.

**Margo MacDonald:** It may have been a slip of the tongue by the member, but McKenzie friends are not lay representatives in court; they are lay supporters for someone who is litigating on their own account.

**Richard Baker:** It was a slip of the tongue, and I am grateful to Margo MacDonald for her correction of that point.

Another positive proposal that would enable people to have better support in their engagement with the justice system is that the Scottish Government should develop and extend in-court advice services as part of the improved provision of publicly funded civil legal assistance and advice. Clearly, that will require appropriate resource; even in these straitened times for public finances, that fact cannot be escaped. We cannot hope to reap the rewards of changing the structures if there is, for example, an agenda to close many sheriff courts. The system's costs are, of course, referred to in the report. The Scottish Trades Union Congress, the trade union Unite and others have highlighted their fears about the effect of steep rises in court fees. They are right to do so, because of the potential impact on access to justice.

It is also right that the review should look at reform in the Court of Session and at how to ensure that that court can best play its crucial role in the delivery of civil justice in Scotland. The proposals that the Court of Session should deal with cases above a value of £150,000 with other cases going to sheriff courts and that a specialist personal injury court with an all-Scotland jurisdiction should be established will undoubtedly be the subject of debate. The proposal for a specialist personal injury court also raises important questions about resource, including how the Government will ensure that an adequate number of sheriffs are allocated to any new court.

I am aware that the STUC, Unite, campaigners on asbestos-related disease and personal injury practitioners have serious concerns about how that proposal will affect their cases, which are currently heard in the Court of Session. We should ask not only whether the £150,000 limit is appropriate, but whether the monetary value of a case alone should determine in which court it is heard. I am aware that the report refers to the potential for the judge to consider at the case management hearing whether the case might have special features that would justify its retention in the Court of Session. That points to the potential for cases of relatively minor monetary

value to be nevertheless complex in points of law and potentially important in creating case law for not just Scotland but the United Kingdom. A case's monetary value should not be the only basis on which it might be considered appropriate for the Court of Session.

The wider resource implications of the proposed changes will need to be properly considered, particularly given that the report makes it clear, as Robert Brown pointed out, that its recommendations should not be cherry picked. It should not be a case of the most affordable proposals being implemented first.

In the time available for this debate it is impossible to cover all the crucial issues that are raised in what is an extensive review. It is clear that the review should be fully and carefully considered. There should be a wide consultation, as Bill Aitken's amendment mentions. I welcome the cabinet secretary's announcement that there will be public consultation.

The motion refers to the forthcoming report on final appellate jurisdiction by Professor Walker. The Calman commission highlighted the potential for Scottish criminal justice cases to be taken to the UK Supreme Court if convention rights are involved. That issue should be resolved, as the judiciary from the Court of Session stated in their evidence to the Calman commission. I hope that that will be achieved without considerable upheaval. We will need to return to that matter as well as to the Scottish civil courts review. A major and substantial report that is of such importance to the future of our justice system must receive full parliamentary scrutiny.

I welcome the opportunity to discuss matters with the cabinet secretary. I will certainly take up his invitation, but I believe that the reforms are too important to be conducted with undue haste. The priority must be for legislation to be considered and debated rather than for piecemeal implementation.

We are indebted to Lord Gill and his colleagues for their excellent work in producing substantial proposals for major reform to modernise our civil justice system. The Parliament has a duty to give the report the full debate and consideration that it deserves. Today is a welcome beginning to that vital work as we look to reforms in civil justice that are founded on ensuring that cherished right of recourse to a justice system of which we can be proud.

I move amendment S3M-4987.2, to insert at end:

" , which is founded on the principle of ensuring access to justice and that reforms must be driven by this as well as by efficiency in the justice system."

15:18

**Bill Aitken (Glasgow) (Con):** To many people, including many of those involved in the law, it is clear that Scotland's civil justice system operates in a time warp. There is, I think, unanimity in the Parliament that the status quo is simply not an option, so we are extremely fortunate that Lord Gill and his colleagues have prepared such a weighty and comprehensive report that gives us the basis for the fullest consideration of the issues.

Like Richard Baker, I have not time this afternoon to deal with every aspect within the review, but I will stress a number of issues. There is no doubt whatever that people throughout the legal system are doing work for which they are distinctly overqualified. A breach of the peace in the east end of Glasgow need not always require the weighty deliberations of a sheriff court. Where such a matter has been determined by an inferior court, we certainly do not require three senators of the College of Justice to determine the case on appeal. That is an absolute nonsense and it is high time that something was done about it. The report proposes important provisions about what should be done.

As with everything else in life, specialisms are sometimes required. Many of us who sit in the Parliament are aware that we are often required to be a Jack-of-all-trades and master of none. A similar situation applies at present in the judiciary. Great progress has been made in Glasgow sheriff court on specialisation, especially in commercial and family law. That must be extended throughout Scotland. It is inevitable that, once specialisation is in place, cases will be dealt with more efficiently and effectively, because the people who deal with them will do that type of work more or less all the time. To quote the cabinet secretary, it is a no-brainer.

We must look at the hierarchy of the courts and the appropriate use of judicial resources. I referred to the question of appeal. Should a highly qualified senator of the College of Justice be dealing with minor cases, where sometimes the amount involved is only a few thousand pounds? Richard Baker was right to highlight the fact that sometimes important points of legal principle are established by cases of limited monetary value, but to my recollection cases such as *Donohue v Stevenson* occur only every 75 years, so the arrangements that the Gill report recommends for dealing with minor cases may be appropriate. Let us transfer the bulk of small personal injury and other claims out of the Court of Session to sheriffs who are more than qualified and adequately resourced to deal with them.

I have one regret. It seems to me, and I know that Paul Martin will agree, that there is Edinburgh-centric thinking in the legal profession. If there is to

be a personal injury court—there is a valid case for having one—why must it be in Edinburgh? Why can it not be in Glasgow?

**Mike Pringle (Edinburgh South) (LD):** Because Edinburgh is the best place.

**Bill Aitken:** Mr Pringle says that Edinburgh is the best place, but the initial specialisations came about in Glasgow sheriff court.

On a more serious point, if a personal injury court is established—there are advantages to doing that—we must ensure that it is adequately resourced.

I am a well-known technophobe but I find the lack of use of information technology in the court set-up astonishing. It is also astonishing that there are so many hearings that are totally meaningless for the vast majority of people. Every business nowadays uses telephone conferencing, fax machines and other manifestations of IT. Why can the court system not do that and save a great deal of time? The issue must be looked at.

I am attracted—again, perhaps because Glasgow has pioneered the route—by the call for the creation of third-tier judges. As the cabinet secretary knows, in Glasgow stipendiary magistrates have operated in tandem with lay magistrates for many years to provide a summary justice system that has proved to be satisfactory. It would not be difficult to extend those judges' remit to include such matters as small debts and education and housing disputes. Only one judge would be needed in most sheriffdoms—two, perhaps, in the larger ones. They would take away much of the summary criminal work that our highly qualified sheriffs, many of whom are Queen's counsel, should not have to do, and would deal with smaller-scale civil actions.

**Margo MacDonald:** The principle of equity must be maintained in law. If there is to be a diminution of judges' qualifications, should we not pilot that first, to see whether more cases go to the European Court of Human Rights? I know that the member is interested in that issue.

**Bill Aitken:** My interest in human rights legislation is well known throughout the chamber. I do not think that we would have the problem that Margo MacDonald suggests, as the stipendiary magistrates courts work very effectively. I invite the member to visit Glasgow to see them in operation. Had it not been for those courts, the summary justice system in Glasgow would have collapsed years ago. It is a simple matter of extending their remit. Remember that stipendiary magistrates are all legally qualified solicitors, and to extend their remit to include the minor issues that I have mentioned would not be of any great moment. Judicial specialisation is vital, and it must be advanced at the earliest possible opportunity,

although I suspect that we do not need new legislation to do that.

Any system of justice, criminal or civil, must have this essence: it must be fair, and it must be understandable. If the system is to be fair, we must consult and take people with us; if it is to be effective, there must be savings in time and money. The current situation is costing us money—there is no doubt that people are taking contract law outwith Scotland, the oil trade being the classic example. That is not a happy position to find ourselves in.

**Mike Pringle:** Does Bill Aitken agree that, while it might be costing lawyers and others, it is litigants who are really suffering by having to go to London?

**Bill Aitken:** In most cases, the litigants concerned can well afford so to do, but it is still a highly unsatisfactory situation. We must ensure that Scotland's courts provide a forum where the most complex matters can be determined. Then there will not be a temptation to go to London. In fact, I very much hope that we can reverse that trend.

We have before us a fine basis for further progress. I note and respect the cabinet secretary's views that certain proposals might be accelerated, although, as Robert Brown said, there are dangers in approaching the matter piecemeal. However, let us move onwards and upwards; there is a lot to be done.

I move amendment S3M-4987.1, to insert after "believes that":

" , following a full and wide consultation, ".

15:26

**Robert Brown (Glasgow) (LD):** Lord Gill has produced a report that is weighty in several senses of the word. I do not know why it had to be printed using such heavy paper—but that is a minor side issue.

The report identifies a number of serious barriers to speedy, affordable and effective civil justice. I might, as a lawyer by profession, be expected to take this view, but access to justice, particularly civil justice, is a central requirement of a functioning democracy. Redress against injustice and procedures for resolving disputes between citizens or between the citizen and the state were among the earliest functions of the state.

Today, the courts are but one of a wide range of bodies that are concerned with resolving disputes. Many trades and professions have complaints and dispute procedures and many services are underpinned by insurance and arbitration



arrangements. There is the Scottish Public Services Ombudsman, there are mediators and advocates—in the advocacy sense, as opposed to the lawyer sense—there are in-house advice services, citizens advice bureaux, campaigning newspapers and many other organisations. Access to the courts is supported—albeit less than it once was—by state legal aid and through the trade unions. However, the central thread and the ultimate recourse has to be to the courts. I say that against a tendency to highlight arbitration and various other devices. The courts must remain the central recourse.

The courts are the third arm of Government and are jealously and rightly protective of their independence. They are able to give the sanction of the law to their judgments and to enforce their orders if need be. The courts must be a bulwark of our democracy, and an independent legal profession that is accessible to everyone—like Mr MacAskill, I am proud to have been a member of it—is the necessary precondition of judicial independence.

Lord Gill's report is highly controversial on a number of fronts, but it will define the debate in the weeks and months to come. It would be wrong to try to give a definitive response in the chamber today to what is a very lengthy report, so I stress that we must, despite our desire to move forward with it, ensure that we get the details of its implementation right. If there is one thing I have learned as an MSP—and as a minister—it is that 1 per cent of the job is about good law, and 99 per cent of it is about making things work in practice. We must be conscious of that caveat.

I wish to raise a number of specific points. Lord Gill presents his report as something that is to be taken as a whole, and not cherry picked from—I made that point earlier. However, although the report's recommendations are interconnected, I think nevertheless that there are separable strands that may be considered.

There are some matters to which Liberal Democrats give their unqualified support in principle, and which do not necessarily raise major financial issues. They include the necessity to phase out routine reliance on temporary judges and sheriffs, which distorts the system, reduces the perceived independence of the bench and could undermine our adherence to basic European Convention on Human Rights principles. They are principles to which I, unlike Mr Aitken, give considerable adherence.

The widening of certain court powers, notably the definition of title and interest to sue, in order to give a broader range of organisations the right to take up or enter judicial review proceedings, is important. For example, Age Concern Scotland might have the right to raise proceedings that

affect older people as a group, instead of having to identify a nominal individual petitioner to bring an action. That approach would significantly enhance the accountability of Government and other public bodies. It is also sensible and long overdue to permit the taking in the sheriff court of actions of reduction and proving the tenor of lost documents—slightly esoteric actions, I know, but they happen from time to time.

The extension of in-court advice services, such as the one that was pioneered in Edinburgh, is also important. I understand that there is increasing support from the Scottish Government for there to be such an approach throughout the country. We have touched on McKenzie friends.

Lord Gill identified the need for a separate investigation of issues to do with the complex matter of the cost of justice and the implications of awards of expenses. Issues such as the growing gap between the cost of the litigation to a party, the expenses that are awarded on success and—not least—the recoverability of after-the-event legal expenses insurance premiums, deserve close examination, which Lord Gill and his committee did not have time to give them. The placing of a duty on opposing experts to try to agree their positions is a valid direction of travel, but might, if my experience in such matters is anything to go by, have cost and time implications.

There is potential in the introduction of a court discretion to make a protective costs order or to put a cap on expenses in certain cases that raise significant issues of public interest. Lord Gill rightly indicated the conditions and likely limitations on such orders. We do not want to make it overly easy to go to court; we want people to settle their cases if possible, and the system must reflect that. Nevertheless, there is a perceived injustice whereby public authorities seem to have a state-funded bottomless pit with which to raise or defend actions against private individuals, funded by taxes that were contributed by those individuals and other people who do not support the Government actions that are being complained of. We have experienced that in the context of school closures. My colleague Ross Finnie will develop that point in the context of the Aarhus convention.

There will be support for many of the technical recommendations, such as the docketing of a case to a particular sheriff and the stronger powers to dispose of a case summarily. Enhanced case-management powers for the court will also be vital—although when I was in private practice I sometimes thought that sheriffs had forgotten the pressures of a busy office and a heavy case load when one asked for continuations on the continued adjustment roll, which was regarded as the last salvation of many a solicitor. The serious point is that there is a balance to be struck

between the too-heavy sanction of dismissing a case altogether or granting decree because of a one-off procedural error, and letting a case drag on because the lawyer for one side or the other—sometimes both—has taken his eye off the ball.

The strength of the Scottish system was always thought to be the fact that well-drafted pleadings focused attention on the issues in dispute at the heart of the case. However, in many cases of small value or limited complexity it might be better for judges to adopt a more hands-on approach, to ensure speedy identification of the issues and a proof that is limited to the matters that are in contention.

The biggest issue, which will be costly, is the reform of the court hierarchy—not least the introduction of a new lower tier of district judges in the sheriff court. As Bill Aitken said, there is precedent in Glasgow for that approach. Such issues need close consideration, perhaps by the Justice Committee, and the Government must provide direction by indicating early on its estimate of the likely costs and the chances of early availability of funding. I noted that the cabinet secretary commented that we are in a different financial climate. We are all conscious of that.

We have substantial concerns that some changes would result in a loss of access to the Court of Session. We have talked about the personal injury court and I agree with Bill Aitken that there is no particular reason why that should sit within Edinburgh sheriff court—indeed, I think that I am right in saying that because of the presence of the Court of Session the court attracts less personal injury business than do most of the other courts in the country. Is there perhaps a downgrading of the importance of family actions and children's hearings referrals, if such actions are thought to be particularly suitable for the lowest court? Some of those cases are the most anxiety-inducing and challenging that a lawyer can face.

Lord Gill did not mince his words. He said that we have

“a structure of civil justice that is seriously failing the nation.”

He went on to say that

“The Scottish civil courts provide a service to the public that is slow, inefficient and expensive.”

He and his colleagues deserve our thanks for a thorough and innovative report. We must consider the report and decide how much resource needs to be allocated to reform, and whether the direction of travel that is proposed is wholly or largely right. The task is urgent, but time must be taken to get it right. There must be concentration on the detail, to ensure that our system of civil

justice meets the needs of all parts of our multifaceted country.

15:35

**Alasdair Allan (Western Isles) (SNP):** The Scottish Government has already started to improve our civil justice system. Scotland rightly prides itself on the institutions of its distinctive justice system—institutions that remarkably survived the long adjournment of this Parliament—but there is wide and, as is obvious, cross-party acknowledgement that those institutions are now creaking under the weight of their work and are in need of serious reform. That is clearly Lord Gill's view.

I will not perjure myself by claiming to have read all 700 pages of the report. Even the executive summary runs to more than 35 pages, which stretches the shameful attention span of most politicians. It is clear that the recommendations form a comprehensive whole and, rather than cherry pick from the report now, we should consider it as a whole before we go any further.

I thank Lord Gill and his team for dedicating two and a half years to the project and for producing a report that will, I hope, be used to effect the changes that need to be made in our civil justice system. The report covers the cost of litigation, the role of mediation, the development of modern methods of communication and the proposed specialisation of courts. Paul McBride QC—not someone whom I often find myself quoting—was reported in *The Scotsman* as saying:

“There is no downside to Lord Gill's report. The idea is it will improve access to justice for civil litigants and save them a great deal of money and time... Lord Gill is doing something that is long overdue.”

The need for such reform is brought home to me as a layman by one simple fact that sheds light on the ridiculous nature of the present situation: in more than half of cases before the Court of Session, it costs more to sue than the sum that is being sued for. That fact, taken together with the long delays that arise from the pressures of criminal business, leads in Lord Gill's view to a need for greater judicial specialisation. In his view, judicial resources are being used inefficiently and there is an overreliance on temporary judicial resources. He states that there is a need for effective case management, reformed procedures and investment in information technology. He also identifies a problem with the current costs and funding for litigation.

If one thing in Lord Gill's report is perhaps worth concentrating on as a potential remedy to some of the problems, it is his proposal for the new office of district judge. The proposal merits considerable parliamentary time for consideration, but it is an

attractive idea that a district judge might sit in the sheriff court to hear criminal cases and civil cases that have a value of less than £5,000. Those courts should have, in the report's words,

"a problem solving or interventionist approach in which the court should identify the issues and specify what it wishes to see or hear by way of evidence or argument",

with—significantly—rules that are

"drafted for party litigants rather than practitioners."

If the court agreed, litigants could be represented by suitable lay representatives. Those proposals would significantly reduce the complexity and expense for litigants and reduce the pressure on sheriffs.

The Scottish Government has shown some commitment to reform in those areas through reform of the summary criminal justice system and the Judiciary and Courts (Scotland) Act 2008, which has given the courts modern governance arrangements for the first time. The Government has also introduced an Arbitration (Scotland) Bill to strengthen the protection of home owners, and will soon implement the EU directive on mediation.

Lord Gill has made some proposals that the Parliament needs to take seriously, particularly his thoughts on district judges, a new civil justice council, a major shift in judicial procedure and the creation of a non-geographical personal injury court based in Edinburgh. If we are to improve our justice system and implement any of the changes that he recommends, the report should be carefully considered in Parliament and through public scrutiny and evaluated further to determine which measures might be adopted.

The proposed changes are major reforms that will take time to put into action. Although it might be a slow and painful process—especially given the present need for reduced public spending—the end result will help to create a civil justice system that is less costly in time and money to those who utilise it.

Before we get ahead of ourselves, the intention behind the motion, as I read it, is that we produce proposals that will be subject to detailed public consultation. After that process, we can proceed with restructuring our civil justice system, as determined by the public and Parliament.

Having sounded that cautionary note, I say that we would, as a Parliament, do well to heed Lord Gill's call for radicalism and his acceptance of the need for radical change that, as he concludes, remains true to the values and distinctiveness of Scots law and our separate legal system. I believe that that might well be achieved by, among many other measures, removing the role of the UK Supreme Court from the civil appeals process in Scotland.

15:41

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): Presiding Officer,**

"We are proud of Scots law and our independent legal system; but what is the point of that if the machinery of justice in Scotland does not work?"

Those were Lord Gill's words as he introduced his report. He went on to say that the study had satisfied him that civil justice in Scotland was failing. He said:

"It is failing to deliver justice to the citizen expeditiously, economically or efficiently. Our structures and procedures are wholly unsuited to modern conditions. They inflict needless costs on the public purse, on the Scottish Legal Aid Board and on individual litigants at every level. The system's delays are notorious and in some cases scandalous. Its procedural inefficiencies operate against the interests of justice."

I do not think that anyone could accuse Lord Gill of pulling his punches when he introduced his report.

I welcome the opportunity to debate the substantial documents that make up the report. Like others, I have not yet gone through all 700-odd pages of it in detail, but one of the things that I learned as a minister was to read summaries fairly quickly, form an initial view—in this instance, a cautious welcome—and then delve into the detail, find the devils and try to change the bits that I did not like. I give due warning that I will probably do the same with Lord Gill's report.

When, as Minister for Justice, I commissioned the review, I did so because I was acutely aware of some of the failings that Lord Gill has pointed out. I wanted our civil courts to be reformed first and foremost to improve access to justice. I wanted to ensure that cases were dealt with at the right level in the court system, and to speed up the process in the interests of the public, particularly in small claims cases, which involve small sums of money. I also wanted to ensure that despite the need to focus on speeding up the work of our criminal courts, civil cases would not be deprioritised, and I wanted to see more active management of cases as they progress through the courts.

In an excellent piece in the legal pages of *The Scotsman* immediately following the launch of his report, it was reported that Lord Gill wished his proposals to be seen as pragmatic rather than as revolutionary. I do not wish to cast Lord Gill as the Che Guevara of the legal world, but I suspect that the scale of the reforms that he has proposed will have been met by some people in the legal system with a sharp intake of breath. Some of his proposals are, indeed, extremely radical, but it is entirely possible to be radical and revolutionary and at the same time to be pragmatic and come up with something that works.

The report is wide ranging, as it was expected to be. Of course it is right that we take time to consider it in detail, and I hope that the debate does not result in a polarisation between those who want the report to be adopted as a whole and those who feel that there are certain issues that we can progress now. I sound a note of caution about the scale of the reforms. As someone who took through a number of pieces of legislation to reform our criminal justice system, I suggest—I am sure that the Cabinet Secretary for Justice will not mind my saying so—that the work of implementing the report will not be completed in the present session of Parliament and might not even be completed in the next session. In fact, it might extend into the one after that, when neither the cabinet secretary nor I might still be in Parliament. We need to take time to look at the report, but let us be sensible, too.

If we can speed up dealing with issues to do with management of the courts, let us get on and do so. However, as Richard Baker and other members have said, let us not simply look for the cheap options and try to put them in place; rather, let us look for the sensible and smart options and put them in place.

On management of cases, it is a bit of a no-brainer to say that someone should be in charge of a case and manage it through the system. Of course it is sensible to make greater use of IT and to build on the positive work that has been done in the specialist courts.

There are a number of issues in the report to which we should give early attention. For example, surely it is not too much to expect judges to explain themselves if they are unable to issue a judgment within three months of a case being concluded. It is important for people who are involved in the system that they get that information and that their cases are dealt with quickly.

We have heard about the use of mediation and alternative dispute resolution. Such things are important. It also makes sense to consider how we can improve the public's education about the legal system and the information that is available. We have already heard about so-called McKenzie friends.

There is concern about costs, which are fundamental to access to justice. The report highlights the fact that justice should not be just for those who can pay. That means that, at the earliest stage, advice should be made available in a wider range of ways, and that community law centres and in-court advice projects, for example, should be expanded.

The report says that there should be the option of making special orders in relation to expenses in

courts in cases in which a significant public interest is involved. That may help those who may wish to bring cases forward.

I do not have enough time to say much more about the report, but I hope that I will in future debates have the opportunity to speak again about civil justice. However, before I finish, I want to mention a couple of things that we should welcome. There is a recommendation to restrict the ability to litigate of people who continue to abuse the system. Ordinary people in the real world find it difficult to understand why some people seem to be able to get constant access to the system while they cannot get access to justice for matters that affect them.

We should also welcome the recommendations on multiparty actions. Unite and the STUC have expressed concerns about court costs and the privative limit. Those issues need to be addressed. I hope that the minister will take those concerns on board and give appropriate assurances that reform will be about improving access to justice and not simply about making financial savings.

In conclusion, the report was described as a “doorstop of a report” in the article in *The Scotsman*. Its scale and volume must not mean that we do nothing. I think that Bill Aitken said that the status quo is not an option. I do not agree with him often, but I agree with him on that. I hope that the cabinet secretary will bring to Parliament a coherent plan that indicates how he intends to proceed, and that he will give us the opportunity to debate the sections of the report that we do not have enough time to deal with today.

15:48

**Nigel Don (North East Scotland) (SNP):** I would like to address the wider issues that the report raises. I am grateful to the cabinet secretary for also mentioning Lord Philip's report, because it is important in the wider context.

There are, of course, two areas of civil justice. In one area, a citizen disagrees with another citizen; in the other, a citizen disagrees with the state. Both are within the civil jurisdiction. However, I would like to concentrate on citizen versus state issues and what we regard as administrative law.

Public servants now make a vast number of decisions on many matters, including entitlements to state benefits including pensions, tax liabilities, education placements, property valuations and immigration matters. That would probably have seemed extraordinary to people who looked at the system 100 years ago.

In discussing civil justice, we naturally tend to look at the pathology of the system—the times when it breaks down and people finish up in court,

arguing with each other. However, we should not forget the preventive medicine, which is about having good systems so that people learn. Lord Gill makes some mention of that, as Lord Philip does. We need to consider not the way in which the local tax office organises its business, but the way in which it deals with a complaint if the taxpayer's unhappiness goes beyond the natural desire not to part with his hard-earned money. So, although I congratulate Lord Gill and his staff on the review, I also refer to Lord Philip's tribunal review of June 2009 and point back to Sir Andrew Leggett's 2001 review of United Kingdom tribunals.

We must ensure that, whatever administrative system we have, it picks up the decided points from its appeals system. We must ensure that those who go to tribunals to complain about administrative systems get their decisions fed back into the administration so that the administration learns and does not go on making the same mistake. We must also ensure that the civil claims that get to courts—especially in matters of personal injury, to which one or two members have referred—are subject to feedback. I am well aware that, as has also been alluded to, very small claims can have an enormous positive impact on the place of work. We must ensure that the system works back.

In the same way, we should worry about accessibility. It should not be necessary for me to go and find a lawyer in order to work out how to deal with an administrative failure. It is essential that our citizens have access to that kind of basic information. Equally, the small claims process should ensure that I do not have to go to a lawyer in order that I can deal with a small claim. The small claims process exists, but I doubt whether the current limit of £5,000 is the right sum. It seems to be too small by a considerable distance, but Lord Gill did not suggest that we should change it.

In drawing together those two thoughts, I say that I believe that we need to reflect on the whole system and consider what we are asking the tribunal or court to decide. We should allocate business on the basis of the model that is appropriate for deciding the right thing. I suggest, on the basis of Lord Philip's comments, that courts are better at determining the law when the facts are, by and large, not in dispute, and that tribunals are better at determining the facts and then applying the law, by and large, when it is not in dispute. Oh, that life were so simple. Of course, it is not.

There is some need for us to think about the way tribunals interact with what I might describe as the lower end of the courts system, in order to

ensure that we have a complete system that deals with all the cases in the best possible way.

15:53

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I am pleased to take part in this important debate. In 2007, Cathy Jamieson was right to identify the need to change and modernise our civil justice system. She was also right to recognise that that could not be achieved quickly or by someone without experience and in-depth knowledge of every corridor of justice. She was right, therefore, to appoint the Lord Justice Clerk, Lord Gill, to undertake the review. Like other members, I thank him for his work.

In 2007, it was known that radical action would have to be taken if the aim for the future was to deliver a modernised justice system that was fit for the 21<sup>st</sup> century. Lord Gill outlines in his report how civil justice in this country is failing and how the structures and procedures in the civil courts system are wholly unsuitable for modern conditions. He tells us that there has been little change in our civil justice system in 100 years. Indeed, he tells us that

"The practitioners of 100 years ago would have little difficulty in picking up the threads of today's system"—

a part of the report that the cabinet secretary highlighted. It is fair to say that reform, change and modernisation are due.

I am pleased that a number of members have spoken about the McKenzie friend proposals that the Lord Justice Clerk makes in his report. The issue of McKenzie friends might divide this chamber but, for 40 years, McKenzie friends have been assisting unrepresented parties in civil courts in England and Wales. Lord Gill's review states:

"If the court considers that it would be helpful in any case, a person without a right of audience (a 'McKenzie friend') should be permitted to address the court on behalf of a party litigant."

Supporters of McKenzie friends, including bodies such as Which? and Consumer Focus Scotland, have argued that these public assistants should be installed within our court system. Now, with the support of Lord Gill, I believe that the Scottish Government should examine that and take it forward. For many, the court environment can be daunting and stressful, and they might not properly understand court procedure or how to put themselves across in general. In such cases, McKenzie friends can aid litigants by providing them with information, assisting them to locate legal documentation, taking notes during the hearing and providing general moral support.

The rules would have to be ironed out, of course. Some people are in favour of allowing McKenzie friends to address the court on behalf of

litigants; others would prefer that they provide quiet and sensible advice to litigants during hearings. However, I hope that we can achieve a consensus on the fact that having these public servants in our civil court system is long overdue.

The review is a major piece of work that has taken well over two years to complete. As many have pointed out, the two-volume report runs to hundreds of pages, as do the recommendations and the synopsis. The report was published last week, and I doubt that any member has read it all the way through. Indeed, some members have admitted that they have not done so—although from Richard Baker's speech, I suspect that he has read it from cover to cover. At this early stage, therefore, it is difficult to give Lord Gill's report and recommendations the detailed consideration that they deserve and require. However, I do not want to delay progress; I want a full debate, and no one would suggest that we are not getting that today.

At the end of this process, I want to have a civil justice system that we can all access if we need to and which does not bar individuals because they cannot afford to pay for justice. A justice system that places justice out of reach of citizens because of their status or income provides no justice at all.

I support the review, which is long overdue, but I have serious concerns that the process might have been driven more by cost than by issues around access to justice. The cabinet secretary will be aware that I have expressed concerns about Government decisions, such as its decision last year massively to increase civil court fees, which was vigorously opposed by Labour members.

It is essential that the cabinet secretary provides Parliament with details about how we will be involved in considering the way forward. The report is huge and contains a number of recommendations that need to be dealt with in detail. I want the cabinet secretary to tell us how the Government will ensure that there is full consultation with and participation by the general public, trade unions and legal professionals, and what the timetable for that will be.

As Cathy Jamieson said, we have taken a long time to get here, but we have to take time to ensure that the rest of the process is not rushed so that, at the end of the day, we have a civil justice system that is fit for the 21<sup>st</sup> century and allows access to justice for all who need it.

16:00

**Ross Finnie (West of Scotland) (LD):** There is no doubt at all that during the 10-year life of this Parliament, matters environmental have very much risen up the agenda. The Parliament has been very responsive to that, and has passed

several landmark pieces of legislation. The first was the Environmental Assessment (Scotland) Act 2005, which not only transposed into Scots law the requirements of the strategic environmental assessment directive but extended that directive extensively so that it applied to non-regulatory as well as regulatory requirements, thereby addressing a distinction that was not entirely logical. Of course, more recently, we passed the Climate Change (Scotland) Act 2009.

Although that legislation has all been extraordinarily welcome, it has served only to accentuate the requirement to address the needs and rights of the citizen that the Aarhus convention identified way back in 1998. Those included the right to have access to information on the environment; to have public participation in decision making on the environment; and—critically, in article 9.3—to have access to justice in environmental matters.

We should consider briefly what the Aarhus convention says on those matters. It is interesting to note that Aarhus identifies the need to be clear about the parties who might have “a sufficient interest” and

“What constitutes a sufficient interest and impairment of a right”.

Aarhus also makes it absolutely clear that

“members of the public”

must

“have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of its national law relating to the environment”

and that that system must

“be fair, equitable, timely and not prohibitively expensive.”

When Cathy Jamieson initiated the review of civil litigation in Scotland, we Liberal Democrats had high hopes indeed that the inquiry would examine closely the provisions of the Aarhus convention and consider how it might more quickly be implemented and brought into Scots law.

There have been a number of developments in the intervening years, particularly in England, where two reports have been produced. The 2005 report by the Civil Justice Council on “Improved Access to Justice—Funding Options & Proportionate Costs” made a number of important recommendations, but they were focused, it is curious to note, on a very narrow class of case. The report recommended the establishment of a costs council, but the Ministry of Justice down south did not think that that was a particularly clever approach. More recently, the “Review of Civil Litigation Costs: Preliminary Report” by Lord Justice Jackson was published, which dwells

heavily on how we can contain and confine those costs.

With regard to Lord Gill's report, I am not entirely sure of its environmental credentials, as I tend to agree with my colleague Robert Brown about the paper on which it has been printed. I am not sure whether the paper is recyclable, but it appears that a lot of forests have been devoted to its production. I shall leave that issue aside, however, because whether or not Lord Gill has contravened some environmental considerations, I am delighted to say in mitigation that he has paid due attention to the requirements of the Aarhus convention.

I find particularly helpful—as Cathy Jamieson mentioned—the report's comments on title and interest. It states:

"On balance, we are persuaded that the current law on standing is too restrictive and that the separate tests of title and interest should be replaced by a single test: whether the petitioner has demonstrated a sufficient interest in the subject matter of the proceedings."

That conclusion follows extensive debate, and cases that were sought and brought and which are mentioned in the report's appendices. The report clearly refers to the direction of the Aarhus convention, and it is therefore to be welcomed.

Equally welcome is the question of costs. It is instructive to note that, if we require to change our law to comply with the convention, the same is true in relation to protective cost orders. I hope that the minister has taken careful note of that. The report states:

"The status quo leaves room for doubt and may not be sufficient to fulfil the United Kingdom's obligations under the Aarhus Convention ... as doubts have been raised at Inner House level about the competency of such an order it may be open to question whether the current arrangements satisfy the requirements of the Convention."

That is in stark contrast to the answer that the Minister for Transport, Infrastructure and Climate Change gave my colleague Alison McInnes during the debates on amendments to the Climate Change (Scotland) Bill, when he said:

"There is no question of Scots law not having been brought into line with the requirements of the convention".—[*Official Report, Transport, Infrastructure and Climate Change Committee*, 9 June 2009; c 1965.]

I know that Mr Stevenson has held a number of jobs, although he has not held one on the bench—

**Linda Fabiani (Central Scotland) (SNP):** I doubt that.

**Ross Finnie:** The member doubts it. So do we all. Indeed, if Mr Stevenson were responding to the debate, we would probably find out that he has held such a position, but fortunately Mr Ewing will be winding up for us.

Those are two very important findings in the context of environmental justice and I hope that the minister will take them seriously. I am bound to say that a distinction can be drawn between cherry picking and a clear statement of intent by the Government on how it proposes to implement the changes to civil litigation, but that does not mean that the changes all have to be contemporaneous. The Government can set out a proposal. I encourage and invite the minister to do so, and to put environmental justice in the first category of measures that he will introduce.

16:07

**Stewart Maxwell (West of Scotland) (SNP):** Although this afternoon's debate is timely and useful, it is clearly only the start of the process of examining the recommendations in Lord Gill's lengthy and detailed report on our civil justice system. Like other members, I do not want to jump to any early conclusions on the recommendations, but I will cover some general areas. Some proposals in the report will be welcomed by many people as long overdue, but at the same time there are areas of concern that need to be explored further. I will begin with those areas on which I believe—I certainly hope—there will be general agreement.

Several members have mentioned the report's support for lay assistants or McKenzie friends to assist unrepresented parties in our courts. Reform is indeed overdue in that area, and many people have argued for such a change for a great many years. The fact that it seems to have worked well in other legal jurisdictions should give us the confidence to make the change.

The greater use of mediation, which avoids the necessity to go to court, is also to be welcomed. I firmly believe that most people do not want their day in court. Instead, they want speedy and fair treatment that resolves their problem without risking costing them the earth.

The third unanswerable case for change concerns the position of part-time and temporary sheriffs. Other members have mentioned that. Such sheriffs should be a resource that is used only when necessary. Although I support the retention of the flexibility that they provide, it is clear that their use has become the norm rather than the exception. That is not conducive to an efficient civil justice system.

I turn to some areas on which there will be greater debate and perhaps disagreement. The first is the establishment of a civil justice council for Scotland. We need to be sure that such a body is absolutely necessary before we set it up. A permanent civil justice council might bring advantages, but the case for establishing one still

needs to be made. There is merit in keeping our system of civil justice under review, but does it follow that we need to establish a permanent body to do that? I am interested to hear the arguments on that in the coming months.

I also have concerns about the impact that the report's recommendations might have on the basic principle of access to justice for all. On the face of it, the proposal for a system that places appropriate cases in the appropriate court does not seem contentious, but we need to consider carefully a wider issue before it can be supported. Making a judgment on the value of one case against another is fraught with difficulty, and it will be tricky to come up with objective criteria that will enable that to happen to everyone's satisfaction. I note that, in its briefing to MSPs, the STUC objects to those changes, and the examples of the cases that it argues will be denied access to higher courts need to be investigated and, at the very least, explained by those who are proposing the changes. Justice delayed is justice denied, but is it not also true that justice downgraded is justice denied?

In research that it published earlier this year on the views and experiences of civil court users, Consumer Focus Scotland said:

"The research points to an urgent need for better information for the public, and wider access to support services in all courts".

It also stated:

"Courts themselves are not seen as user-friendly".

Of course, no research will be able to quantify the number of people who are put off from pursuing their case before it even begins. Whether that happens because of a perception of what is involved or a fear of the cost, we do not know, but, despite its anecdotal nature, the evidence allows us to confidently suggest that many people are being dissuaded from pursuing legitimate claims. Indeed, I have a personal example of just such a case. When my wife and I were married 14 years ago last week—

**Linda Fabiani:** Congratulations.

**Stewart Maxwell:** Thank you very much, Linda. Our anniversary might have gone better if I had remembered it.

The photographer whom we hired for our wedding pictures certainly turned up and certainly spent the day clicking away. However, he failed to produce any photographs. His excuse was that the lighting was too poor in the registry office and hotel and that, as a result, it was not his fault that none of the photographs came out. Consequently, we were out of pocket by hundreds of pounds and we had no photographs of our wedding day. When we demanded our money back, we were met with

a blank refusal. He said that he would not return the money; after all, he had turned up and taken the photographs, and we were paying him for his time, not for results. Our only course of action was to sue for the return of our money, but at that time we could not afford to hire a solicitor and we had no idea how to pursue the matter further.

My experience might be a small example of situations that people face, but it is not untypical of where the civil justice system lets people down. They do not know what their rights are or where to turn for help and advice, and they are afraid of the potential costs. The result is that people are left feeling aggrieved that they can be ripped off with little prospect of getting the legal system's help to resolve the issue fairly.

I want to finish, therefore, with the recommendation for greater education for the public on legal rights and responsibilities and where to go for help. Such a move will be important in improving matters for ordinary users of the civil justice system. I look forward to the implementation of the review's proposals for enhancing access to justice for the people of Scotland.

16:13

**David Whitton (Strathkelvin and Bearsden) (Lab):** In today's society, access to justice is just as important as access to health care and education. Our judges, like our hospitals and schools, should be there for us all, and access to all three should not be hindered in any way by status, education or income.

I want to follow on from Mr Maxwell's speech by addressing the issue of education. Unless one happens to be a frequent attendee at court, the working of the Scottish legal system and, indeed, any other legal system can be something of a mystery. My own education in legal matters began in my early days as a journalist covering the old burgh courts, where entertaining explanations of how the accused came to find himself in the dock were intertwined with sad tales of alcoholism and poverty. Later, when my shorthand improved, I moved to covering sheriff court cases and then cases at the High Court, where the most serious offences are tried. Even then, the legal knowledge that I had gained from covering court cases left many unanswered questions about due process, although there was usually a helpful sheriff clerk or a friendly defence solicitor such as Mr MacAskill or Mr Ewing to explain what had transpired. Later still, I even made a television documentary about lengthy delays in bringing personal injury cases to conclusion in our High Court. That is why I support moves to promote greater understanding of the legal system and court processes among members of the public.



As I said, it is understandable that anybody who has not been involved with the justice system in a personal or work capacity could be confused by the processes and technical nature of the system. I can draw on many examples from my constituency casework of constituents of all ages and varying levels of academic education who, through no fault of their own, have been confused by the legal system. That is why I welcome Lord Gill's suggestion on early intervention and education on the law and the legal system, perhaps as part of the secondary school curriculum. Those issues and questions might be debated at another time.

Last week, the Law Society of Scotland welcomed Lord Gill's civil courts review. The convener of the society's civil justice committee, Kim Leslie, said:

"The Society will work positively with everyone involved with the review, as well as in any other area where we can make a difference to ensure that the system works for everyone."

Where do we go from here? As Cathy Jamieson said, the next step is to ensure that a timetable is set out to consult on Lord Gill's recommendations, and after that we need a timetable for implementation.

My colleague Cathie Craigie and several other members touched on the need for the introduction of McKenzie friends in Scottish courts. The cabinet secretary knows about my interest in third-party rights of representation. Indeed, only a couple of months ago, the Association of Commercial Attorneys finally earned the right for its members to appear in court, but only after a lengthy process, which at times seemed to involve an obstructive approach from the Scottish legal establishment. It is to be hoped that the recommendation on the introduction of McKenzie friends does not suffer similar delays. That is why I welcome the cabinet secretary's earlier remarks in response to my intervention.

We must make expeditious progress on Lord Gill's enlightened recommendation on McKenzie friends. The first thing that can be done is for the courts to grant McKenzie friend rights with immediate effect. There is no need for legislation from the Parliament, as it is within the powers of the courts to grant those rights. That would demonstrate the intent that things are going to change. The public want that change, Lord Gill has recommended it, the consumer associations support it, and it is an equitable and compassionate remedy for some of the access-to-justice restrictions in Scotland.

The report makes recommendations on the increased use of IT systems such as e-mail, video and telephone conferencing, and the digital recording of evidence. That might come as a bit of

a surprise to Bill Aitken, who is still in the age of the fax, but I am sure that he will catch up. The benefits to the environment and the cost savings to the Government from implementing those recommendations are clear. The measures would also significantly reduce delay and expense for members of the public. However, that progress would have a price. We are going through the process of unifying the district courts in Scotland. Previously, many of them were not fit for purpose because they could not meet the demands of the IT systems that are required for a 21<sup>st</sup> century justice system. Bringing the rest of the justice system online so that staff time and court space are utilised more effectively will require considerable additional capital expenditure. Lord Gill examined models in other parts of the world such as Singapore, Israel and the US federal courts. He also considered in detail systems that are used closer to home, in the county court bulk centre, which is based in Northampton.

The cabinet secretary might not have the answers today, but he must put costings next to some of the ideas. How much will it cost to implement the recommendations? How much could be saved yearly? Will the changes produce a more efficient and effective justice system? What will be the on-going costs of maintaining any new systems? How much will it cost to recruit an unspecified number of new full-time sheriffs? As the Scottish courts are funded by the Scottish Government, it is appropriate for the cabinet secretary to bring the answers to the Parliament, although we cannot expect him to do that today.

One of the principles underpinning Lord Gill's review was that

"it should have regard to the effective and efficient application of the resources of others."

However, the review is missing information on the financial consequences. There is little information about the current cost of the civil justice system and little guidance on the probable costs of or savings from implementing the recommendations. Some might say that we cannot put a price on justice. However, we can put a price on how justice is administered, and I trust that the cabinet secretary will bear that in mind when, as I hope will happen, he takes forward some of the recommendations in the report.

16:19

**Shirley-Anne Somerville (Lothians) (SNP):** I welcome the opportunity to debate the civil court system in Scotland. Some of the Scottish Parliament's most important work is done without fury, fanfare or a packed press gallery but with politicians working together to improve Scotland—this is one of those occasions. I congratulate Cathy Jamieson and the former Scottish Executive

on instigating the review of the civil courts that we are discussing.

Lord Gill's root-and-branch review may not have grabbed many headlines, but its recommendations have implications for many aspects of our everyday lives. The review seeks to improve accessibility to justice and to ensure that individuals, families, communities and businesses who face disputes are better served by a modern, fairer civil justice system.

As many members have said, the review's remit was broad and the report runs to 700 pages. I have chosen to focus on one aspect: multiparty actions.

I am delighted that Lord Gill's review recommends the introduction of a form of multiparty action procedure in Scotland. Unlike many other jurisdictions, there is currently no formal mechanism in this country for handling cases in which a group of individuals have common issues against the same defender. The class action debate has been around for 30 years or more, and opinion remains divided. There are those who see class actions as the champion of the underdog against big businesses, but others see them as the friend of only the lawyer and fear that they will herald the adoption of a US-style litigation culture.

Consumer Focus Scotland has long championed the case for class actions, arguing that they are essential to ensure that consumers can enjoy their rights. Under the current system, in which there are many small claims, individuals may not find it worth while or even possible to pursue a loss on their own. In bigger cases, such as product liability, specialised expert evidence may be required, which is beyond the means of a single party. Class actions could help in those circumstances and act as a deterrent to illegal action by traders by better holding them to account for their actions.

A system that allows people to band together not only improves access to justice but may be better for the courts and for the defender by promoting consistency in rulings and avoiding costly duplication. Lord Gill's report suggests that a formal class action procedure might have been useful in recent mass litigation in the Scottish courts, such as the dispute over the lawfulness of bank charges, which resulted in 400 actions being litigated in sheriff courts across Scotland, causing unnecessary expense to both parties. A class action could have allowed the actions to be transferred to one court and managed as a single group.

There are many other high-profile examples of cases in which a class action might have been a useful mechanism, from the infamous 1980s case

of Hoover not honouring its commitment to free US flights to the recent failed attempt by Ian Hamilton QC to sue RBS for negligence after it sold him shares in 2008, allegedly representing itself as solvent. Mr Hamilton's attempt to trail-blaze for the small-scale investor came to an abrupt halt when the case was moved from the small claims court. Potential expenses forced Mr Hamilton to abandon his case, declaring that

"Scots law favours the rich against the poor."

In such cases the introduction of class actions could be an important means to level the playing field and provide more equitable access to justice.

It is not only consumer champions who have made a strong argument for class actions; the Scottish Law Commission supported their introduction in 1996, but the Court of Session Rules Council decided not to take its recommendations forward. I am pleased that Lord Gill's considered review has now broadly agreed with the SLC's findings.

The case for class actions has recently been brought before the Public Petitions Committee by the Leith Links residents association. Residents of Leith Links were moved to approach the Parliament after 40 years of suffering what is known locally as "the Seafield stench"—foul odours from the nearby sewage treatment works. The residents have felt powerless to resolve the issue and sought to take collective action against Scottish Water, but they found that no mechanism was available for such action in the Scottish courts. I spoke in support of the petition, and I am pleased that the Public Petitions Committee agreed to keep it open until after the publication of Lord Gill's review. I now look forward to the Scottish Government's response to the petition in due course.

There are concerns about the potential for class actions to bring in the litigation culture seen in the United States, but Lord Gill has suggested a model that would provide many safeguards against such abuse. Different forms of class action are already available in many European countries without the excesses of the American model being evident. England and Wales adopted group litigation orders in 2000 and there was no deluge of cases, with only 62 GLOs made in the first eight years. In Portugal, a case proceeds only after a preliminary hearing, which considers whether the case is "manifestly ill-founded", and Lord Gill's review recommends that a similar preliminary merits test is adopted here. Cases would also need to be certified by courts, with one of the recommended criteria being that a group action is preferable to "any other available procedure."

I believe that a formal class action procedure should be available in the Scottish courts to

ensure that our system of civil justice is fundamentally fair and that the rights of the individual are protected. That would be one of the many tools available in a modern, efficient, forward-looking system of civil justice in Scotland.

I congratulate Lord Gill on his thorough review and look forward to the Scottish Government, the Parliament and the courts progressing with his recommendations.

**The Presiding Officer (Alex Fergusson):** We come to closing speeches. We have a little time in hand, so members should feel free to take an extra minute or so if they would like—before I make it compulsory. I call Mike Pringle first.

16:25

**Mike Pringle (Edinburgh South) (LD):** Thank you, Presiding Officer. In that case, I am glad that I was called first.

As many members have said, the review of the Scottish civil justice system by Lord Gill, the Lord Justice Clerk, is welcome but perhaps a little overdue. It was commissioned by the previous Scottish Executive more than two years ago—I add my congratulations to Cathy Jamieson—and I suspect that it is now broadly welcomed by all parties in the chamber.

We can all be assured that a review by one of the most respected legal brains in Scotland will be as thorough as it could be. It has 206 recommendations covering every aspect of our civil justice system. The need for reform was made clear in Lord Gill's introduction, and I will complete the quotation that the minister and Cathie Craigie started. It states:

"The practitioners of 100 years ago would have little difficulty in picking up the threads of today's system. In the Scottish civil courts, processes are still conducted as a paper exercise. Data keeping is done by manual counts"—

even in our computer age and

"The format of pleadings and many of their stylised formularies have not changed in over 100 years."

No wonder Lord Gill has had so much to say.

Currently, Scots can choose to sue in either the Court of Session or sheriff court as long as the value exceeds £5,000. Lord Gill was clear that this jurisdictional overlap between courts was a fundamental weakness in the Scottish system. He called for the Scottish Court Service, not litigants, to determine who should hear cases.

I am sure that all members have had constituents come to us to complain about civil court cases, and it is always just about their being able to access the justice that they want. Very often, they have already spent considerable sums of money on lawyers before they discover the real

long-term costs and that the timescales are beyond them. Lord Gill also highlights many of the problems—the waste of resources in last-minute settlements, continuations, late starts, early finishes and so on—which result in more and more cost and wasted time for witnesses.

The report does a complete reconstruction job on the present civil system and proposes new radical reforms. The creation of a new district judge with a clearly defined civil jurisdiction that covers all civil litigation involving claims of up to £5,000 and residential property reposessions—quite a lot of which are happening at the moment—is completely new. That will free up a substantial amount of shrieval time to cope with the increased civil workload. Bill Aitken and Alasdair Allan, among others, made a very good case for that.

The proposed new Scotland-wide personal injury court in Edinburgh—we can debate later whether it should be in Edinburgh or Glasgow; indeed, Dundee might like it—and the single new court of appeal for sheriff cases, both criminal and civil, will help to speed up the process of justice considerably. It seems that that is broadly welcomed by the Law Society of Scotland and advocates, despite the suggestion that it might mean a loss of income for some lawyers.

It is impossible to cover all of a report of this size and with this number of recommendations, so I will pick up chapter 11, "Access to Justice for Party Litigants". Surely, this is all about giving quicker, more efficient and more reliable justice to people who want to access our civil courts for civil justice. As Robert Brown said, it is fundamental that citizens have the right to access justice. Of course, that can be done only in a court of law, but we have to speed it up.

Lord Gill wants more knowledge about the law and the civil justice system to be made available to the general public. Raising public awareness could save court time and allow litigants to better judge whether it is worth proceeding or even doing some of the legal work themselves. Stewart Maxwell highlighted those problems very well with his own personal example. We must perhaps assume that the cameraman in the case forgot to put film in the camera.

**Stewart Maxwell:** No.

**Mike Pringle:** Oh, he had film in the camera—he was just useless.

The Scottish Court Service has a website, but it should be more obviously aimed at the public and should contain all the information that is required to start or defend a case under the proposed simplified procedure. The SCS should have other direct links on that website to help make such decisions. As Lord Gill said, we can learn from

others in that regard—for example, New Zealand, Ontario and British Columbia have such procedures.

Since 1997, there have been court advisers in Edinburgh sheriff court and five others. The Edinburgh one is managed by a citizens advice bureau. Lord Gill suggests that that process is very useful and should be developed and extended by the Scottish Legal Aid Board through in-depth evaluation of current provisions.

Finally, the report mentions McKenzie friends, which several members, including David Whitton and Stewart Maxwell, have referred to. For more than 30 years, party litigants in court in England and Wales have been allowed assistance, which has become known as the McKenzie friends scheme. I stress that the people involved are not lawyers and do not necessarily have any legal qualification. Lord Gill is right that the appearance of such a person should be at the discretion of the court, which would have to be satisfied as to the character and conduct of the person and, most important, be assured that they were not gaining financially from appearing in court with the litigant. In this issue, the minister would have the support of the Liberal Democrats.

I welcome Lord Gill's proposed reforms. They have a huge amount of merit, and I was grateful that the minister said that the current Government will proceed with parts of them as soon as possible. Future debates on Lord Gill's recommendations will be welcome.

16:32

**Gavin Brown (Lothians) (Con):** First, I declare an interest in that I used to practise as a litigation solicitor, and I am retained on the roll of solicitors.

When I heard about this debate, I initially questioned the wisdom of holding it a mere seven days after the publication of the report—all 700 pages of it—because people would not have much opportunity to read it or, more important, digest its 206 recommendations. However, the debate has been useful, and the main bonus has been that it indicates early intent from the Parliament to take the report seriously. Moreover, unless I have completely misread the debate, Parliament will be united at decision time in the view that the report must be taken forward as quickly as possible.

Two points struck me in Lord Gill's introduction to the report. The first is the sheer depth and strength of the sense that reform is required—several members produced some very good quotations from the introduction in that regard. The second point is the urgency that Lord Gill clearly attaches to reform taking place. The Government and the Parliament must keep both those points in mind as we move forward.

The first area for suggested reform involves the structure of our civil court system. I suppose that the biggest proposed change here—at first blush, anyway—is to have a third tier for civil justice, with district judges dealing with cases of lower value in cash terms.

Many speakers referred to that proposal in the debate. In an intervention, Margo MacDonald raised the interesting question whether there should be a pilot initiative first, because she was worried that there could be a diminution of justice over time, even leading to claims going to the European Court of Human Rights.

I do not share those concerns so strongly for the simple reason that we are possibly alone among first-world countries in not having three tiers of civil justice. We have only two tiers that, to most intents and purposes, overlap. That has perhaps led to the number of blocks in the system that we have heard about. The proposal would be a big move for the Scottish legal system but, given all the other countries that have adopted a three-tier system, I do not think that the move would be as big as has been suggested.

Of course, the introduction of a third tier would mean far more sensible financial parameters: district judges would handle cases up to a value of £5,000; sheriffs would deal with cases up to a value of £50,000; and our most senior judges, in the Court of Session, would look at the big-ticket cases in cash terms as well as perhaps some lower-value cases that have a strong legal significance.

Specialisation is another issue that has been touched on, but the idea is not new to the legal profession. For several years now, the Law Society of Scotland has awarded accreditation to specialists within the profession. Most civil law firms already have specialists and are organised into departments. People are not considered simply as civil lawyers but as, for example, banking lawyers, property lawyers, corporate lawyers or insolvency lawyers.

As the Law Society recognises, the profession has already specialised, so the time has come for greater specialisation among the judiciary. Where such specialisation has been tried, it has been reasonably successful. Certainly, when I appeared a few times before the commercial court in Glasgow, I found the experience far better than when I had appeared before the civil court there.

**Robert Brown:** Did Gavin Brown note Lord Gill's recommendation about the need for a generalist judiciary with a general experience of the Court of Session in particular? Is there not some tension between that and the proposal, which we all support, for specialisms in the sheriff court and at lower judicial levels?

**Gavin Brown:** Yes, I noted that recommendation, but I believe that both things are needed. As Robert Brown will know, anyone who wants to enter the legal profession must first complete a traineeship, which involves spending a good amount of time working in several areas of law prior to any specialisation. Although such a tension might appear to exist, I do not think that both outcomes cannot be achieved.

Another specific proposal is about the speed of court judgments. The review proposes a three-month rule, under which any judgment that takes more than 12 weeks will need to appear on a register with a statement of the reason why the judgment has taken longer and when the decision is likely to be issued. An interesting point is that the consultation included no specific question on the speed of court judgments, but respondents decided to comment on the matter because they felt so strongly about it. Lord Gill refers to the “indignation in the profession” about the sheer length of time that judgments can take. Just this week, I spoke to a senior lawyer who told me of one Court of Session case in which it took more than two years from the time when the proof finished to the issuing of the decision. That is simply unacceptable. His client told him that he will never litigate in Scotland again.

Others have touched on the proposal for a docket system, which is the idea that a case should be given to one judge from start to finish. That might not be easy to achieve in practice, but the proposal has enormous merit. Such a system already operates in Australia. The idea was not pursued under the Woolf reforms in England, but I think that people regret that decision now and a potential for change now exists there. A docket system would mean that the judge could truly understand the case instead of passing it from pillar to post.

Time is upon me, so I will conclude by saying that the Government should, as soon as it can, provide a timetable and a process for making decisions on the proposals. In doing so, it should balance two principles. First, as Lord Gill said, the review provides an integrated solution whose recommendations should not simply be cherry picked, especially given the fact that they were all agreed unanimously. Secondly, balanced against that consideration is the fact that some of the reforms will be far easier and quicker to implement than others and some, as Lord Gill has admitted, might have unintended consequences that will need to be bottomed out before they proceed. However, it is vital that we go forward with the proposals.

16:39

**Paul Martin (Glasgow Springburn) (Lab):** I am stating the obvious when I say that it is clear from today’s debate that the Gill review has presented us with many challenges. Those challenges have been created by many years of custom and practice that, as members have indicated, have not always served the best interests of those who seek fairness in our courts. In their speeches today, members have made clear that the status quo is not an option.

We were right to embark on the review back in February 2007, to identify ways of improving how the courts work. Lord Gill’s report should be seen in a positive light, but that does not mean that we agree with all the recommendations that he has set out. It is important that we have a constructive dialogue to move the issue forward. I will highlight a number of issues that the report raises. Like other members, I do not profess to have read every page of the documents that are before us, but I have had an opportunity to peruse them and to highlight some of the issues that are important in taking forward the review.

Like other members, I commend those who served on the Gill review group for their hard work and diligence over a protracted period; I recognise their efforts. However, on a less positive note, I was disappointed that the group did not include trade union representation. The STUC’s response to the review made the important point that, as major users of the civil courts, with experience of representing their members, the trade unions would have been a useful addition to the group.

The report refers to overreliance on temporary or part-time resources. I concur with the many respondents to the consultation who pointed out that, in any working environment, a lack of experience or commitment can lead to poor decision making and case management. On the face of it, there is a conflict of interest in having a solicitor or advocate who appears in a court sit in the same court in a judicial capacity on a part-time basis. We need to investigate that issue and to take further evidence on whether there is such a conflict of interest. We should examine how we can take forward Lord Gill’s recommendation that part-time sheriffs be used mainly to cover leave, illness and emergencies. However, like other members, I recognise that they are a useful resource and play a crucial role in providing cover throughout our court system.

The report contains a useful set of recommendations in respect of information technology advancements in our court system. I have visited courts, toured procurator fiscal offices and visited legal establishments on many occasions and have become increasingly aware of the fact that a badge of honour seems to be

attached to having volumes of paperwork on one's desk; I wonder whether Lord Gill had a similar experience in a previous life. The report confirms that the management of paper files ties up important resources that could be invested elsewhere. The development of an e-filing system like the one in Singapore must be taken forward. As David Whitton and Bill Aitken mentioned, the report refers in detail to the benefits of conference calls in case management and to the positive effect of their use in commercial procedure in Glasgow sheriff court.

The report highlights some of the significant defences that exist in the civil court system. However, it does not go far enough when it says that we should encourage the use of IT systems. That could lead to patchy application of policy across the courts. Rather than encouraging the use of e-mails as a system of communicating with the courts—I am not convinced that that would work—we should consider making the use of IT systems compulsory.

Chapter 8 of the report refers to facilitating settlement and provides useful information on the current arrangements for the four pre-action protocols that exist in Scotland. The Digby Brown consultation response highlights the fact that the voluntary protocols that are currently in place have failed to address concerns about unrealistic pre-litigation offers. There can be no doubt that pre-action protocols are valuable and have a place in our justice system. We need all parties concerned to be willing to engage, but we also need to deal with those who do not display a willingness to enter into the general principles of pre-action protocols.

The report will have its critics and its plaudits. It is important that the Government shows leadership in pursuing reform, and we have committed to taking that forward with it. We should also ensure that there is balance in understanding the concerns that have been raised by those who are sceptical about the process.

Members will have received an e-mail from the Unite union, and I put it on record that I am a member. It raises concerns about the future of civil justice and seeks assurances in respect of access for workers. It would be useful for the Minister for Community Safety to provide clarification today that he is willing to continue engaging with stakeholders.

I call on the Parliament to support the addendum in the name of Richard Baker.

16:46

**The Minister for Community Safety (Fergus Ewing):** I am extremely encouraged by the consensual tone of this afternoon's proceedings,

and I am sure that that will not go unnoticed in Parliament house. This Parliament is at its best when it is acting and debating in this way. The same tone was present during the previous civil justice debate, which was led by Cathy Jamieson back in 2006.

Before I turn to today's debate, it might be helpful to recap some of the calls that were made in the 2006 debate and what has happened since. Margaret Mitchell called for an arbitration bill—yesterday, we had stage 2 consideration of such a bill. Mike Pringle called for an increase to small claims limits—a fourfold increase was effected within six months of our taking office, thanks to the consensual approach that was adopted under the avuncular convenership of Bill Aitken in the Justice Committee. Today, Nigel Don has raised a point that is perhaps not in Lord Gill's report, about increasing further the privative limits in small claims and summary cause actions from £3,000 and £5,000 to a higher level—I think that the limit is £10,000 in England.

In the 2006 debate, Christine Grahame and many other members called for increased financial support for advice centres—earlier this year, we announced an additional £3 million of new funding. Mary Mulligan and Jeremy Purvis called for a broadening of access to civil legal aid, and many members have rightly stressed the importance of access to justice in today's debate. We have broadened access to civil legal aid. Now, nearly three quarters of households are potentially eligible, compared with 43 per cent—I am assured—before the changes were made. I understand from officials that applications for civil legal aid over the past six months were up by one third—33 per cent—compared with the same period last year.

In 2006, John Swinney called for implementation at last of sections 25 and 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, on rights of audience—that has now been done. Bill Aitken, the defence lawyers' friend, called for increased legal aid rates for solicitors—we have made those changes, too.

I hope that we can make further progress, acting together. Scotland's senior judiciary are recommending that course of action to us in the interests of justice and of the nation, with radical changes to the way in which the civil justice system operates.

I guess that I should follow Gavin Brown's declaration by saying that I am on the roll of solicitors, although I fear that my practising days are long over.

I absolutely recognise the picture that Lord Gill has painted of our civil justice system. I recognise it as a system that—sadly, and all too often—is

characterised by delay, worry and expense. As Lord Gill opined in the second paragraph of his introduction to the report, "Reform is long overdue." Lord Gill also said:

"An efficient civil justice system is vital to the Scottish economy. It is also vital to the survival of Scots law as an independent legal system."

If it is the case, as Gavin Brown argued, that some major commercial operators in Scotland find the experience of litigating so dreadful, appalling, expensive and slow that they choose never to litigate here again, we cannot expect our legal system to have the right to survive for ever and in perpetuity. No one owes us—or our lawyers—a living. Our civil justice system must not operate for the convenience of lawyers, judges and insurance companies; it must operate for the client, the customer and the citizen.

Some members will instinctively and rapidly agree with some of Lord Gill's recommendations, whether they are for the decluttering of the Court of Session; judicial continuity through docketing—having a single sheriff see a case through to its end rather than having several sheriffs consider the same case, which causes disruption; specialised courts, which many members mentioned; multiparty actions, which Shirley-Anne Somerville talked about in a balanced way; simplified procedures in the lower courts; or the ability of party litigants to call on McKenzie friends. Each of those recommendations and many others will find advocates, who might be impatient for change.

I was encouraged that all members acknowledged that we must consider such matters extremely carefully. We will do so. As the cabinet secretary said, we have made the offer—and it has been accepted, thereby constituting a verbal contract, to which we will doubtless be held—to meet spokespeople from each party and individual members who have significant contributions to make. We will do so because we want to progress the issue in the consensual manner that has characterised the debate.

The Scottish Law Commission recommended in 2000 that a procedure for multiparty actions be taken forward, but the Court of Session declined to do so and concluded that current sisting—postponing—mechanisms seemed to work well and had dealt well with multiple actions such as Piper Alpha. Lord Gill's recommendation will no doubt give cause for the court to think again, as will developments that are likely in relation to forthcoming UK Government proposals on consumer protection in financial services. I think that I am right in saying that Lord Gill said that if multiparty actions had been possible, the handling of the slopping-out cases might have been easier and less expensive—I think that the cabinet

secretary said in a statement earlier this year that there were 5,000 such cases. That is not to say that each claim cost hugely more than would have been the case if there had been multiparty actions. However, the cases might have been handled more speedily, as Shirley-Anne Somerville said.

Several members mentioned McKenzie friends. I am sure that David Whitton, who concentrated on the issue, knows from reading the Gill report that consultation responses on the issue were mixed. The Lord Justice Clerk has recommended that a supporter should be entitled to address the court, with the permission of the court, as is currently allowed in summary cause and small claims procedures in the sheriff court.

Cathie Craigie was concerned that we should not rush change and that the Parliament should be involved, and Paul Martin asked whether we will discuss with stakeholders how we go forward. We have an open approach, as members know, and we will engage with stakeholders as required. However, it is important to place on record the fact that, before the report was produced, there were 200 consultation responses. In other words, there has already been the most substantial and thorough consultation. It would be duplication to start that process again, although I do not think that anyone advocates that that is how we should proceed.

Ross Finnie talked almost exclusively about the Aarhus convention. I ask that he acknowledge that there are different legal views on the topic. We do not accept that the Scottish rules are not compliant with the Aarhus convention or the EU public participation directive. However, ministers have already raised with the rules council the potential for better application, specifically consideration of the use of protective cost orders. I expect that Ross Finnie, who is no doubt familiar with the extracts from the 700-page report, may favour the Australian model of proceeding. No doubt time will reveal all.

**David Whitton:** I bring the minister back to my comments about McKenzie friends. He mentioned that there was wide consultation on their use and varying reports about their effectiveness, but I am sure that he acknowledges that Lord Gill recommends firmly that they should be introduced. Indeed, they already work in jurisdictions south of the border, so I do not understand why we need to delay too long before we implement that recommendation.

**The Presiding Officer:** Too many conversations are taking place in the chamber. I would like to hear just the minister.

**Fergus Ewing:** David Whitton is right that the recommendation is that McKenzie friends should play a role in Court of Session actions. However,

my understanding—my recollection of reading that part of the report—is that there is the caveat that it should be at the discretion of the judge who is handling the case to ensure that McKenzie friends are used appropriately for each case. It is not an easy matter to be a McKenzie friend and, particularly if the case is complex, there could be issues with the appropriateness of using one. I think that Lord Gill also states that, in family actions, it may not always be appropriate for a family member to act as a McKenzie friend because of the potential conflicts of interest.

Many members devoted their speeches to discussing the risk of denying justice to individuals. Cathie Craigie commented on that. Perhaps a suggestion crept in that there would somehow be a conflict between, on the one hand, adopting the recommendations of Lord Gill's report that seek to bring about greater efficiency, to reduce delay and to control costs and, on the other hand, ensuring continued access to justice.

I do not believe that that conflict exists in the way that it appeared to be presented. In fact, the opposite is the case. I submit that the system that we have at the moment causes huge, inordinate and unreasonable delay. That is precisely the point that Lord Gill makes. If one reads the chapter on inner house court procedure and the research by Dr Rachel Wadia, one sees that the estimates by QCs—and other advocates, presumably—of the length of time that it takes to conduct inner house court proceedings are so wildly out that, to be frank, the percentage success that they had in estimating how long it would take to argue cases before the inner house was lower than one would expect if one went into a bookie's and selected a horse at random from any race of the day. I hope that all members agree that that does not seem a satisfactory way to conduct a legal system. Justice delayed is justice denied and, for far too many people in Scotland, that has been the case.

I express the Government's grateful thanks to Lord Gill for the massive oeuvre that he has provided. Although we have had many weighty tomes provided to us over the years, I cannot recall any case in which we owe such a debt of gratitude. Thanks are also due to his three colleagues on the board: Lord McEwan, Sheriff Principal James Taylor and Sheriff Mhairi Stephen. I am confident that the report will help us to deliver a modern, fairer and far more effective civil justice system in Scotland.

## Parliamentary Bureau Motion

17:00

**The Presiding Officer (Alex Fergusson):** The next item of business is consideration of a Parliamentary Bureau motion. I ask Bruce Crawford to move motion S3M-4996, on the approval of a Scottish statutory instrument.

*Motion moved,*

That the Parliament agrees that the draft Health Board Elections (Scotland) Regulations 2009 be approved.—  
[Bruce Crawford.]

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



## Decision Time

17:00

### The Presiding Officer (Alex Fergusson):

There are 10 questions to be put as a result of today's business. I remind members that in relation to the debate on school buildings, if the amendment in the name of Fiona Hyslop is agreed to, the amendment in the name of Margaret Smith will fall.

The first question is, that amendment S3M-4988.3, in the name of Fiona Hyslop, which seeks to amend motion S3M-4988, in the name of Rhona Brankin, on school buildings, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brown, Keith (Ochil) (SNP)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kidd, Bill (Glasgow) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McGregor, Jamie (Highlands and Islands) (Con)  
 McInnes, Alison (North East Scotland) (LD)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)

Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**The Presiding Officer:** The result of the division is: For 46, Against 75, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-4988.1, in the name of Elizabeth Smith, which seeks to amend motion S3M-4988, in the name of Rhona Brankin, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Allan, Alasdair (Western Isles) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Foulkes, George (Lothians) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)

Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McMillan, Stuart (West of Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Paterson, Gil (West of Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

#### AGAINST

Brown, Robert (Glasgow) (LD)  
 Finnie, Ross (West of Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hume, Jim (South of Scotland) (LD)  
 McArthur, Liam (Orkney) (LD)  
 McInnes, Alison (North East Scotland) (LD)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)

Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)

**The Presiding Officer:** The result of the division is: For 104, Against 17, Abstentions 0.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-4988.2, in the name of Margaret Smith, which seeks to amend motion S3M-4988, in the name of Rhona Brankin, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**For**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Foulkes, George (Lothians) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)

Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

**AGAINST**

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McGregor, Jamie (Highlands and Islands) (Con)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)

Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 59, Against 62, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S3M-4988, in the name of Rhona Brankin, on school buildings, as amended, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Foulkes, George (Lothians) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)

Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Stewart, David (Highlands and Islands) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brown, Keith (Ochil) (SNP)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Kidd, Bill (Glasgow) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

#### ABSTENTIONS

Brown, Robert (Glasgow) (LD)  
 Finnie, Ross (West of Scotland) (LD)  
 Hume, Jim (South of Scotland) (LD)  
 McArthur, Liam (Orkney) (LD)  
 McInnes, Alison (North East Scotland) (LD)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)

Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)

**The Presiding Officer:** The result of the division is: For 58, Against 48, Abstentions 15.

*Motion, as amended, agreed to,*

That the Parliament notes with concern that the Scottish Futures Trust has yet to fund a single new school building in Scotland despite the 2009 School Estates Statistics revealing that around 150,000 pupils remain in schools classified as being in poor or bad condition; is dismayed that, after more than two years, the SNP government has identified only 14 schools to be built under its first school building programme, that none of these 14 schools will be open to pupils in this parliamentary term and only 55 will be built in total by 2018; further believes that the SNP government's claims on the number of schools that it has commissioned are unsustainable given that its own School Estates Statistics reveal that a majority of schools built or substantially refurbished in the last two financial years were legacy PPP projects, and further believes that it is hypocritical for ministers to criticise PPP schools while praising them at their official opening and that the SNP's record in government is falling far short of its 2007 election manifesto pledge to "match the current school building programme brick for brick, and offer an alternative funding mechanism through the Scottish Futures Trust", and believes that the school building programme should be funded so as to deliver best value for money and that all sources of finance, including those in the private sector, should be considered.

**The Presiding Officer:** The next question is, that amendment S3M-4985.1, in the name of Robert Brown, which seeks to amend motion S3M-4985, in the name of Johann Lamont, on volunteering, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

#### FOR

Brown, Robert (Glasgow) (LD)  
 Finnie, Ross (West of Scotland) (LD)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hume, Jim (South of Scotland) (LD)  
 McArthur, Liam (Orkney) (LD)  
 McInnes, Alison (North East Scotland) (LD)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Allan, Alasdair (Western Isles) (SNP)  
 Baillie, Jackie (Dumbarton) (Lab)

Baker, Claire (Mid Scotland and Fife) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Constance, Angela (Livingston) (SNP)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Foulkes, George (Lothians) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Annabel (West of Scotland) (Con)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Grahame, Christine (South of Scotland) (SNP)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Ken (Eastwood) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLaughlin, Anne (Glasgow) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McMillan, Stuart (West of Scotland) (SNP)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)

Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)  
 Paterson, Gil (West of Scotland) (SNP)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stewart, David (Highlands and Islands) (Lab)  
 Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 17, Against 104, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The next question is, that motion S3M-4985, in the name of Johann Lamont, on volunteering, be agreed to.

*Motion agreed to.*

That the Parliament recognises and celebrates the role of the voluntary sector and volunteers across Scotland in supporting individuals, families and communities and in shaping and delivering services locally; notes the excellent work of volunteering organisations in encouraging volunteering through offering training and volunteering placements and particularly in reaching out to those who might not otherwise have the chance to volunteer; agrees, given the opportunity that volunteering provides to develop skills and build confidence, that, in this economic recession, volunteering organisations should be given adequate resources to allow them to do that important work, and further agrees that innovative organisations that create structured volunteering placements for young people, such as ProjectScotland, should be recognised and supported by the Scottish Government.

**The Presiding Officer:** The next question is, that amendment S3M-4987.2, in the name of Richard Baker, which seeks to amend motion S3M-4987, in the name of Fergus Ewing, on civil justice, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that amendment S3M-4987.1, in the name of Bill Aitken, which seeks to amend motion S3M-4987, in the name of Fergus Ewing, on civil justice, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The next question is, that motion S3M-4987, in the name of Fergus Ewing, on civil justice, as amended, be agreed to.

*Motion, as amended, agreed to.*

That the Parliament welcomes the *Report of the Scottish Civil Courts Review* conducted under the chairmanship of the Lord Justice Clerk and the reports of the Administrative Justice Steering Group conducted under the chairmanship of Lord Philip; looks forward to the report of final appellate jurisdiction in preparation by Professor Neil Walker, and believes that, following a full and wide consultation, the people of Scotland deserve a reformed and modernised civil justice system that is fit for purpose in the 21st century, which is founded on the principle of ensuring access to justice and that reforms must be driven by this as well as by efficiency in the justice system.

**The Presiding Officer:** The final question is, that motion S3M-4996, 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 Health Board Elections (Scotland) Regulations 2009 be approved.

## Dementia

**The Deputy Presiding Officer (Alasdair Morgan):** The final item of business is a members' business debate on motion S3M-4852, in the name of Irene Oldfather, on a charter of rights for people with dementia in Scotland. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament welcomes the principle of a charter of rights for people with dementia, as proposed by the Cross-Party Group on Alzheimer's; believes that changing attitudes and practices that deny people with dementia their rights is a major challenge facing health and social care groups; notes the recent publication of a number of reports that have highlighted the inefficiencies in the quality of care for people with dementia in the community, in care homes and in long-term hospital care, including the Care Commission report, *Better care, every step of the way*, and the joint report by the Care Commission and Mental Welfare Commission for Scotland, *Remember, I'm Still Me*; notes the consultation undertaken over the summer to give people with dementia, their carers, health professionals and care home staff, among other stakeholders, an opportunity to express their views on the issues that they believe a charter should address; welcomes the commitment of Alzheimer Scotland to enable stakeholders to participate by organising roadshows in Irvine, Glasgow, Edinburgh, Dundee and Inverness; acknowledges that the charter of rights is based on internationally agreed human rights and is intended to promote the respect, protection and fulfilment of all human rights of people with dementia and their carers, and therefore welcomes the idea of a charter as both an instrument for enabling culture change and as a tool to empower people with dementia.

17:08

**Irene Oldfather (Cunninghame South) (Lab):** Today is a momentous day because, in the spirit of partnership across Scotland, we are joining together to promote the rights of one of the most vulnerable groups in our society. I am delighted that, just before decision time, the Scottish Government indicated that it will support the principles of the charter. We have therefore also put political divisions aside.

Advancing the rights of people with dementia, who sometimes face extraordinary challenges and barriers in communicating their needs and wishes, is a just cause. We have too often come to the chamber to debate and discuss a plethora of system failures with respect to the quality and provision of care. We have had to point out the stigma and indignity that sufferers have experienced and had to consider how, in a modern Scotland, the care that is delivered to our elderly citizens can fall so far short, as reports such as "Remember, I'm still me" have demonstrated. Sometimes, we have reflected sadly on the emptiness and loneliness that come with a dementia diagnosis. Terry Pratchett movingly

described feeling as though he was standing on a beach alone when the tide had gone out.

I am proud, on behalf of the cross-party group on Alzheimer's and dementia, to launch a charter for change—a charter that has been informed and influenced by sufferers and their carers, which says, "Behind this shell, even when I can't communicate with you, I am still here. Please remember that and treat me as a person." It is a charter that has, at its heart, the need to give people their dignity back and show them respect, and it takes dementia sufferers and their carers out of the shadows and into the light. Aptly, it is entitled "Dementia: Stepping out of the shadows".

I have been overwhelmed by the number of MSPs who have given their backing to the charter, along with the Scottish Government and the professional and voluntary organisations that have taken the time to publish briefings and confirm their support. Although I have the privilege of speaking about the charter in the chamber today, I am genuinely humbled by the commitment of those who are in the public gallery behind me, who have contributed to making the charter possible. In particular, I thank the members of the sub-group who drafted the charter and who gave of their time, their expertise and their professionalism above and beyond the call of duty. They include representatives from Alzheimer Scotland, the Equality and Human Rights Commission and CrossReach Scotland. I also appreciate the work of all members of the cross-party group, including the Mental Welfare Commission for Scotland, the Scottish Commission for the Regulation of Care, the royal colleges and my fellow MSPs, who acted in an advisory capacity and commented on aspects of the charter from the initial idea through to the final draft. We owe them all a debt of gratitude.

I will say a few words about the charter. For too long, people with dementia have not had their rights respected. Could any other group in society be treated as they have been and just quietly accept it? Inappropriate medication, lack of physical exercise, poor nutrition, lack of privacy and social exclusion are just a few of the situations that were highlighted by sufferers and their carers during our consultation. Human rights have somehow eluded people with dementia and their rights have been abused. That is why the charter is necessary and is underpinned by the PANEL approach that has been endorsed by the United Nations.

P stands for participation. People with dementia and their carers must be able to participate in decisions that affect their lives and their care. A stands for accountability and holding people responsible for the respect, protection and fulfilment of human rights of people with dementia.

N stands for non-discrimination and equality. We must deal with discrimination and remove stigma. Perhaps most important, E stands for empowerment. We must help dementia sufferers to know their rights and to know that they will be supported in claiming them. Finally, L stands for legality—the need to respect those people's rights in law.

It is one thing to put together a charter; we now have a duty to make it work—to audit it, monitor it and make it enforceable. That point was made particularly by the Royal College of Psychiatrists. Therefore, today is not the end of the process but the beginning. Now that we have the charter, we must take it out to the people. I would like to see a copy of the charter in every general practitioner surgery, carers forum, residential care home, community library, citizens advice bureau and MSP surgery. I look forward to social workers knowing the charter inside out, so that they—along with all of us—can assist in upholding the rights of people who have dementia and their carers. I want to see people throughout Scotland actively promoting those rights. Only when we see that culture change will we confine reports such as “Growing older and wiser together: A futures view on positive ageing” and “Remember, I'm still me” to the dustbin of history. To that end, I am delighted that Alzheimer Scotland intends to produce an explanatory leaflet that will provide detailed examples of how people can and should interpret their rights.

The support for the charter today has been overwhelming. I look forward to hearing the minister's comments in her summing up. The cross-party group would like the charter to be at the very heart of the new dementia strategy, and we have invited the minister to our next meeting to consider how we can take that matter forward. I end with a quotation from the Dementia Services Development Centre calendar:

“A friend knows the song in my heart and sings it to me when my memory fails.”

Let us be that voice for people with dementia. Let us use the charter to sing that song. Let us send a clear and united message from the chamber today that we are with people who have dementia and that we will support them, defend them and be on their journey with them to ensure that they have the dignity and respect in old age that they deserve.

17:15

**Stuart McMillan (West of Scotland) (SNP):** I congratulate Irene Oldfather and the cross-party group on Alzheimer's and dementia on securing the debate. The fact that we are having it shows how useful cross-party groups can be, especially when they do what they say on the tin and enable

people from across the parties to work together. Irene Oldfather and the cross-party group deserve credit for that.

I hope that Irene Oldfather will forgive me for the fact that, because I was on paternity leave, I was unable to take part in the parliamentary debate on Alzheimer's that took place on 9 September—I offer her my apologies.

I do not see how anyone can disagree with the principle of a charter of rights for people with dementia. The motion states:

“the charter of rights is based on internationally agreed human rights and is intended to promote the respect, protection and fulfilment of all human rights of people with dementia and their carers”.

It highlights exactly what this is all about and I do not see how anyone can disagree with it.

In June 2009, I was asked to open a conference that the Inverclyde Alzheimer's group held in Greenock. The aim of the conference was to highlight ways of living positively with dementia. In my speech, I noted that approximately 940 people in Inverclyde had dementia. However, the recent briefing from Alzheimer Scotland states that that figure has now risen to 1,155. That rise, over a short period of time, shows that this is a massive issue that we must all work to deal with.

Living positively with dementia does not mean warehousing people, which Cathy Jamieson highlighted during the debate in September. The conference that I attended highlighted what people can do to live positively with dementia, and how they can deal with the situation.

During the conference there was a role-play session, a question-and-answer session and workshops. The role-play session really took people into the zone—as they say in football—and enabled them to understand and tune in to what life is like for anyone who has a family member with dementia. It made me think of my grandmother, who had dementia and stayed with my family when I was in my early teens. I remember the stages that she went through and the strains and stresses that were placed on the family. The role-play session was extremely powerful, and the conference was a tremendous event in which to take part.

I have waffled quite a lot, so I will have to skip a few things that I had intended to say.

The debate and the announcement of the charter are timely for me because the Alzheimer's group in Greenock has invited me to visit its Alzheimer's cafe tomorrow. I am delighted that I will be able to go there and take along word of the full support, long-term commitment and cross-party consensus that the Scottish Parliament has displayed on this issue. That message is powerful.



I once again thank and commend Irene Oldfather and the cross-party group. I also commend the Scottish Government for the work it has been doing—I look forward to reading the strategy document that is due to be published next year.

17:20

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** I congratulate Irene Oldfather not only on securing the debate but on the power of work that she has put in with Alzheimer Scotland and others to develop the charter of rights.

We have already had a debate on dementia and considered some of the issues, but we should never forget that it is one of the most significant challenges that we face. When I was involved in the Timbury commission on dementia in 1980, it was thought that the number would be increasing quite significantly by the date we have now reached. We got it wrong—we underestimated the growth—and I suspect that we may be underestimating it again. Dementia is part of the mirage of health; once we deal with heart disease and perhaps cancer, dementia is the next big challenge, and it is a growing problem.

The charter is timely, but we should not forget that Scotland has a fairly proud record in the area, notwithstanding the fact that reports such as “Older and Wiser”, which examined NHS premises and the treatment of those with dementia in such premises, and the joint care commission and Mental Welfare Commission for Scotland report “Remember, I’m still me”, which examined care homes, reveal significant elements on which we need to make further progress. The charter will help in that regard.

It is 20 years—it will be its 21<sup>st</sup> anniversary next year—since the dementia centre at the University of Stirling, with which I have had some association over the years, was founded. The centre is a beacon of excellence in research and considering extremely practical measures and adaptations to support carers. It has just produced a booklet, which I recommend to those who are interested in the subject, called “10 Helpful Hints for Carers”. That short leaflet does not simply contain anecdotes from carers; it is based on research that shows how carers can deal with difficult issues such as aggression, wandering and hallucinations. I suggest to the minister that when the charter is sent out to various places, a copy of the leaflet should go out to all general practitioners.

One of the things with which GPs have a problem is what the next step is: what they should do once they have made a diagnosis, which is not always easy. It is not clear how to tell carers how

to manage or how to help the individual who will, in the early stages of dementia, be very aware of what is going on—they will not have reached the stage of not remembering anything.

Another report, from the Nuffield Council on Bioethics under Dr Tony Hope, has just been published. It does not say anything different from what the Alzheimer Scotland survey says, in terms of the things people want. We know that things such as ensuring that people are active, that they get out and about and that they keep their social connectiveness are all part of maintaining the quality of life for dementia sufferers.

I am particularly concerned about the management of nutrition and its importance in hospitals and other institutional settings. It is also important in community care support. Sometimes, if people do not eat, it is assumed that they are not hungry and the food is taken away, but they have forgotten and they need to be supported in that respect. The management of pain is another important issue.

Scotland has a proud record on such matters. Free personal care has been enormously important with this group and the Adults with Incapacity (Scotland) Act 2000 has made a huge contribution. The charter is the next step that leads to a strategy—we have done a lot already, but we need to consider the next step. I commend the charter to members.

17:24

**Linda Fabiani (Central Scotland) (SNP):** Irene Oldfather is going to become very embarrassed by the praise that is being heaped on her tonight. I have to say that, much as she is a cheery wee soul, she is looking even happier today than I have seen her looking for a long time. She is just beaming, which is a mark of the honesty and integrity with which she has been campaigning on dementia for so long. To have achieved another step forward in how we deal with dementia is to be commended. I will not try to mention everybody who has been involved, because I will miss somebody out and someone will take the huff, but everyone has done a tremendous job.

I am not an expert on dementia, and I do not know as much about it as many other people do. I have been fortunate in that my family and those who are close to me have not been sufferers—yet. We all know that it can happen to anyone at any time. I remember that many years ago, when Nicola Sturgeon and I were out campaigning in a by-election, we spoke to a couple and the lady was suffering from dementia. Nicola and I still talk about it, because even at that time the lady was younger than I was. She was between Nicola’s age and mine. Although the vast majority of

sufferers are over 65, as the figures show, there are people who suffer from pre-senile dementia, which must be a huge burden for their families.

The projected figures for South Lanarkshire, where I live and which my constituency covers, bear thinking about. It is reckoned that, during a 10-year period, the number of sufferers in South Lanarkshire will increase by 25 per cent. However, the increase in East Kilbride is estimated at 51 per cent, which raises issues. Dr Simpson spoke a lot of sense about how we ask service providers to deal with the issues.

Talking of service providers, there is a group in my constituency that I have come to know well—the East Kilbride dementia group. The group supports dementia sufferers who are still living in the community and works to maintain their independence. I am hugely impressed by the work that it does, particularly as it was founded in 1991 and has been working all this time. It has accepted a massive challenge and it has succeeded because it pushed out the boundaries and did so with a great passion and belief. It believes in a homely environment with small groups of service users and that the ideal setting has a service user to staff ratio of no more than 3:1.

The group helps people to maintain their independence, supports and helps people to live at home and provides opportunities for social activity. I thought it was great when the group told me that, although the users might not remember that they had a day out or where they went, as the old clichés might suggest, they will have the sense of wellbeing that is so important because it maintains the sense of life and of being worth while. We should never forget that, because it is just as important as many of the other aspects.

The last thing I want to mention is a wonderful example of community spirit. A small company in East Kilbride called Ecebs recently did a team-building exercise with its staff and it decided to help a local charity. It went to the East Kilbride dementia group and 30 Ecebs staff—the entire staff complement—turned up for an away day at the group's premises. From the managing director Alan Moody right down, the entire team spent the whole day completely redecorating the group's premises and doing all the gardening and handyman and handywoman jobs that needed to be done. Is that not a wonderful example of community spirit? There were benefits for both sides. Ecebs benefited from its teamwork and the dementia group benefited from the work that was carried out for them. That is to be commended. I hope that other small and large companies that tune into some of what we talk about in Parliament will take up that idea which can be done in the local community, rather than pay consultants a fortune to run team-building exercises.

Again, I congratulate Irene Oldfather and everyone else.

17:29

**Mary Scanlon (Highlands and Islands) (Con):**

As the vice-convenor of the cross-party group on Alzheimer's, I thank Irene Oldfather for her tremendous commitment to dementia, and I commend all those who have been involved in producing the charter of rights for people with dementia and their carers. I can certainly confirm that there is nowhere in this Parliament for members to hide when Irene Oldfather is looking for them, particularly if she wants them to sign her charter.

In a previous debate, Cathy Jamieson compared the human rights of a person with dementia with the human rights of prisoners. The difference that she highlighted was stark, and I trust that the charter will go some way towards bridging the gap. As Irene Oldfather pointed out, "Remember, I'm still me" highlighted very serious failings in care of the elderly, including care of people with dementia. Dementia services are often poorly resourced, patchy and inappropriate and are often provided by staff who have little or no knowledge of the illness. The charter provides a clear list of what individuals can expect and demand and, as the cross-party group has stated,

"aims to empower people with dementia, those who support them and the community as a whole, to ensure their rights are recognised and respected."

I hope and trust that the charter will push dementia care further up the political agenda, particularly given the projected increase by 2029 of 65 per cent in people with dementia. On the basis of current care patterns, an additional 16,800 hospital and care home places will be required to deal with that increase. We must all be aware of that.

Although I welcome everything in the charter, it would be naive of me to think that it will resolve all the issues related to dementia care in Scotland. However, one solution that was highlighted at a briefing that was given this week in Parliament by psychologists from across Scotland will undoubtedly help to deal with some of the issues that it identifies. In her presentation on the key role of psychologists in services for older people, Dr Jennifer Borthwick, who is a consultant clinical psychologist from NHS Lanarkshire, highlighted the fact that, for people aged under 20, there are eight psychologists per 100,000; for those aged 20 to 64, there are 6.7 per 100,000; and for the over-65s, there are 0.6 per 100,000. In other words, although they make up 20 per cent of the population, the over-65s get only 5 per cent of the psychology workforce. Many reasons were suggested for that lack of psychological support,

including stigma, the stiff upper lip and people saying, "Well of course you're depressed. You're 75, you've got arthritis and your husband died five years ago." However, the sad fact is that the patients are as likely to think that way as the referrers.

Dr Borthwick also pointed out that older people are not what they once were. We have heard that 60 is the new 40; well, perhaps 80 is the new 60 and perhaps older people's expectations of services and how they want to be treated have changed. As Dr Borthwick made clear, over-65s no longer expect to go to a day centre or care home to listen to Jimmy Shand for six hours. We have also moved on from the stiff-upper-lip stereotype to a cohort that is more used to expressing emotions, making demands, expecting more than is being provided at the moment with regard to individual need and looking for services to reflect the lifestyles that they enjoy and expect to enjoy. We need only look at the two ladies on the charter's front cover to realise that.

17:34

**Sandra White (Glasgow) (SNP):** I pay tribute to Irene Oldfather's tenacity and hard work in pursuing a cause that is very close not only to her heart but to many hearts in Scotland—after all, 69,500 people in the country suffer from dementia—and I thank the many groups who have worked on and helped to produce this very important charter.

I speak not only as the convener of the cross-party group in the Scottish Parliament on older people, age and ageing, but as someone with personal experience. My mum had dementia for a number of years. Although we went to visit my parents two or three times a week, including every Sunday when all the kids in the family went, we did not know that my mother had dementia because my father covered it up constantly. It was only after my father died that we realised that the reason why he had kept such a close watch on my mother was because she had dementia. For example, if he was going to the shops, he would tell her to stand at the window and watch. We used to think—unfairly now, we realise—that my dad was a bit of a control freak because he told my mother to stay there. After he died, we realised that that was for her safety, because she would have wandered out of the house otherwise. The stress and strain on my dad must have been tremendous.

Eventually, my mother could no longer live on her own because, unfortunately, she would wander out of the house at 4 o'clock in the morning. We tried to stay overnight at certain times, but that was not always possible because

we were working, so a care home was the only place that my mother could go.

My experiences of care homes, from visiting my mother and from visiting professionally through the cross-party group, have been a mixed bag. As members will know, there are very good care homes and some not-so-good ones. The sad thing is that many people in the care homes that I have visited have not had dignity. As Dr Simpson mentioned, they were not fed and they were left to sit. When they asked to go to the toilet, they were told they had already been.

In a number of care homes that I visited, people were treated abysmally. That experience was distressing, particularly when some of those people had no relatives to visit them. I became their relative and part of their family. People with dementia just want to be listened to. They would talk about the times way back, and sometimes I was their mother or sister, but that did not matter because they were happy that I was willing to give them my time.

There are several reasons why it is important that we have a charter of rights. One is to ensure that dementia is highlighted and that awareness is raised through advertising campaigns and leaflets in doctors' surgeries. If I had known that my mum was suffering from dementia, I might have been able to do more about it. There are lots of people in the same situation as my family and I were in.

We must also ensure that training is provided in care homes. There are some good care homes that stimulate people's minds and take them on outings. As Linda Fabiani said, perhaps they do not remember the outing the next day, but they feel better inside because of it. We must highlight the need for training.

Another important aspect is that, if we are to provide proper care, it must be proper care across the board. We cannot have a postcode lottery. The proper care must be provided everywhere and not just in certain areas. That is important and it is highlighted in the charter.

I am pleased that the minister has said that the Government will adopt the charter. As I said, dementia could happen to any of us—it could happen to me tomorrow or next week. I have met many people with dementia, including my mother. Some of those folk should have had a good quality of life—they should have had dignity and been treated as human beings—but they did not. It is important that, when the charter is launched, people are treated with dignity and as human beings.

Once again, I commend Irene Oldfather for the hard work that she has done to produce the charter, which is important. Her ideas will be put into every care home and doctor's surgery. I await

the minister's response to the debate, but I thank her for taking on board Irene Oldfather's suggestions.

17:38

**Margaret Smith (Edinburgh West) (LD):** I welcome the opportunity to speak in the debate and to support the charter of rights for people with dementia in Scotland. It is a recognition not only of human rights but of the practical needs and the need to empower those who suffer from dementia, as well as the families and carers around them who suffer as a result of dementia.

As every other speaker has done, I put on record a tribute to Irene Oldfather. Every year, there is a politician of the year award—although some of us do not go every year—when the big hitters in the Parliament, if I can put it that way, are recognised. They are always there and the list is never a big surprise. However, if we were to take a straw poll among members, asking for names of members whom they know genuinely to campaign not for their ego or their own regard but because they truly believe in something—members who campaign on issues and who have made an incredible difference on them in the Parliament and throughout Scotland—I do not think that any member would not agree that Irene Oldfather would be right up at the top of that list.

That is the embarrassing bit over. I also pay tribute to the minister and to the Scottish Government, because on many steps along the way in the past year or so Shona Robison and the Scottish Government have been there with the cross-party group and with the people who are speaking up on this very important issue. Such an approach is an important part of how we can take forward the charter and make progress on the practical issues that we addressed in our debate earlier this year, such as how accident and emergency departments deal with people with dementia.

As Sandra White said, there is patchy provision in care homes. Some members will probably know that my father-in-law suffers from dementia, so my family—particularly my partner—has first-hand experience of the issue. We have gone down the slippery slope of seeing somebody that we know, love and care for slipping away from us into almost a different place. We have experienced losing someone who is still there in front of us. We have had to cope with how it works in respect of the care that the person receives at home and how it works for them and their family and the care that they receive when they move into a care home. We are generally very happy with the care that my father-in-law receives in his care home, but I will pick up on one matter in which there is always room for improvement: taking forward some of the

important issues around social activity, which Linda Fabiani mentioned.

I recall one occasion when my partner was despairing of the situation that faced her when she went to see her father. We had to sit down and think about how to engage with this person and get back some connection. She decided to read Burns to him because he loved—and still loves—Burns. She said that at first she felt incredibly foolish doing it, but what was amazing was that the heads of all the other elderly people sitting around him soon lifted from their chests. They might not have heard the words, and they probably did not understand them even if they did, but they all heard the intonation and realised that there was something there. It got through.

It is like living with somebody in a fog. Sometimes we do silly things, such as take along ice cream on Christmas day; it does not matter that it is Christmas day as we decide to do something that we know will get through.

Carers and families face an awful lot of stresses and challenges, such as violence or the kind of language that is used to them. If one big message to carers and families can come out of the debate, it is that the charter is not only for those who suffer from dementia but a recognition of what they have to deal with.

I pay tribute to local projects in my constituency such as the Corstorphine Dementia Project, which our old friend and colleague Donald Gorrie is heavily involved with, and to the national Alzheimer's charities and organisations, which have helped so much not only on the charter but with the cross-party group. Although the charter will not make everything right, I hope that the cross-party and Government support for people who suffer from dementia will carry forward into resourcing and services that make life a little bit better and, if possible, a lot better for them.

17:43

**The Minister for Public Health and Sport (Shona Robison):** I thank Irene Oldfather for bringing a further debate on dementia to Parliament. To spare her blushes I will not add any more fulsome praise, other than to say that I think that the praise that she has been given during the debate is all deserved. I also thank the cross-party group on Alzheimer's for its on-going support, commitment and attention to the issue.

Dementia is an illness that has a devastating impact on the lives of so many people in Scotland. We have heard personal testimonies to that from members throughout the chamber. It is therefore right that Parliament continues to pay close attention to the subject.

Listening to what has been said both today and in the debate on 9 September, I know that we all have a common goal, which is to ensure that people with dementia and their carers and families feel confident that they have the very highest quality of care. We are all able to offer examples of where the quality of care and therefore the quality of life are certainly far from the best. We all have to ensure that such examples become a thing of the past—Irene Oldfather talked about consigning them to the dustbin of history.

It will not be easy and it will not happen overnight, but I am proud that the Scottish Government and our partners are together beginning to address this problem head on through the development of a dementia strategy to build on the progress that we have already made.

I agree that we cannot make things better for people with dementia without recognising their right to be treated as individuals. For that reason, I welcome the focus in the charter on promoting the rights of people with dementia and the standards that should always be applied day in, day out as part of good practice across all care settings, including in the person's home.

I therefore very much support the motion's focus on envisaging the charter as an instrument to enable cultural change in dementia care and as a powerful tool to empower those with dementia.

We already have legislation and standards in place in Scotland that can address many of the issues that are raised in the charter. For example, our mental health legislation has led the way in ensuring that at its heart are dignity and respect; participation; the least restrictive alternatives; maximum benefit to the individual; non-discrimination and equality; fairness; and autonomy. Of course, those principles mirror equality and human rights legislation and they are also reflected in our patients' rights bill, which is in development. We all know how important it is that people are treated as individuals, to ensure that their health care is designed to respond to individual needs, and that patients participate in their own health care. In introducing a patients' rights bill, we will be able to provide a clear framework and guidance to support that.

The focus of much of the charter is, quite rightly, on the quality of service. Our work on the dementia strategy is exploring how we might use standards more effectively to promote quality and improvement and how we can use the new scrutiny arrangements of the Public Services Reform (Scotland) Bill and the arrangements that will be brought forward under the patients' rights bill to secure better outcomes for those with dementia.

**Mary Scanlon:** In looking at future standards, will the minister also look at the role of psychologists, who are highly trained to do direct clinical work, train and support staff and carry out supervision and consultancy, in supporting older people with dementia?

**Shona Robison:** I was certainly very interested in the figures that Mary Scanlon talked about and I will have more of a look at them. I can tell her that Dr Jennifer Borthwick, to whom she referred, is involved in the development of the dementia strategy. I hope that, through her involvement, those issues will come to the fore.

We are also looking at how to improve the knowledge and understanding that those providing services have about people with dementia and at how we use that information to maintain the dignity and humanity of care and treatment.

We are also examining how we can embed the personalisation agenda in our work on dementia, not least in thinking about the behaviours and cultures of health and care staff in responding to dementia. We have heard examples of that tonight.

We will be considering the arrangements for the protection of rights for those with dementia and the application of the Millan principles.

We will be considering how to promote physical and social activity for those with dementia—which is a very important issue that has been raised—both in care homes and in other care settings, including the home. It has already been said that some people do not see anyone from a Friday right through to a Monday, which cannot be right. We need to see what more we can do to reduce the social isolation of people who remain in their own home.

As part of the strategy, we launched a consultation paper last week, and a copy was passed to the cross-party group on Alzheimer's. I look forward to receiving its comments on the strategy.

We want the strategy to continue to be a shared endeavour and, most important, to have input from the real experts. That is why we have someone with dementia and a carer in each of the work streams. Those people are telling us what we are not getting right and I greatly value their contribution.

The transformation of care services will not be easy and cannot be done overnight. Improving how a whole system works and changing it to meet the needs and interests of the individual service user will be a huge endeavour. However, we said at the outset that dementia is a national priority in Scotland. That commitment must be measured against the improvement in the quality

of care that people with dementia experience, and that care must ensure that it addresses the rights and dignity of the person with dementia.

I recognise the launch of the charter as an indication of the cross-party group's level of commitment to this agenda. I welcome the focus on individual rights and the standards of care that people routinely receive—and should expect—as part of their experience of the care system. I expect the work on the dementia strategy to consider all the issues that are raised in the charter. I look forward to the outcome of its considerations as part of the wider work. In taking that forward, I am happy to say that I will come to the next meeting of the cross-party group to discuss matters further, including how we can ensure that there is synergy and that the issues that are raised in the charter come through the dementia strategy as it is developed.

I thank members very much. This has been a really good debate to take part in.

*Meeting closed at 17:50.*

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