MEETING OF THE PARLIAMENT

Wednesday 18 November 2009

Session 3

£5.00

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by RR Donnelley.

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Scottish Parliament

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

Time for Reflection

The Presiding Officer (Alex Fergusson): Good afternoon. The first item of business this afternoon is time for reflection, as always. Our time for reflection leader today is the Rev Stephen Brown, from Fraserburgh United Reformed Church.

Rev Stephen Brown (Fraserburgh United Reformed Church): Presiding Officer,

"Your old folk shall dream dreams and your young shall see visions."

It was a consequence, Joel wrote, of God's spirit being poured out on people. I think that I have crossed the age threshold to be a dreamer rather than a visionary. I know that because of the "Grumpy Old Men" and "Grumpy Old Women" books. Their introductions say that the age range of the grumpies is 35 to 54. Although that seems somewhat arbitrary, I am encouraged to think that there might be something in it and that in two years my offspring might find me returning to being a benign, mild-mannered minister rather than a spleen venter. I for one am not holding my breath and in any case I am sure that there are plenty of examples in this place of post-54-year-old grumpies to underline the nonsense of the quoted age range.

However, I like to dream dreams and I like to think that even visions are not beyond me. I serve a church that came about because old and young had dreams and not a few visions of long-established denominations becoming united. In 1972, the Congregational Church in England and Wales and the Presbyterian Church of England united as a sign of reconciliation and wise insight. The harder job would have been to justify those churches staying apart. Two further unions later, the United Reformed Church now has an established presence in Scotland. Not that those unions have been without tension, but such creative tension as resulted engaged hearts and minds to find ways of being that respected the distinctiveness of the constituent denominations while celebrating the common purpose: a sign of peace to a divided world.

In the much-lambasted Monty Python film, "The Life of Brian", during the delivery of the sermon on the mount, when Jesus says, "Blessed are the meek for they shall inherit the earth", one of the crowd says, "Oh, it's blessed are the meek! Oh, I'm glad they're getting something—they have a heck of a time." Amusing though that is, it hints at a common misunderstanding of the biblical concept of meekness. It is not weakness but controlled strength—like the definition of a gentleman being a bagpipe player who chooses not to play. I am a piper, so I can say that.

Justice and peace come not through fearful inaction but through wise and compassionate response to the creative tension that wrestling with such issues inevitably brings: a meekness that strongly strives for reconciliation and renewed hope in an often-divided and wounded world.

As Lennon—John Lennon—said, "Maybe I'm a dreamer", but at least in two years I will not be grumpy.

Business Motion

14:33

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-5219, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Arbitration (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Arbitration (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the Stage being called) or otherwise not in progress:

Groups 1 and 2: 20 minutes

Groups 3 to 5: 35 minutes.—[*Bruce Crawford*.]

Motion agreed to.

Sectarianism

The Presiding Officer (Alex Fergusson): The next item of business is a statement by Fergus Ewing on a sectarianism strategy. The minister will take questions at the end of his 10-minute statement and there should therefore be no interventions or interruptions.

14:34

The Minister for Community Safety (Fergus Ewing): I am delighted to make this statement on the Government's strategy for tackling sectarianism, which is an issue of concern for everyone in the chamber.

For too long, sectarianism has plagued the lives of too many. We must eradicate it once and for all. In the past, sectarianism was the elephant in the room; we did not want to face up to the bigotry in some of our communities. In 2004, the previous Administration called time on sectarianism. It was time for communities, organisations and individuals to face up to sectarianism and to challenge it. The Government acknowledges the work of Jack McConnell and his Administration in taking that bold step to tackle sectarianism. There is no doubt that progress has been made. Sectarianism is not as prominent as it was when I grew up, but it is still part of the backdrop to Scottish life.

Our strategy is based on funding key projects and bringing together co-ordinated partnerships of organisations to deliver a spectrum of work in communities, the workplace and the courts. We are funding Nil by Mouth to tackle sectarianism in the workplace and to deliver a project supported by the Scottish Trades Union Congress; sense over sectarianism to work in communities; and Show Racism the Red Card to develop work to tackle sectarianism. Last December I launched the anti-sectarianism education resource that we funded YouthLink Scotland to develop. The Iona Community adapted that resource for inmates at Polmont young offenders institution. When I visited Polmont, I was so impressed that I asked the Iona Community to work in partnership with us to look at developing the resource for adult prisons.

By working in partnership, we can eradicate duplication of effort and ensure that our work is co-ordinated, focused and effective. The working group on racial and religious intolerance brings together the voluntary sector and non-governmental organisations. The football banning orders monitoring group, which I chair, brings together the football banning order manager, the Crown Office, the Association of Chief Police Officers in Scotland and the Scottish Football Association to ensure that banning orders are

used effectively. The promoting citizenship through football partnership, which is chaired by SFA chief executive Gordon Smith, brings together the Scottish Government, sportscotland, the SFA, the Scottish Premier League, the Scottish Football League and ACPOS to look at how football can help to tackle societal problems, including sectarianism.

Although football is sometimes where sectarianism raises its ugly head, it also provides a vital lead in getting the anti-sectarian message across. Clubs at all levels are engaged with their communities. I am grateful to them for the work they do, including through the old firm alliance anti-sectarian education programme.

Alongside that good work, we have penalties in place for individuals who indulge in sectarian behaviour. Football banning orders deny bigots who indulge in abusive behaviour access to football matches. The FBO monitoring group is tasked with ensuring that those orders are used effectively. We will press for a banning order to be sought on every occasion that sectarian abuse, violence or disorder occurs. The Solicitor General for Scotland has confirmed that a Crown Office circular has been issued to ensure that deputes are proactive in bringing the possibility of a banning order to the attention of sheriffs. I am sure that all of us welcome that move.

As banning orders have been in place for three years, it is time for us to take stock to ensure that we are doing everything that we can to tackle the violence and abusive behaviour that sometimes mar our national sport. I will, therefore, ask the monitoring group to carry out an evaluation and to report in winter 2010.

Scotland has many marches and parades every year. Although the vast majority of them pass without incident, a minority can be the cause of public disorder and other forms of antisocial behaviour. The right to public assembly is fundamental, but the communities through which marches pass also have rights. Since the 2006 statement on tackling abusive behaviour at marches and parades, the number of marches has changed little. I call on the organisers to consider the impact and disruption that marches can cause. I will invite the Convention of Scottish Local Authorities, ACPOS and the STUC to work with me to look at the 2006 statement again to see how it can be used at a local level to ensure that all parties are working together for the good of all communities.

Education is another area that we continue to drive forward, and I am delighted that Learning and Teaching Scotland will refresh the "sectarianism: don't give it don't take it" resource to ensure that it is fully aligned with the new curriculum. I commend that resource to all schools.

I have seen the great work that is being done through art, drama and poetry to embed in young people the message that sectarianism has no place in Scotland. Many projects have been the basis on which schools have been twinned, and I have been impressed by the creativity and drive of the teachers who have developed such initiatives.

Our strategy is to work in partnership with people at the coalface. Working together, we will co-ordinate and maximise our efforts through our partnership groups; ensure that resources are up to date and fit for purpose; and ensure that the penalties for sectarian behaviour are used appropriately, and that we take action when they are not.

Sectarianism has blighted Scotland for too long. It will take a co-ordinated and concerted effort to achieve what we all want: a Scotland where sectarianism is unknown, and a Scotland that recognises and celebrates the fact that being one Scotland of many cultures and faiths makes us a better and stronger nation.

James Kelly (Glasgow Rutherglen) (Lab): I thank the minister for the advance copy of the statement.

All of us will have agreed with the minister when he said:

"Sectarianism has blighted Scotland for too long."

If the Scottish Government is serious about eradicating sectarianism, it must build on the important work of the previous Executive, particularly in relation to education. The statement is a step in the right direction, but it is not a strategy. We need a detailed action plan and strong leadership. When will the minister publish the detailed strategy document that backs up today's statement?

I understand that a summit has been called for 23 November. What organisations have been invited to the summit? Will the First Minister attend?

Given the number of successful prosecutions under section 74 of the Criminal Justice (Scotland) Act 2003, will the minister introduce a national rehabilitation programme, based on the package that is used by the Iona Community at Polmont young offenders institution?

Fergus Ewing: I welcome the support of James Kelly and his party for the work that we are seeking to do. Before I made my statement, I was pleased to meet the former First Minister, Jack McConnell, as well as Bill Butler, Bill Aitken, Mike Pringle and Robert Brown, to seek to build and continue the cross-party approach that I believe is

fundamental to tackling the issue. I am pleased that James Kelly recognises the key importance of working with young people.

It will be difficult for any politician, any Government, any Opposition or any law to reach out and change the attitudes of a small core of individuals who are aged around 40 to 60. Changing some people's bigoted views might frankly be beyond the reach of any of us, no matter how persistent our efforts. However, I believe that, by focusing our efforts largely on the next generations of Scottish people, we will eliminate sectarianism and bigotry from our land. I am pleased that that approach is welcomed by James Kelly.

Today, I have announced a number of the principled measures that we are taking—I hope with the support of all parties. We will build on those measures and continue to work with all parties in developing and fostering our strategy to tackle the issue.

I am pleased to be meeting a wide range of individuals on 23 November, as we unite to tackle the bigoted views of a few people in Scotland. I pay particular tribute to the work of Baillie Gordon Matheson, of Glasgow City Council, and I look forward to working with his successor.

Jack McConnell (Motherwell and Wishaw) (Lab): On a point of order, Presiding Officer. Mr Kelly asked three specific questions, but the minister did not even mention them, never mind answer them. Will the minister answer those questions?

The Presiding Officer: I take the view at this stage that there will be several other opportunities for members to put those questions. I am sure that the minister will take on board your observation.

Bill Aitken (Glasgow) (Con): I welcome the statement and thank the minister for early sight of it. It is important to stress, as the minister did, that sectarianism is a fraction of what it was 30 or 40 years ago. However, that still leaves us with an unacceptable situation.

Many instances of sectarianism are football related, as the minister said. That is where we should direct our efforts, because the system has changed. Arrests at football matches are few in number, but there can be serious problems afterwards. Does the minister acknowledge that a principal difficulty is that, particularly when a game kicks off at 12.30 pm, some people spend the day drinking and then indulge in the sort of behaviour that we are talking about? Does he agree that the answer might be to ensure that people who are arrested following an incident in which they manifested sectarian behaviour are subject to a football banning order, even though the incident was not related to a football ground? In my experience, many people who are involved in sectarian behaviour have been denied access to a ground because of the limited number of tickets that are sold to away fans, but are looking forward to going to their ground of choice in the following week.

Fergus Ewing: Bill Aitken made a good point. That is precisely why I announced today that there will be a thorough evaluation of the use of football banning orders.

I will answer Bill Aitken's question specifically. From my reading of the charging section that sets out the grounds for seeking a football banning order, I understand that they encompass behaviour not just at a football ground but outwith the ground, for example in a pub or club. A subsection of the charging section specifically provides that behaviour of a sectarian nature that takes place in a pub before or after a football game can lead to a football banning order. The test is whether a football-related offence took place, and such offences are defined in fairly wide terms. There are therefore powers, but we will carry out an evaluation to ensure that they are sufficient.

I am conscious that football banning orders might not have been used in a sufficient number of cases, in particular in comparison with the approach south of the border. That, too, is why I announced that there will be a thoroughgoing evaluation of such matters. I look forward to working with other parties in taking that work forward.

Hugh O'Donnell (Central Scotland) (LD): I thank the minister for the advance copy of his statement. Like Mr Kelly, I hesitate to call the approach a strategy, because much of the information that we have been given can be gleaned from the Scottish Government's website. However, a discussion about sectarianism is welcome.

I raise two issues. First, how will the strategy and the projects that are mentioned in it tie in with Westminster's Equality Bill? Secondly, and perhaps more important, when Alex Neil, the Minister for Housing and Communities, gave evidence to the Equal Opportunities Committee a number of weeks ago, he was asked about religious focus. He said, quite understandably, that his number 1 priority was Islamophobia. He was then asked what his second priority was. The second priority was not given, because the minister said that there was no second priority. Is that indicative of the disjointed way in which the Government will tackle sectarianism?

Fergus Ewing: The Government is concerned to tackle bigoted behaviour of all varieties, whether it is racist, homophobic or sectarian. It could not

be said that there is any doubt about that. I emphasise that, as part of our overall strategy, we will work with the Iona Community, as James Kelly—rightly—urges us to. I had the pleasure of seeing its work at Polmont young offenders institution. The organisation has submitted a proposal to develop and deliver an anti-sectarianism education programme to adult offenders. We are discussing that and considering the feasibility of a pilot project. We recognise the Iona Community's good work in seeking to rehabilitate people who express sectarian views.

We also recognise—I do not think that this has ever been reported or mentioned—that when a football banning order is granted, it can be lifted if the person who is banned recants and expresses sorrow and regret for his behaviour. Therefore, provision for rehabilitation is built into the law on football banning orders. The evaluation that I announced will consider that in particular.

The Presiding Officer: We come to open questions. I will get through the number of questions that has been bid for only if people keep their question succinct and if answers follow a similar model.

Nigel Don (North East Scotland) (SNP): Like me and many others, the minister will know of the anecdotal view that obtaining a banning order is easier in some places than it is in others. Given that, will he assure me that, when the monitoring group evaluates what is going on, it will consider the current law's adequacy and how it is being implemented?

Fergus Ewing: We will certainly do that. The Solicitor General takes an extremely serious attitude to the matter. As I mentioned, he has issued guidance to all advocate deputes so that they are aware of the issue. Some members might have read of the case of Walls, which arose from a football match between Rangers and Kilmarnock in Kilmarnock. In that case, a two-year banning order was imposed on someone who sang extracts from the famine song and whom stewards repeatedly told to cease and desist. His appeal failed; that is a clear precedent. I understand from the Solicitor General that that precedent has been put on the website of every fiscal and every fiscal's office in the land.

It is plain that a strong attitude is being taken, but much more needs to be done. Perhaps more football banning orders could have been sought in Scotland. That is one reason why I decided, as I announced today, to launch a full evaluation of the effectiveness of the measure.

No punishment can more fit the crime of acting in an abusive and foul-mouthed way on the football terraces than a football banning order. That is an effective deterrent that hits people where it hurts, because they want to return to watch their team. Using FBOs will directly help us to eradicate sectarianism. If they are used appropriately and more effectively, they will see us turn the corner and achieve greater success in tackling the bigoted behaviour that continues in this country.

Bill Butler (Glasgow Anniesland) (Lab): The minister's statement is welcome as a small step forward to a coherent national strategy, which we have been promised since September 2008. Sectarianism is a complex historical problem that will require a coherent strategy that is backed by the Government to build on the previous Executive's work. On average, there are still 338 convictions for sectarian offences each year in Scotland. We cannot allow sectarianism to slip back into the darkness.

To that end, does the minister agree that education must play a central role in the strategy if it is to succeed? Will he confirm that the Government will encourage local authorities to develop twinning and anti-sectarianism projects between schools by liaising directly with education directors throughout the country and by reinstating the dedicated funding stream that hitherto allowed those who are at the coalface to develop such worthwhile projects?

Fergus Ewing: I share Bill Butler's view that education is key. That is why I was pleased to launch the resource that I described, which is routinely used and which I commend to everyone who is interested in this area of work. It is also why I have worked with many people, including Bill Butler and many of his party colleagues, in attending many different programmes to tackle sectarianism in which schoolchildren take part. The children put forward their views about why it is wrong to discriminate against somebody because of the community that they come from, the football shirt they wear or the football team they support. I entirely agree with Bill Butler in that respect.

I have attended schools that have relationships with other local schools that are perhaps associated with a different faith. Decisions on twinning arrangements depend on local circumstances and are entirely a matter for local authorities, in consultation with their communities, the parents of the children involved and church representatives. I think that we all want to see schools coming together. Equally, however, we do not want to force change from the centre or to force relationships on individual schools. Such relationships are at their best where they have grown organically through partnerships, often involving headteachers coming together and usually after consultation with the parents.

Bill Kidd (Glasgow) (SNP): The minister and I come from Glasgow, and I know from personal

experience that sectarian attitudes are normally intergenerational and start when people are young. They therefore require early intervention. What funding is the Scottish Government providing for anti-sectarianism activity in our schools?

Fergus Ewing: As I said, we provide a range of funding to assist various efforts to tackle sectarianism. The sense over sectarianism project has received £412,500 over three years to run anti-sectarianism projects in the Glasgow area. Nil by Mouth has been provided with £118,000 over two years to deliver a project that promotes equality and tackling sectarianism in the workplace. Show Racism the Red Card has received £290,000 over two years to continue its anti-racism work. Plainly, not all that work is directly used to educate children. However, the work that is done in schools throughout the land plays a huge part. We acknowledge that contribution by schools and local authorities.

Jack McConnell (Motherwell and Wishaw) (Lab): Frankly, this is just not good enough. Will the minister acknowledge that the national strategy against sectarianism did not, in fact, start in 2004 but started in the Parliament in late 2002 with a cross-party document that was produced by, among others, his ministerial colleague Roseanna Cunningham and his ministerial predecessor, Dr Richard Simpson? Will the minister respond to questions that he was asked earlier? Will he publish before Monday a list of the organisations that have been invited to the national summit against sectarianism on Monday? Will he give a clear commitment that the Government will support proposals from any local authority for shared-campus school buildings as part of the new school building programme? Will he support not a further evaluation after two and a half years of review, but a firm commitment to a national rehabilitation programme for the many offenders who have now been caught by the legislation that the Parliament supported and which he says his Government supports?

Fergus Ewing: I have already explained in response to a previous question that we are committed to work that seeks to rehabilitate those who express bigoted views. We are supporting the Iona Community and work in prisons. We have also highlighted the provision in the charging section that recognises the possibility of the early lifting of a football banning order.

I cannot think of anything that would demonstrate success more than a football supporter on whom a banning order was imposed recanting publicly. That might have a bigger impact than any elected politician disavowing and deprecating such behaviour, and it might be more persuasive in convincing the hard core who remain on some terraces not to indulge in such utterly unacceptable behaviour.

I did not say that efforts to tackle sectarianism began in 2004, which seems to be the premise of the initial question from the former First Minister. I recognise that members from all parties have attacked sectarianism, espoused policies to achieve that aim and worked together. I will not become involved in any political attack on any individual or party, because I believe that partisan politics should not be involved in the issue. Indeed, in my statement, I paid tribute to the work of the former First Minister, as I did when I met him to discuss the approach that we would take to the statement.

We should be in no doubt whatever that this Government takes sectarianism and bigoted behaviour extremely seriously. That is why I am on my feet today making a statement, that is why I am happy to attend the function on Monday evening and that is why I will continue to work with all parties in taking forward our strategy on tackling antisocial behaviour.

In my statement, I set out clearly the principles that underlie our approach. Those principles have largely had the support of members who have asked questions.

Rhona Brankin (Midlothian) (Lab): On a point of order, Presiding Officer. The minister has twice been asked for a list of the invitees to the summit that is being held on Monday, and he has twice failed to answer the question. Is that acceptable?

The Presiding Officer: I cannot force the minister to do so, but I think that it would be helpful if he could address that question if it is put to him again.

Jim Hume (South of Scotland) (LD): I hope that the minister does not forget his Christmas card list.

In January 2006, the previous Executive announced a joint three-year pilot project with Glasgow City Council with an interfaith liaison officer. Will the current Administration continue the interfaith liaison officer's good work? If so, will it seek to extend that work to the Ayrshire and Lanarkshire councils, as was hoped back in 2006?

Fergus Ewing: We are continuing, and have continued, our interfaith work—I have attended a great many functions to do that—and we work with people from many faiths, churches and groups throughout Scotland.

On the member's question about specific individuals and groups in parts of Scotland—he seems to be making a sedentary interruption, which I cannot hear—I would be happy to correspond with him. If he wishes to give me the details, I will certainly look into them and answer any specific matter that he cares to raise with me.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): To make matters easy for the minister, I will simply reiterate a number of the questions that he has not yet had the opportunity to answer. Will he give us the list of invitees to Monday's summit? Will the First Minister attend that event? Will the minister give a commitment that joint campuses will continue to be an integral feature of the future school building programme?

Fergus Ewing: Provided that we have the express support of all those whom we have invited to attend, I am happy to release the names of those who attend any particular event. There is no great secret about the event. We all want to tackle sectarianism in our land. The event will be led by me—it was never intended that it would be led by the First Minister—and those attending include the STUC, ACPOS, YouthLink Scotland, the Iona Community, the SFA, the SPL and the SFL.

I remind Cathy Jamieson that the very first event that the First Minister chose to hold was one to thank for their campaigning effort people such as the former First Minister, his predecessor, who are tackling sectarianism in Scotland. I do not think that there can be any doubt about the commitment of the present First Minister, or indeed that of the most recent First Minister or of any future First Minister of our country, to tackling the problem. It is somewhat remiss to raise the matter as though it were some kind of issue, when the First Minister has made it clear that he is four-square against bigotry in our country, as are all the rest of us.

The Presiding Officer: John Park will ask the final question.

John Park (Mid Scotland and Fife) (Lab): No one would doubt the commitment, but we are a bit concerned about the approach that is being taken. The approach that was taken previously meant that the widest breadth of interest was engaged. The minister has mentioned a number of organisations that have shown an interest in tackling sectarianism over a number of years, but the previous approach ensured that organisations such as the Confederation of British Industry and the chambers of commerce were involved in such initiatives. How does the minister intend to involve wider civic Scotland in making progress on such matters?

Fergus Ewing: We are happy to work with any and all organisations that wish to play a part. I acknowledge the existence of a wide range of views. I mentioned a number of organisations simply because I was invited to list some of the principal invitees to the event that I referred to, and I hope that it will be agreed that they represent many, if not most, of the major players that one would expect to be involved in such an event.

Arbitration (Scotland) Bill: Stage 3

15:07

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is stage 3 proceedings on the Arbitration (Scotland) Bill. Members should have the bill as amended at stage 2—that is, Scottish Parliament bill 19A—the marshalled list and the groupings, which the Presiding Officer has agreed. The division bell will sound and proceedings will be suspended for five minutes for the first division this afternoon. The period of voting for the first division will be 30 seconds. Thereafter, the voting period will be one minute for the first division after a debate and 30 seconds for all other divisions.

Section 7—Mandatory rules

The Deputy Presiding Officer: Group 1 is on court procedures etc to be mandatory. Amendment 1, in the name of the minister, is grouped with amendments 2 to 4, 9 to 13 and 18.

The Minister for Enterprise, Energy and Tourism (Jim Mather): Before I speak to the first group of amendments, I would like to say a little about the amendments more generally. Following stage 2, the Government reviewed the bill. We did so because stage 3 is the last chance to shape the law. As I said in the stage 1 debate, some commentators in other countries have been

"amazed at the elegance and economy of this Bill".—[*Official Report*, 25 June 2009; c 18954.]

We want to make it as good as we can, as it may be a long time before arbitration is back on the legislative agenda.

Although there are 30 Government amendments, they are minor and technical. I am told that the overall number of amendments is significantly smaller than it has been for most similarly sized bills that the Parliament has considered during its first 10 years. The technicality of the amendments is a reflection of the intense stakeholder interest in line-by-line scrutiny of the bill's provisions, which has greatly helped to identify where the bill can be improved.

The first group of amendments seeks to restructure existing rules to provide added certainty on the extent to which the parties can contract out of those rules. It addresses some concerns that were raised by the commercial judges of the Court of Session about the status of the Scottish arbitration rules in schedule 1 that relate to court procedures.

The fact that some provisions that deal with court procedures have default status means that

parties to an arbitration can agree whether those particular court procedures should apply to their arbitration, but it could cause uncertainty in the courts if parties also had the ability to decide on precisely how the courts should deal with a challenge or appeal. We want to provide additional certainty for the parties and the courts, so we propose to split and modify the relevant rules to retain the default aspect to allow parties to decide whether the court procedures should apply to their arbitration, but provisions that relate to how the court deals with such procedures should in some cases be mandatory and not within the power of the parties to alter.

Amendment 1 makes rule 7, on failure of appointment procedure, mandatory. It applies only to allow an arbitrator to be appointed where the parties' preferred method fails for whatever reason. Rule 7 does not lend itself to being split in the same manner as other rules that are affected by this group of amendments, but many opportunities for the parties to opt out of its rules are already built into its provisions. For instance, the parties can agree to dispense with the arbitral appointments referee and go straight to the court to have the arbitrator appointed. Amendments 9 and 10 ensure that rule 7 works as a mandatory rule. They provide that the parties can also agree to dispense with the initial notice procedure under that rule.

Amendments 2 to 4, 11 to 13 and 18 move procedural aspects of rules 22 and 40, on reference to the court by agreement of the parties or where the arbitral tribunal agrees on jurisdiction and point of law; rule 41, on court power to vary the time limits set by parties; and rule 67, on appeal for error of law, into mandatory rules to give certainty on what procedures will apply. Some of the default court intervention rules are split so that the right to go to court remains the default, but aspects of the court procedure to be followed if the default rule is triggered become mandatory. Other specific opt-outs are added to the mandatory rules where necessary. Parties can still agree not to go to court, as they could before, but if they agree to go to court, they will not be able to vary all the court procedures.

I move amendment 1.

Amendment 1 agreed to.

Amendments 2 to 4 moved—[Jim Mather]—and agreed to.

Section 9A—Arbitral award to be final and binding on parties

The Deputy Presiding Officer: Group 2 is on provisional awards not to be final. Amendment 5, in the name of the minister, is grouped with amendments 6 and 14.

Jim Mather: At stage 2, the provision in rule 54 relating to the final and binding nature of an award was moved to the main body of the bill, which deals with enforcement. The provision now sits in section 9A because the Scottish arbitration rules in schedule 1 relate to the arbitration proceedings themselves, whereas provisions regarding the final and binding nature of an award and its enforcement are relevant after the arbitration proceedings conclude.

Amendments 5, 6 and 14 are minor consequential amendments. A minor correction is required as a result of the deletion of rule 54 at stage 2.

I move amendment 5.

Amendment 5 agreed to.

Amendment 6 moved—[Jim Mather]—and agreed to.

Section 13—Anonymity in legal proceedings

The Deputy Presiding Officer: Group 3 is on the duty to make an anonymity order. Amendment 7, in the name of the minister, is the only amendment in the group.

Jim Mather: At stage 2, section 13 was redrafted following concerns that anonymity should not be automatic when an arbitration is the subject of civil legal proceedings, but should be available on application to the court. Section 13 allows for the protection of the identity of parties to arbitration in civil legal proceedings relating to an arbitration. That covers only the parties' identities, not the other contents of any court judgment.

As amended at stage 2, section 13 provides a weak presumption in favour of granting anonymity. The court has discretion as to whether to grant the order, but it must have regard to whether disclosure is reasonably needed to protect the lawful interests of a party in the public interest or in the interests of justice. Amendment 7 strengthens the presumption by making it clear that the court must grant an application for anonymity unless one of the exceptions that would permit disclosure applies. The amendment also adds exceptions relating to disclosure for the performance of public functions, which brings section 13 into line with rule 25 on confidentiality. A stronger presumption reflects the principle that arbitration will normally be a confidential process, unless the parties agree otherwise. With the appropriate safeguards, the parties should have a reasonable expectation that anonymity will continue unless one side makes a persuasive case to the contrary.

I move amendment 7.

Amendment 7 agreed to.

15:15

The Deputy Presiding Officer: Group 4 is on restrictions of rights to appeal. Amendment 8, in the name of the minister, is grouped with amendments 15 to 17 and 19.

Jim Mather: Arbitration should be an efficient means of resolving disputes. The amendments make it clear that certain decisions in particular courts are final in each court. They remove, where appropriate, some opportunities for parties to seek to delay the resolution of disputes that are sent for arbitration when additional appeals are considered to be unnecessary.

Section 13 protects the identity of parties to arbitration in civil legal proceedings relating to an arbitration—protection that covers only the parties' identities and not the other contents of any court judgment. Anonymity may be available on application to the court, which has the discretion whether to grant an order providing that protection—subject to the presumption that I mentioned in relation to amendment 7. Amendment 8 provides that the decision of the court on whether to grant anonymity is not subject to appeal. Lewis Macdonald raised the issue at stage 2 and we are happy to accept it and to provide clarification.

Rule 56(4) provides that an application to correct an arbitral award under the rule must be made within 28 days of the award or by such later date as the outer house or sheriff may specify. Amendment 15 provides that the decision of the outer house or sheriff to extend the time limit for correcting an award is final. It is not considered that that procedural administrative discretion of the court requires to be subject to appeal.

Amendments 16, 17 and 19 amend rules 65, 66 and 67 to make it clear that the outer house's decision on granting leave to appeal to the inner house under those rules is final. Although there are court rules on those matters, we consider that it is helpful to have that set out in the bill, together with the other court procedures that are provided for.

I move amendment 8.

Lewis Macdonald (Aberdeen Central) (Lab): I acknowledge the minister's clarification of those technical matters in response to the issues that were raised with members by the Law Society of Scotland, a number of which impinge on this area. It has been helpful that the minister has made clear in the bill and in the appropriate rules some of the matters that would otherwise appear only in court rules. I therefore support the amendments.

Jim Mather: I thank Mr Macdonald for that acknowledgement.

Amendment 8 agreed to.

Schedule 1

SCOTTISH ARBITRATION RULES

Amendments 9 to 19 moved—[Jim Mather]—and agreed to.

The Deputy Presiding Officer: Group 5 is on challenging awards: procedure et cetera. Amendment 20, in the name of the minister, is grouped with amendments 21 to 30.

Jim Mather: These are technical amendments about the procedures for appeals to the outer house against arbitral awards and leave to appeal from there to the inner house. They take the opportunity to put into the bill some of the material—such as time limits—that would otherwise appear only in the court rules. They ensure that procedural decisions cannot be appealed when the main decisions cannot be appealed and make some minor, consequential amendments.

Amendment 20 provides that an appeal against a decision of the outer house must be made within 28 days of that decision and that leave to appeal, if granted, expires after seven days.

Amendments 21 to 30 are tidying-up amendments that amend the supplementary provisions in rule 68, on challenging arbitral awards, and rule 69, on reconsideration by the arbitral tribunal. The amendments ensure that the inner house has power, when hearing appeals, to make the same orders and other decisions as the outer house.

Amendments 25 and 27 are minor consequential amendments to update references in rules 68(9) and 68(11) to reflect the stage 2 introduction of the concept of leave to appeal.

Amendment 28 makes additional provision for appeals to the inner house against decisions of the outer house concerning the supplementary powers of the court on appeals against arbitral awards under rule 68; for example, the power of the court to order a sum of money to be paid into the court by one of the parties pending the outcome of the appeal. The same time limits and rules on seeking leave to appeal are applied to the use of those powers as to the main appeal decisions.

Amendment 28 sets out the same time limits for appeals under rule 68 on the supplementary powers of the court—for example, the ability in rule 68(11) to require a party to lodge a sum of money in court—as amendment 20 sets out for main appeals under rules 65 to 67, which deal with jurisdiction, serious irregularity and legal error.

To discourage spurious appeals to the inner house that are intended to frustrate the finality of the arbitral process, leave to appeal may be given

only if the proposed appeal would raise an important point of principle or practice or if there is some other compelling reason for the appeal.

I move amendment 20.

Amendment 20 agreed to.

Amendments 21 to 30 moved—[Jim Mather]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Arbitration (Scotland) Bill

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-5176, in the name of Jim Mather, on the Arbitration (Scotland) Bill. I invite members who wish to speak in the debate to press their request-to-speak buttons, and I ask those who are excited at getting finished so early to restrain their excitement and leave the chamber quietly, if they are going to do so.

15:22

The Minister for Enterprise, Energy and Tourism (Jim Mather): I am delighted to open this stage 3 debate on the Arbitration (Scotland) Bill, and I should first of all like to pay tribute to the work of the members, substitute members and clerks of the Economy, Energy and Tourism Committee, which considered the bill most diligently at stages 1 and 2.

It was entirely appropriate that the Economy, Energy and Tourism Committee should consider the bill, because arbitration is mainly, though not exclusively, used as a method of dispute resolution outwith the civil courts between private commercial parties. It can be used in commercial disputes, large and small. It is a bespoke method of dispute resolution that can, where appropriate, be tailored to suit the circumstances of the dispute and the needs of the parties, unlike the public civil courts.

In its stage 1 report, the committee identified 11 areas in which it asked the Government to reconsider its approach to the bill, mainly as a result of comments that it had received from stakeholders. Recognising the compelling arguments behind the bill's aim of consolidating and modernising Scottish arbitration law, the stage 1 report also considered that changes were needed in those areas.

In response to the committee, I held two consultation sessions with various stakeholders to discuss the points at issue, which were held on 6 and 18 August. Previously, on 30 April, I held a session with 30 stakeholders to discuss the possible economic benefits of the bill. Following those discussions, draft Government amendments were circulated to the relevant stakeholders for comment.

To keep the committee fully apprised of how the Government intended to address the concerns that were expressed at stage 1, I wrote to the convener with an indication of the Government's thinking on amending the bill in the light of the conversations that had taken place and the comments that had been made. The finalised Government amendments were lodged in time for

the committee to see them in advance of its last meeting before stage 2. The valuable input that we had from all parties during those meetings over the summer, as well as the compromise amendments that the Government offered, were a major factor in the acceptance of the Government's amendments at stage 2.

I hope that members throughout the chamber will agree that the inclusive approach that has been adopted to the bill, including stakeholder involvement, consensus building, keeping lines of communication open and sharing amendments, reflects well the ways in which the Parliament can take a lead role in helping to shape a bill that is before it.

As I said in my speech at stage 1, the parliamentary draftsman has said that he had never previously received such detailed technical drafting suggestions on a bill. We have healthily recycled many of the skills that members have taken from previous lives.

I express the Government's gratitude to the stakeholders who submitted detailed suggestions, which allowed us to improve the bill, including the commercial judges of the Court of Session, the Law Society of Scotland, the Faculty of Advocates, Lord Dervaird and the Chartered Institute of Arbitrators.

I turn now to issues that some members of the committee asked the Government to consider further during stage 2. At its meetings in the run-up to stage 2, the committee expressed a desire for the consumer protection provisions in the Arbitration Act 1996 that apply to Scotland to be included in the Scottish legislation, so that all the law on arbitration in Scotland appears in one statute. Given that consumer protection is a reserved matter, this Parliament cannot add provisions for the purpose of consumer protection. However, the Government shares the committee's desire to have the consumer provisions in the 1996 act included in the bill. I am pleased to say that my officials have secured in-principle agreement to that effect at official level with both the Department for Business, Innovation and Skills and the Scotland Office. We will take the opportunity in an order under section 104 of the Scotland Act 1998 to move and update the provisions in the 1996 act accordingly.

Lewis Macdonald asked whether there was any appeal against the court's decision on an application under section 13 for anonymity in legal proceedings. As a result of his raising that issue, amendment 8 provides that there will be no appeal against the court's decision, given that that might be used as a means of raising spurious appeals simply to delay matters.

Gavin Brown was concerned about the use of the term "fairness" in rule 66 and the possibility of its being open to abuse and he asked us to see whether that could be tightened up. Having considered that exceedingly carefully, the Government believes that there would be dangers in creating exemptions to the principle of fairness, especially given that the courts are familiar with judging whether parties have been treated fairly in arbitration and in many other contexts.

Iain Smith thought that section 22, which is on arbitral appointments referees, was inelegant following amendment and that it should be revisited. After further consideration, the Government is content that the section reflects the intention of putting in place a means of appointing an arbitrator where the parties cannot agree, without having to go to court, which does not interfere with the existing appointment procedures.

Lewis Macdonald also noted that Scottish ministers had the discretionary power to update the act in light of changes to the United Nations Commission on International Trade Law model law and asked whether the repeal of the model law affected whether such a requirement should be mandatory. The Government understands that not all amendments to the model law have been welcomed by arbitrators internationally and believes that it would therefore be much better to keep the flexibility that is offered by a discretionary power.

In its stage 1 report, the committee cautioned the Government not to overstate the economic benefits that might flow from the bill, which I fully accepted during the stage 1 debate. To attract international business, Scotland must first demonstrate that arbitration here is efficient and cost effective. I believe that the bill provides Scotland with a modern arbitration regime that reflects the best of international arbitral practice and therefore sets the scene for greater use of arbitration here.

However, as I said in the stage 1 debate, to a very large extent it will be up to the arbitration practitioners to persuade commercial parties of the benefits of arbitration and arbitrating in Scotland. It is important to summarise those benefits again briefly.

Arbitration proceedings are usually confidential, which offers attractions for commercial parties, particularly if the subject matter of the dispute is commercially sensitive. The bill introduces a default rule to make it clear that arbitration in Scotland will be confidential unless the parties decide otherwise or there are good reasons for it to be otherwise.

Arbitration is also flexible, so that the process can be adapted to suit the dispute. The location,

timing and other arrangements can be planned to suit the parties' needs. They are not therefore tied to rigid court procedures and timetables. Lord Dervaird, one of the leading arbitrators in Scotland, has suggested that the arbitrator should get the parties together at the beginning of the arbitration, agree a timetable and then stick to it. In that way, delays and unnecessary expense can be avoided. Indeed, the bill places a mandatory duty on the arbitrator to progress the arbitration proactively and, if that duty is not complied with, the arbitrator can be removed by the court. The bill also creates conditions where the parties can choose their arbitrator, which is not possible in the courts. They can therefore choose a specialist in the subject area of their dispute and reduce the need to lead technical evidence, so the arbitration can be quick, cost effective and efficient.

Members might be interested to know that there is considerable interest in the bill among academics and students of arbitration. That bodes well for both the use of arbitration in Scotland in future and the necessary supply of well-qualified arbitrators and arbitration specialists. The bill has been a catalyst for a new course on international commercial arbitration at the University of Edinburgh, which is the most popular postgraduate masters law course this year, with some 48 students from around the world enrolled on it. That reflects the international interest in using arbitration as a means of commercial dispute resolution.

The bill was also included in a course on dispute resolution that was taught at the University of Aberdeen this year, and it will be included in the course on oil and gas contracting for masters students from around the world. A similar course on dispute resolution is being taught at the University of Dundee's centre for energy, petroleum and mineral law and policy, which runs annual introductory and advanced international arbitration conferences. In addition, discussions are taking place to arrange an international conference in the new year—to be co-hosted by the University of Edinburgh and the Chartered Institute of Arbitrators—to welcome the new act and focus the international spotlight on Scotland. We welcome that.

The University of Stirling has taught modules on international arbitration at both undergraduate and masters levels for some years, focusing on the different approaches that are taken to key issues in different jurisdictions. Scots law has tended to feature mainly as an example of how not to do things, but Professor Fraser Davidson has suggested that, with the advent of the bill, the focus has switched to Scotland as a beacon for the future, with particular emphasis on the innovative approaches that the bill has taken to a number of issues. Again, many students on the masters course at Stirling are from overseas, so knowledge of the bill will be carried to the four corners of the world.

Let us hope that Professor Davidson's words are prophetic and the use of arbitration at home increases markedly as a result of the reforms and modernisation that the bill has introduced. We hope that, as a result, more international arbitration work will be attracted to Scotland and we will see a renaissance of Scottish arbitration. I commend the bill to members.

I move,

That the Parliament agrees that the Arbitration (Scotland) Bill be passed.

15:32

Lewis Macdonald (Aberdeen Central) (Lab): I, too, acknowledge the work of the clerks to the Economy, Energy and Tourism Committee, unused as they perhaps are to dealing with subjects such as arbitration. I also acknowledge the advice and evidence that were given to us by the many people who appeared before the committee.

I welcome the fact that we have arrived at stage 3 and the fact that, as we heard, we may anticipate little dispute about the final outcome of the bill's parliamentary passage in the next hour and a half. That was not necessarily expected when the bill was introduced at the beginning of the year. As the minister hinted, the process began with some uncertainty about the character of the measure that was proposed and where it might best be considered within the Parliament's committee structure. The decision was submitted to our own in-house arbitration procedure, which is known as the Parliamentary Bureau, and as a result the bill was assigned to the Economy, Energy and Tourism Committee on the basis of the potential economic benefits to which the minister alluded.

That decision led to many of us becoming familiar with areas of public policy that are not ordinarily on the agenda of a committee that focuses on the economy. Those of us who took evidence in the committee saw witnesses and read submissions that came, almost without exception, from the legal profession and the arbitration community. In that sense, the experience has been an enlightening one for those of us who have not served on a justice committee, because the issues that were contested and the forms of advocacy that were deployed were particular to those professional groups.

However, in spite of that limited constituency, there is an economic rationale behind the bill and, like other parties, we support the proposition that Scotland's arbitration law should benefit from the

more modern framework that the bill offers. In its 10 years, devolution has brought benefits in precisely such areas by allowing specific Scottish provision to be updated where such legislation might have struggled to command time in the United Kingdom Parliament's crowded timetable.

Our approach has been to support such modernisation while ensuring that the focus should not fall exclusively on competing for international arbitration business at the expense of domestic consumers. At stage 1, we pressed the minister to consult directly with those involved in consumer arbitration schemes of one sort or another. We believe that such consultation should have removed uncertainties that might otherwise have surfaced only after the passing of the bill—and indeed it did so with regard to the reservation of consumer protection law to Westminster.

The potential economic benefit of attracting arbitration business to Scotland is, at this stage, unknown, and the dubious numbers that ministers initially offered were very wisely withdrawn after stage 1. It will clearly take more than an updated legal framework to attract business from such established global hubs of commercial arbitration as the City of London, where a wider enabling infrastructure is already in place. Nevertheless, it is right to ensure that there are no avoidable legal obstacles in the way of attracting business, and the broad support that the measure in its final form has attracted makes us confident that that is now the case.

From the outset, we were concerned whether the repeal of UNCITRAL model law would narrow Scotland's appeal as the seat of arbitration. I am glad that ministers agreed to make it explicit in the bill that parties could agree to adopt UNCITRAL model law in place of the default rules in the new Scottish law. As the Law Society of Scotland has blown rather hot and cold over the issue, I find it striking that, at this final stage, it has raised no fundamental objection to the resolution to that issue that we achieved at stage 2.

Another important issue was the bill's potential retrospective effect. I am glad that the minister took the opportunity to address such concerns at stage 2, and the setting of a clear transition process and the confirmation that arbitrations that are already under way will not be affected should ensure that there is no unintended confusion for parties to arbitration proceedings in Scotland.

At stage 1, the committee's cross-party view was that, although the bill had the right purpose, it was not yet fit for purpose. I welcome the Government's willingness to address a range of issues that were raised at that point in a set of amendments in the minister's name at stage 2. I also welcome the amendments that he moved this afternoon to address certain remaining issues, including the removal of uncertainty over anonymity in court proceedings. I believe that the bill now strikes the right balance in a number of ways that it did not at the outset.

The minister is also right to say that the consultation process has helped to address some of the issues that arose earlier in the process. However, he should not conclude that, in taking forward such complex and technically challenging legislation, it will always be enough to meet all the interested parties. In this case, it was helpful that the bill's fundamental principles had general support from the outset. I am sure that the minister will acknowledge that, had that not been the case, it would have taken more than stakeholder engagement to resolve some of the issues that might have emerged.

Now that we have reached this stage, it is clearly helpful that the University of Aberdeen and other universities are already teaching students about the interpretation of and the arbitration procedures resulting from the bill. I hope that it will now be possible for those who are involved in the arbitration business to justify at least some of the claims made on their behalf in recent months by attracting international business to Scotland while continuing to provide a cheaper, quicker alternative to the courts in resolving issues between parties in Scotland. That will build on the good name and reputation of Scots law and Scottish arbitration, and there will also be benefits if the Scottish Government engages proactively in attracting such business in future. Of course, it is not for the public purse to pay out vast sums to allow Scottish businesses to market their own business to potential overseas customers, but I hope that the minister will confirm that the public sector's role in promoting Scotland as a place for arbitration will not end with the passing of the bill this evening.

15:40

Gavin Brown (Lothians) (Con): I declare that I used to be a practising solicitor conducting arbitration and that I am retained on the roll of solicitors, although I do not think that I stand to gain personally from the bill. I thank the clerks to the Economy, Energy and Tourism Committee, who were extremely helpful with the bill, and all those who gave evidence to the committee at stages 1 and 2.

The codification of arbitration is a useful exercise, as it helps to present a more modern and dynamic offering of Scottish arbitration law. There is also a good economic case for the bill. It will increase slightly the number of domestic consumer and commercial arbitrations, and there is potential for a greater number of international arbitrations to come to Scotland. It is important not

to overstate the case, as was done to begin with, although the initial claim has been withdrawn. However, we hope that the number of international arbitrations will increase, without putting bold figures on that hope.

Ultimately, the success of the bill depends on whether it can make arbitration faster and cheaper. Those two attributes are, of course, related. Rule 23 will impose a duty that the tribunal must

"conduct the arbitration … without unnecessary delay".

Therefore, the duty to conduct arbitration far faster than has happened in the past is in the bill. Also, removing the stated case procedure that existed in arbitrations, which was open to abuse, should help to take time off many commercial arbitrations.

On the stage 2 and stage 3 amendments, it is fair to say that the minister has been inclusive and open in his discussions and negotiations. He has listened to the experts and to the committee's stage 1 report, which is why all 60 stage 2 amendments and all 30 stage 3 amendments were passed unopposed.

The meetings with the consumer groups on 6 August and with legal experts on 18 August were very important. The meeting with the consumer groups was important because it thrashed out a couple of issues and helped us to put to bed the fear that the bill would negatively affect consumer arbitrations.

The meeting with the legal experts was vital to the progress of the bill. The bulk of the stage 2 and stage 3 amendments came about as a consequence of that meeting, at which the experts put their heads together and looked through some of the technical faults in the drafting, some of which had just been brought in from the 1996 English act.

In particular, I pick out the changes to rules 45 and 46. Rule 45, on damages, has become mandatory, so the arbitrator will be able to award damages, which is important. Rule 46, on interest, is also now mandatory, so the arbitrator will have the power to award interest in all arbitrations. The danger with those rules as they were before amendment was that weaker parties to a contract would have been at a big disadvantage to the larger parties, particularly in, for example, a construction contract, in which the main contractor has some sway over a subcontractor. Making those rules mandatory puts both parties on a more level playing field.

The commencement rules at section 33 and the transitional provisions at section 33A make it absolutely clear that the bill does not apply to current arbitrations but does apply to contracts with arbitration clauses that have not yet gone into arbitration. However, it is important that the bill gives those parties the opportunity to opt out of the legislation, which is only fair.

Rule 50, on provisional awards, has become default and rule 51, on part awards, has become mandatory. I support those moves. There was a suggestion that, initially, the bill was simply presented the wrong way round, although that was disputed. In any event, it is absolutely right to have rule 50 as default and rule 51 as mandatory. I also welcome the attempts at stage 2 and today to strengthen and tighten the rules on confidentiality. The Government has got that right, too.

The bill's success rests on whether arbitration becomes faster and cheaper. If it does not, arbitration does not have a particularly bright future but, if it begins to become faster and cheaper, it can start to prosper domestically and internationally. The bill attempts to achieve that and it is the best that we could put together, but more important will be the culture shift among arbitrators, legal practitioners and the parties to arbitration. If the combination of the bill and the culture shift makes arbitration faster, the future can be positive.

The minister said in his opening remarks that it will probably be a long time before arbitration is on the legislative agenda again. I am sure that that is right. We will certainly support the bill at 5 o'clock, but I ask the minister to keep a watching brief on the issue. We might not return to it in a legislative sense any time soon, but it is important that the tools are not downed today or tomorrow. I hope that the minister personally agrees in his summation to keep a watching brief and to do everything that he can to ensure that arbitration becomes faster and cheaper.

15:47

Robert Brown (Glasgow) (LD): We are dealing with a relatively technical and unusual bill, but it relates to an important part of the legal remedies that are available to parties who are in contention. I am not a member of the Economy, Energy and Tourism Committee—I am here in place of Iain Smith, who is not available—so I was not involved in the committee's debates and discussions at stages 1 and 2. However, like Gavin Brown, I have over the years been involved in one or two arbitration procedures, although I am sure with a much lower level of expertise. I guess that that gives me a degree of ancient insight that might or might not be helpful.

As I looked round the chamber when we discussed the amendments earlier, I was intrigued to see the leader and former leader of the Labour Party and various other luminaries of the Labour Party. There were also seven ministers of the SNP

Government, including the Minister for Transport, Infrastructure and Climate Change, who, of course, was not able to be present during the debate on the Glasgow airport rail link. I wonder whether he came along today to find out something about arbitration that might be useful to him in the on-going debates on that project.

The principal object of the bill is to consolidate and modernise the law relating to arbitration. I do not know whether that will be useful to the Minister for Transport, Infrastructure and Climate Change, but it is well worth while. It is clearly not entirely satisfactory when the substantive law has been built up piecemeal and goes back in part to 1695 or before. Arbitration has several potential advantages—although I stress that they are potential—over court procedures or when used in supplement to them, but those advantages have often not been realised in practice. The bill seeks to tackle that in principle. As Gavin Brown rightly said, the process must be speedy, it must deal with the technical issues competently and it must result in an award that is final and not subject to appeal unless there are major deficiencies, such as going beyond the remit. It should also be economic.

There are advantages in the ability to enforce an award by registration in the books of council and session and what takes place thereafter. However, I am not entirely clear whether, in the international context, there is enforceability under that procedure outside Scotland. Perhaps the minister can give reassurance on that.

In my limited experience, which related to building contracts, arbitrations were none of those things that they need to be. They were cumbersome and time consuming. Agreeing the remit, never mind anything else, took enough time. The costs were substantial, the process was lengthy and, quite often, one party went bankrupt before it was finished. It is perhaps not surprising that there are not too many arbitrations. The test of the new bill will be the extent to which the objectives of speed, convenience, competence, finality and economy are achieved. It is clear that the committee's work has greatly improved the bill from the condition that it was in when introduced. As has been said, the minister has responded positively to the issues that were raised.

The Government had a vision of Scotland as an international arbitration centre. Lewis Macdonald made some observations on that. There might be potential for that, but it is clearly much less than the Government claimed.

A modern, speedy and affordable arbitration system using well-understood international concepts that is part of a respected legal system, which Scotland has, and in which the international language of English is used could be attractive to people outside Scotland. Indeed, our legal system stands at the crossroads between the civil law systems of the continent and the common law systems of the Anglo-Saxon world.

As the policy memorandum recognises, many contracts specify that English law will apply in the event of a dispute. That is a significant hindrance, although not a total bar, to such contracts being arbitrated on in Scotland. Some contracts go further and specify that any disputes are justiciable only in the English courts. Will the minister give the chamber his thoughts on how that sort of difficulty can be overcome and what the potential is for attracting overseas or even UK arbitration business to Scotland?

The other policy aspect of interest is the possibility of a boost to individual trade and industry low-cost arbitration schemes. I am not entirely clear how those are covered by the bill but, unlike major building or contractual arbitrations, which are an alternative or supplement to court proceedings, such schemes usually operate where court proceedings are not a viable option. Many people are familiar with the Association of British Travel Agents scheme, which is used in package holiday disputes, or the National House Building Council scheme for disputes involving new houses. Such schemes are a key mechanism in building customer confidence in many retail, service and supply businesses, whether the problem is new windows, roofing work, central heating, substandard cars or defective clothing. The areas of greatest deficiencies are usually those where there is no trade body or where the trade body does not have a recognised and reputable arbitration or guarantee scheme. I will be interested to hear whether the bill has any potential to develop those matters.

The Arbitration (Scotland) Bill is hardly at the high end of political and party controversy. It is unglamorous and technical and has probably used up more brain cells than most of us have left—happily, I was not on the committee to suffer that fate. For all that, the bill has benefited hugely from the input and criticism of witnesses and stakeholders and from the diligence of the committee and the minister. It will be a proper end to that work when the bill passes stage 3 at 5 o'clock.

15:52

Rob Gibson (Highlands and Islands) (SNP): What more can be said? I am sure that members who follow me will find things to say.

I believe that the collaborative approach that has been adopted in the bill is a good model to take us forward. Of course, it helps that we are attempting

in the bill to enable arbitration to regain the place that it had in the past as a means of sorting out disputes between private and public bodies. I welcome the potential for consumer law to go in that direction, because an awful lot of groups feel threatened by the thought of having to take disputes to court.

The committee was charged with seeing whether we could modernise Scots law and bring it into the 21st century by making changes. No doubt Parliament will have many opportunities in future years to do similar things. Although the idea of making Scotland a centre for international arbitration is an excellent pitch, we should first try to get more people in Scotland using the system and then sell it elsewhere. There was some discussion at stage 2 about whether we should market Scotland. I think that we should first let the new system bed in, but the omens are certainly good. When courses are taught in our universities that allow people to learn about the arbitration process, word will undoubtedly spread.

It is a pity that one of the things that we have left behind is the old Scots word "arbiter". The word "arbitrator" is used in arbitration practice around the world, so it is a pity to see a good Scots word leaving Scots law. Nevertheless, those of us who mourn its passing also recognise that we wish to be part of the internationalisation of the arbitration process in the modern world.

In the words of the minister, the bill offers an elegant way to deal with the process of arbitration. The way the committee worked mostly allowed us to reach agreement without a vote and our approach showed that when stakeholders from outside Parliament were involved, parties in the committee could reach conclusions.

I thank for their input all those who made the bill possible. It will be a useful addition to Scottish statute.

15:55

Ms Wendy Alexander (Paisley North) (Lab): In the tone of my speech, I will take my cue from Rob Gibson.

Today is noteworthy not simply because we are about to pass a valuable piece of legislation but because, collectively, we may find ourselves with insufficient to say. A few cynics among us will attribute our comparative brevity to the bewilderment that some of us, as members of the Economy, Energy and Tourism Committee, felt when we were asked to pilot a piece of what is, unarguably, justice legislation through the Parliament, but let me offer a more positive reason, which is the Government's willingness to take on board most of the key representations that were made at stages 1 and 2. The passage of the bill is a near-textbook example of the Parliament's procedures as envisaged by our forerunners in the Scottish constitutional convention and the consultative steering group. It is right for us to reflect on that in the moments before the bill is passed.

This is a distinctively Scottish bill that was urged on us by civic Scotland and for which the Government found space in its legislative programme. The bill was tested to destruction in committee, based on our wider evidence taking and the views that civic Scotland had expressed to us. The minister and the bill team agreed to listen, revised the proposals over the summer, in the light of representations, and lodged more than 60 Government amendments at stage 2. Ministers have again been responsive today, as is evident from the unanimity that every stage 3 amendment has commanded. That is the sort of consensual law making for which the CSG longed.

It is valuable today, just days short of our final 10-year anniversary celebrations, to recognise how the law-making process can work in line with those early hopes and aspirations. Realism demands that I point out that there are issues on which strong differences will continue to typify our debates. That is right when 128 of the 129 members who grace the chamber were elected to legislate on a party-political label. However, it is important to make the point that the process that was envisaged can work.

The widespread consensus that exists on the bill is not the same as unanimity. Members have mentioned the concerns of the Law Society and others that remain outstanding. Last night, as I tried to arbitrate on who was right—the minister or the Law Society—it struck me that at this time, before the bill is finally passed, any arbitration or adjudication on matters still outstanding can be merely provisional. To use a seasonal metaphor, the proof of the pudding will be in the eating—or, to use an alternative foodie formulation, we must now just suck it and see.

The approach of our 10th anniversary and the passage of such a consensual piece of legislation should encourage us collectively to reflect not only on how we pass legislation but on how, after its passage, we arbitrate and look back to see whether that legislation meets the objectives that were set by ministers, whichever party they represent. In the coming couple of weeks, every party that is represented in the chamber will set out its views on the Calman commission and the national conversation, both of which propose amendments to the stage 3 procedure to build a greater pause into the process. However, it is surely as important that we enshrine a process that allows us to look back and reflect on the

extent to which legislation meets ministers' objectives, as set out in the stage 3 debate.

It is fair to say that today we have been at the cutting edge in meeting the aspirations of 10 years ago—in finding a procedure for legislation that can be inclusive. Surely the next challenge for the years ahead is to find a mechanism for looking back to see whether the objectives have been met in practice.

I will stop there, Presiding Officer—I risk departing even further from the details of the bill, about which it was my explicit intention to speak. It was not my explicit intention to fill this speaking slot beyond what had been offered to me, however, so I give way to the next speaker.

16:00

Stuart McMillan (West of Scotland) (SNP): I, too, thank the clerks to the Economy, Energy and Tourism Committee for their assistance throughout the passage of the bill.

As of 5 pm, Scotland will have a vastly improved regulatory position with respect to arbitration. I hope that Parliament will unite on that. From what we have heard up to now, that is probably what will happen. The Arbitration (Scotland) Bill will certainly promote Scotland as an international centre for arbitration.

As I said during the stage 1 debate, it will be difficult to compete with the established players in arbitration such as London, New York and Geneva. However, I hope that, with an improved and consolidated law, Scotland will be in a better position internationally. A service that is more competitive and that can be sustainable is in the interests of every single community in Scotland, even though the perception might be that Edinburgh will be the main beneficiary. I do not see how any party that is represented in the chamber can argue against it.

As with any other industry or service in Scotland, we should, when it comes to arbitration, want to compete at the highest level, while appreciating that we need to establish ourselves first. I am sure that, in time, the Scottish reputation for arbitration will grow and will further enhance our wider international reputation.

Our committee's stage 1 report said that the bill was

"not yet fit for purpose",

so the bill has been amended with 60 amendments at stage 2 and 30 today. I remember gently urging my committee colleagues at stage 1 to temper their language—I was not aware of many bills that had appeared before the Parliament without being amended.

I was surprised that none of the amendments came from Opposition parties, even if they thought the bill was not fit for purpose. It is unfortunate that politics can sometimes be that way—criticising without offering any tangible solutions.

Lewis Macdonald: Does Stuart McMillan accept that the Opposition view, as he described it, that the bill was not fit for purpose, was one of the factors that contributed to amendments being lodged that we were able to support?

Stuart McMillan: The collegiate way in which the Scottish Government proceeded with the bill certainly helped to improve it and to ensure its passage through Parliament.

As I said, there were a number of amendments, and the Government listened to concerns that other parties in the Parliament raised, as well as to those of people outside Parliament. I congratulate the Government on holding the stakeholder sessions in August to help to progress the bill. Unfortunately, I was not able to attend either of those events because of the arrival of a new addition to my family, but I appreciated the Government's continuing openness to discussing and progressing the bill in a collegiate manner, which was beneficial to the Parliament as a whole.

Various issues regarding certain sections of the bill have been rehearsed both in committee and in the chamber, and clarity on a couple of those points has improved the bill. The imposition of a mandatory rule for a tribunal to conduct arbitration "without unnecessarily delay" and "unnecessary expense" is an important step. That is in rule 23. To be competitive internationally, it is imperative that tribunals have a reputation for fairness and expediency, and that their procedures be as unobtrusive as possible. That can only be a good thing for anyone involved.

Secondly, rule 24, which covers the duties of parties to tribunals, is similar to the rule that applies to the tribunal itself: they must act as efficiently as possible, and failure to do so could have financial consequences.

I am sure that the Arbitration (Scotland) Bill will have a beneficial effect on the arbitration business in Scotland, and that it will make our industry more competitive internationally. I fully welcome this non-party-political bill, and I hope that it receives full support from across the chamber at 5 o'clock.

16:04

Marilyn Livingstone (Kirkcaldy) (Lab): I thank the clerks to the Economy, Energy and Tourism Committee and my fellow committee members for their help and support during our consideration of the bill. I also thank the people who gave evidence and helped us with the bill's technical aspects.

The bill's main purposes are to clarify, consolidate and extend Scottish arbitration law, and to provide the statutory framework for arbitration. It will ensure fairness and impartiality in the arbitration process, which is important. For businesses, it will minimise expense and ensure that the process is efficient. The bill will replace the dual arbitration regime that currently applies in Scotland with a single codified set of rules, which in principle will apply to domestic, cross-border and international arbitrations. Members should welcome such an approach.

As Lewis Macdonald said, the Economy, Energy and Tourism Committee was designated lead committee on the bill. My colleagues and I supported the general principles of the bill and recommended that Parliament approve them at stage 1. However, the committee agreed by majority that the bill as introduced was not fit for purpose and that amendments would be needed if it was to meet its objectives. The committee reminded the Minister for Enterprise, Energy and Tourism, Jim Mather, of his commitment to meet relevant bodies. The minister has said that such meetings took place prior to stage 2.

The committee considered and agreed an approach to scrutiny of the bill at stage 2 and wrote to external organisations to seek their views. The responses helped members who had not been involved in arbitrations. At stage 2, 60 amendments in the name of the minister were lodged, all of which were agreed without division, which illustrates the non-partisan approach to the bill. We welcome the clarity that the amendments at stage 2 and stage 3 have brought to the bill. Bodies such as the Law Society have welcomed the bill as a progressive bill, which aims to achieve much-needed reform and to make arbitration a powerful tool for dispute resolution in Scotland.

In Scotland, arbitration is not currently regarded as an attractive form of dispute resolution and in general is considered to be slow and expensive. The services of an arbitrator, unlike those of a judge, are paid for by the parties who are involved and, depending on the complexity of the case, legal representation might also be required. If no recognised set of arbitration rules exists, parties can be unable to agree on rules to govern the arbitration process, let alone reach a resolution speedily.

The bill places emphasis on reducing expense, timescales and complexity by seeking to simplify the rules of arbitration. That approach is welcome in these difficult economic times. A streamlined mechanism for resolving contractual disputes will be welcome in, for example, the construction sector. I am convener of the cross-party group on construction and have been made all too aware of problems that arise from payment practices, particularly for smaller businesses, which frequently have to assume costs when clients do not pay. When there is a dispute about payment, many small businesses cannot afford the expense of the solicitors and advocates who would be required in taking another party to court. The extension to all parties of the arbitration process from sectors that already have in place good systems, such as the tourism industry, should be welcomed, and the principles of fairness, impartiality and need to minimise expense should help small businesses in our constituencies. I hope that the bill will encourage industries, trades and professions to set up low-cost arbitration schemes.

The strategy of developing a self-financing dispute resolution centre in Scotland is welcome. I hope that the bill will encourage the use of arbitration domestically as a means of commercial dispute resolution, thereby helping to attract international arbitration business to Scotland. That would have spin-off benefits for our hotels and restaurants and for our transport services.

I welcome the bill and hope that it will receive members' full support at decision time.

16:09

Christopher Harvie (Mid Scotland and Fife) (SNP): I congratulate the team that was responsible for producing the bill and I also congratulate the committee of which Rob Gibson and I are members for seeing the bill through.

Arbitration will never make the hairs on the back of the neck stand on end; we do not go around the squares of great European towns and see statues to the unknown arbitrator—although he probably is unknown. We find statues to generals and martyrs—which reminds me of George Bernard Shaw's lovely phrase to the effect that martyrdom is the only way to achieve immortality without talent—but we do not find statues to people who exist to prevent wars.

As far as I know, no arbiter was in business at the time of the Schleswig-Holstein question. That dispute between Germany and Denmark was so complex that Lord Palmerston, the then British Foreign Secretary, said that only three people understood it: one was dead, one was mad, and the third—Lord Palmerston—had forgotten all about it.

That sort of thing can be important. Not a lot of members will know about the Venezuelan crisis of 1896, in which Britain nearly went to war with America. America's President at that time was the sensible figure of Grover Cleveland, but we nearly managed to send our battleships steaming in the direction of New York, because someone let a process get out of sync. The situation had to be

retrieved by the Oxford academic whose biography I wrote—James, Lord Bryce, who was a product of the University of Glasgow. From that crisis was created the Anglo-American arbitration treaty, which has coped with the relationships between our two countries from then up to the present.

A much more serious incident that nearly brought Britain and America to blows was almost totally of Scottish creation and Scottish resolution. It was the business of the Confederate steamship Alabama, which was built in Birkenhead by a Scottish shipyard owner whose name—we are not likely to miss the nationality—was Macgregor Laird. He forgot—whoops!—to inform the British Government that the ship was due to sail. Another Scotsman, W E Gladstone, winked at it because he sympathised with the American Confederacy at that time. The Alabama sailed and proceeded to sink or capture most of the federal marine. At the end of the civil war, the Americans approached Gladstone, who was by that time the Prime Minister and who had shifted from his enthusiasm for the Confederacy to being a proponent of democracy, and said, "What about it, then?" The result was the first important international arbitration case. Under the settlement that was made in Geneva in 1871, Britain stumped up $15 million for the damage that was inflicted on the American merchant marine. Even given that the exchange rate at that time was roughly $4 to £1, that made a considerable dent in the British Exchequer. That established the process of international arbitration, which is one factor that has governed the famous special relationship between Britain and America. It was jaw-jaw—or better, money-money—rather than war-war from then on.

It is intriguing that the British representative at the arbitration was Sir Alexander Cockburn, who was from a well-known Edinburgh legal family. He sat later on the bench as Lord Cockburn. Some years later, he came up in conversation when his great-grandson, Evelyn Waugh, was asked by a friend, "Evelyn, is there anything that you really regret?" Waugh said "Yes—that I was not born the descendant of a peer." The friend replied, "But you're the descendant of Lord Cockburn." Evelyn Waugh said, "Yes, but he was a useful peer. I want to be descended from a useless peer." Lord Cockburn was a very useful man in setting up the system of the settlement of disputes.

Arbitration is a way of preventing heroism. We have heroism and wars, and we have boring meetings in Geneva. However, the result of the latter is considerably greater progress in civilisation. Civilisation was invented in Scotland in the 18th century by Adam Ferguson of the University of Edinburgh; it meant to him simply a state that decides its disputes in a court and not by force of arms. We in Scotland ought to be particularly proud of that.

The Scottish Government has done well in taking and running with the idea of making Edinburgh a centre for peaceable and expeditious settlement of disputes. We have considerable expertise behind us, which I have gone on about at some length, but we have also the expertise that we garnered during the 1970s and 1980s, as the minister suggested, by being the power that had most to do with the North Sea and the tremendous new technologies that had to be integrated into legal frameworks. We did not just create the science of positioning, which enabled for the first time from the creation of the world—depending whether one views that as a single act or something stretching back several thousand millennia—a floating object to remain absolutely stationary in the water. That was done down at Ferranti and at Racal in Leith. We also perfected the simple and effective solution of disputes between oil countries and between the people who extract oil from the North Sea.

We therefore have a background that gives us tremendous effect when it comes to suggesting good paradigms for the way in which Governments and private concerns can conduct themselves and come to safe, expeditious, unheroic and boring agreements—as long as they do it in Edinburgh. We will have many more of those, given the spread of international linkages, such as multi-user railway lines and the use of different sorts of pipelines, which may go in one direction for oil and in another for the return of carbon. Such business will come to us if we work out expeditious means of settling disputes.

In an age when the virtual world is advancing on us day by day, why not use computer programmes to do so much of the boring and tedious work for us, so that in number-heavy cases they can present us with the options and allow people to come to rapid settlements? If I may conclude with an appalling pun, you know IT makes sense.

The Deputy Presiding Officer (Trish Godman): We now move to the wind-up speeches. I call Robert Brown.

Robert Brown: I am sorry—I was not expecting to wind up. I have said all that I want to say on the matter already.

The Deputy Presiding Officer: I now call Derek Brownlee, who has maybe said all that he has to say as well. No?

16:18

Derek Brownlee (South of Scotland) (Con): I do not know in my speech whether to follow the example of Christopher Harvie and talk about

martyrdom or to follow the example of Wendy Alexander and talk about brevity. On balance, I think that my contribution in summing up for the Conservatives will follow Wendy Alexander's lead, which is in itself a remarkable achievement, certainly from my perspective.

I turn briefly to the substance of the bill. There has been remarkable consensus across the chamber on the subject. That is perhaps not surprising, because it is in no one's interest that any form of dispute resolution, whether arbitration or any other mechanism, should be expensive, time consuming or unwieldy. Whether we are talking about commercial disputes or any other form of dispute, disputes are by their nature a bind and an economic cost on the underlying issue.

I understand why the bill was given to the Economy, Energy and Tourism Committee—although, had I been a member of that committee, I would probably have thought that it would be better addressed elsewhere—because of the potential economic benefits of arbitration and, indeed, the economic costs of the logjams that can currently arise during disputes.

The key question is whether the potential benefits that have been put forward as the reason for introducing the bill will be realised in practice. However, even if those benefits are not realised, we will not—from all the contributions that I have heard so far—end up in a less attractive place than we are at present, so the risks seem to be entirely on the upside.

Lewis Macdonald hit the nail on the head in pointing out that other factors attract people in their choice of where to conduct arbitration. We need to be cognisant of those other significant factors that lead people to go elsewhere. If arbitration in Scotland is to be a success, it is crucial that we get a critical mass not just of business but of expertise. That point has been reflected on in a number of speeches during today's debate.

It is only fair to pay tribute to the way in which the Government has approached the bill. It cannot have been particularly pleasant to be on the receiving end of a committee report that stated that the Government was not going about the matter in the right way, but the Government's approach thereafter was laudable in showing that it was listening to the committee's recommendations. The general consensus across the Parliament seems to be that the bill now is better than the bill that was introduced, so we are in a much better place than when we started out.

As both Wendy Alexander and Lewis Macdonald mentioned, the bill is precisely the sort of technical law reform that the Scottish Parliament should be able to enact. If—let us be quite honest about it—this Parliament deals with such subjects only "once in a generation", as the minister has said, how frequently would Scots law on the issue have been reviewed at Westminster? Therefore, it is significant that we have been able to spend time on the bill.

I was not sure whether Wendy Alexander was being ironic when she praised the Government for finding space in its legislative programme to introduce the bill. Although that must have been a real challenge to ministers—umpteen mind maps must have been discarded before the way through was found—I believe that there is a place in this Parliament for substantive technical law reform, which might not make the front page of every newspaper but has a value in the wider world. We look forward with interest to the discussions with the UK Government about the reserved aspects.

A couple of noteworthy speeches were those of Robert Brown, who mentioned GARL perhaps more in hope than in expectation—and who probably understated his previous expertise in arbitration matters—and of Christopher Harvie, whose speech I found refreshing. His was perhaps the first speech in the Parliament in which Venezuela was not mentioned simply as an invitation to laud Hugo Chávez on some crackpot socialist ideal that he has launched upon the poor people of his country. To hear from Professor Harvie about the Venezuelan crisis was not perhaps what I expected when I sat down for this afternoon's debate, but it was enlightening nonetheless.

In conclusion, the Conservatives hope that after the bill is passed this afternoon—as it undoubtedly will be—its potential benefits will be realised. We should be able to look forward not just to an improved legal basis for arbitration but to some of the economic benefits that might arise not just from attracting arbitration to Scotland but from speeding up our arbitration process. If we could find a way of speeding up the legal process more generally, we would reduce costs and—my goodness—the Scottish economy would be in a very much better place and stronger as a result.

16:23

David Whitton (Strathkelvin and Bearsden) (Lab): I am delighted to speak in the debate on behalf of the Labour Party. As has been mentioned, Labour members will support the bill. One might say, indeed, that that is a case of arbitration in action.

I am pleased to note that the minister listened to the concerns of the Economy, Energy and Tourism Committee, which raised a number of points about the bill at stage 1. We all know that Mr Mather is a reasonable man who practises

what he preaches, so I was unsure what he had done to deserve the punishment of steering the bill through Parliament. However, we have heard some of the history of that, which I believe has something to do with the Justice Committee's Tory convener, Mr Aitken, feeling that he was a bit overworked. Be that as it may, the bill ended up at the door of the Economy, Energy and Tourism Committee, which has done a fine job.

The one thing that disappointed me about Mr Mather's speech was the lack of any evidence from books that he had read about arbitration. Normally, his speeches are peppered with authors' comments and references to learned tomes that I have to look up on the internet to find out whether I should read them. However, I am happy to assist him with his reading matter. I can tell him that there are more than 130,000 books about arbitration, as I found out through a Google search earlier today, including "Early English Arbitration" by Derek Roebuck, which is a snip at £33.91 on Amazon. Mr Mather might prefer the expert guidance on the art of good pleading that Charles MacDonald QC and Chirag Karia provide in their book, which represents ideal reading for a minister who will have a lot of pleading to do in the Parliament until April 2011.

To be fair to Mr Mather, he took away the points that the committee raised at stage 1, with the result that we voted through the amendments that he so graciously acceded to. Given that we will be voting together at 5 o'clock, his pleadings have been successful so far, so perhaps he has no lessons to learn from Charles MacDonald QC—who knows?

As someone who was not involved in the earlier deliberations on the bill, I have found the debate interesting. I admit that I was a little concerned when I looked across at the Conservative benches and saw that we would be up against the dynamic duo of Mr Gavin Brown and Mr Derek Brownlee. Mr Brown apparently took an inordinate interest in the bill during the earlier stages of its consideration, and I was told that that was something to do with his background. In his speech, he admitted to having spent a lot of time in Scotland's courts—as a solicitor specialising in contract disputes, I hasten to add. The fact that he has been shortlisted in the "one to watch" category at tomorrow night's politician of the year awards is surely a concern for his colleagues, especially Mr Brownlee, who, if I recall correctly, was in that category last year. We have been watching him ever since.

I am sure that Gavin Brown will not mind me sharing with members *The Herald*'s description of him as a potential leader of his party. Whether he is a potential leader of his party here in Holyrood or at Westminster is not clear, but if he can arbitrate between the warring wings of Murdo Fraser on the right and Annabel Goldie on the left, it is clear that he has a future somewhere. He might even be able to help his party to decide just what its policy on Europe is, but that is perhaps for another place. [*Interruption.*] Mr Brown is yawning—he is bored already. Good heavens!

We know that Mr Brown likes a laugh, as he has just demonstrated, as one of his fantasy dinner guests would, I read, be the comedian Ricky Gervais. The Conservatives might want to bear that in mind when they look for a cabaret turn at their office Christmas party. His other chosen fantasy dinner guest was Winston Churchill, who the good people of Dundee had the wisdom to reject as their MP. Instead, they elected the temperance candidate called Scrymgeour. However, I digress.

We heard from the Opposition solicitors Brown and Brown, which sounds like a law firm. Gavin Brown told us that the bill represented

"a more modern and dynamic offering",

and that in future arbitration would be faster and cheaper, which we would all welcome. For the liberals, the senior partner—at least in age—Robert Brown told us of the Government's vision. I know that the Scottish National Party and its ministers have many visions, but on this occasion the vision is of Scotland as a modern arbitration centre. We all agree with that objective.

I was taken with what Mr Mather said about the number of universities that now teach arbitration legislation. As ever, he used a telling phrase when he spoke to his amendments. He said that he was amazed at the elegance of the bill. We have probably all been amazed by that, but it was a nice phrase nevertheless.

My colleague Lewis Macdonald commented on the dubious figures surrounding the bill at stage 1. I cannot for a second believe that Mr Mather would be guilty of such practice, but luckily he has managed to temper his enthusiasm for what the bill might mean for Scotland and we have a much better forecast in place.

Rob Gibson wanted arbitration to be restored to its rightful place by a 21st century law. We all say, "Hear, hear," to that. Wendy Alexander reminded us that the way in which the bill had been constructed and considered represented almost a textbook example of how it was anticipated that the Parliament would work. She also made the helpful suggestion that we should perhaps put in place a method of checking whether any legislation that the Parliament passes does what it says on the tin.

Stuart McMillan came close to making a speech that was not fit for purpose, but he managed to

rescue himself just in time, and his speech fell in with the other consensual speeches. I am sorry that he is not here. Where has he gone? I do not know whether he has fallen out somewhere. Perhaps he has gone for a cup of tea or a lie down after listening to Christopher Harvie.

I miss Christopher Harvie's contributions in the Economy, Energy and Tourism Committee. He gave us a long historical discourse. The last time that I heard Schleswig-Holstein mentioned was in a school history class, which was not yesterday. As ever, Professor Harvie amazed me with his knowledge and his ability to speak off the cuff. One thing that he can guarantee is his immortality in the Parliament, perhaps without the martyrdom to go with it.

In conclusion, the debate has been consensual. We now have a bill that is worthy of the Scottish Parliament and to which everyone has consented. It will be passed at 5 o'clock. All members should welcome that.

16:31

Jim Mather: I congratulate the bill team on showing assiduous professionalism. Its attention to detail and the support that it has given me have been terrific. It has been galvanised into producing a bill that is very much fit for purpose. I must also weave into my remarks congratulations to the committee, which really stepped up to the mark. Gavin Brown made contact with his previous life and brought his expertise to bear, which was nothing other than helpful and constructive and sometimes demanding, although positively so.

The bill is long overdue. Legislation on arbitration has been under consideration for at least 20 years. Some of the existing legislation has essentially been in force since it was passed by the old Scottish Parliament in 1695.

At one time, arbitration was the dispute resolution method of choice in Scottish commerce, but its popularity has diminished in recent years due to the unsatisfactory state of the law, which is obscure and out of date and has significant gaps. Robert Brown gave us an interesting view on that. He said that the process was previously slow and expensive; I almost read from what he said that it was conducive to bankruptcy. The law stood in need of reform, and without the bill the use of arbitration would have continued to decline in Scotland at a time when its use is increasing in other parts of the world. We have an opportunity to share in that development.

The bill patently provides a framework that is based on the UNCITRAL model law, but the gaps in the model law have been filled in so that Scotland will have a comprehensive arbitration regime that can be applied to both domestic and international arbitration and which captures the best of generally accepted international practice.

Obviously, the Arbitration (Scotland) Bill is a technical bill. I was therefore grateful for David Whitton's speech, which put it in a broader context. It has benefited from close consultation with stakeholders—indeed, the engagement on the technical, legal side of the bill has been almost unparalleled. I take Lewis Macdonald's point: engagement has not been the only answer, but it has been an important part of the process. I am grateful for the points that Gavin Brown made about that. Lessons have been learned that we can apply to other bills. In a future iteration, I would want the stakeholders to get involved at the earliest possible stage and to get them genuinely involved in the process.

It is clear that economic methods of dispute resolution are needed. Gavin Brown talked about cheaper and faster key measures. The culture shift will be driven by purpose, and the purpose must be to offer the parties cheaper and faster effective arbitration. In the current economic climate, businesses are increasingly choosing to resolve their disputes out of court in order to save time and money. I am grateful to Marilyn Livingstone for making a point about the opportunities that the bill offers to small businesses in particular. It is not fanciful to hope that we can create a more open and collaborative approach in the business community on the back of the bill. We have certainly spent a lot of time trying to bring businesses together and to get them to talk to one another. Moving down the route of the bill could be useful in boosting the competitiveness of Scottish business.

The flexibility of arbitration makes it one method of non-court dispute resolution that is available to individuals and businesses to facilitate the speedy and effective resolution of disputes at a viable cost. Alternative dispute resolution is something that we can augment and build on in Scotland.

I will mention some of the people whom we have met as a result of the bill—the people who can help to drive it internationally. I say to Mr Whitton that some of them have actually written books, which I may mention before I finish. Those books have added to the weight of their arguments.

It is worth recognising where we are just now compared with the UK Arbitration Act 1996. Although the approach to arbitration in the bill is generally consistent with the 1996 act, which applies in the rest of the UK, the opportunity has been taken to augment and update to reflect modern arbitral practice. The Chartered Institute of Arbiters believes that the bill is superior to the legislation in the rest of the UK, and it is hoped that the recognised framework, the quality of the bill and the fact that arbitration will be much

cheaper in Scotland than in London will attract business here. We take on board Robert Brown's point about some cases being justiciable only in English courts. We must get people to recognise the benefit of coming to an attractive, neutral venue—indeed, many feel compelled to come here even without such encouragement.

Robert Brown: The difficulty is that the terms are in standard contracts, which are produced long before the contractual dispute arises. Someone therefore has to go right back to base 1 to get the deletion of a term or insertion of a reference to arbitration in Scotland if we are to make any progress. It is a challenging issue.

Jim Mather: It is a challenging issue, but it is linked to Gavin Brown's point about the need to keep a watching brief to ensure that progress happens. As Lewis Macdonald said, we must ensure that the public sector does everything that it can to establish the link between the professional bodies that are involved, academia in Scotland and Scottish Development International in getting the point across.

David Whitton: I am interested in what the minister has just said to Robert Brown about his earlier comment on England being the first point of reference for arbitration. Now that we are about to pass this 21st century legislation, what does the Government intend to do to market Scotland as a centre of excellence for arbitration practice?

Jim Mather: I will come to that specifically in a minute. It is important to recognise the appetite that was shown at the stakeholder sessions for those groups to meet again and to keep at it as the work develops.

Apart from the cost advantage, there are other advantages to arbitration in Scotland. The bill is world leading and it is important that we are an English-speaking location. We have a safe, evocative environment and can offer a high level of amenity. There is an opportunity for our tourism industry to see arbitration as an extra string to its bow every bit as much as it is an extra string to the profession's bow. Furthermore, the Scottish arbitration rules are deliberately set out in the main body of the bill. That approach means that the rules will be read not only as a relatively self-standing code—as Gavin Brown mentioned—and a guide to practitioners but as one that is easy for non-lawyers to understand, which helps us to get the message across about the great potential for arbitration in Scotland.

The bill alone will not increase the amount of arbitration that is carried out in Scotland; the case for arbitration must be worked at. We must see those who are involved making the case and pointing out how cost effective arbitration will be in Scotland. As I said earlier, we will publicise the benefits of the bill and make as much progress as possible in that regard.

Wendy Alexander talked about unanimity and the consensus that exists around the bill. She also, pretty sensibly, made the point that we need a clash of ideas to move things forward—that is the nature of arbitration.

One of the delights of taking the bill through the Parliament has been the fact that I have been able to have lengthy conversations with the likes of Sir Anthony Evans, who has done much for arbitration in Dubai, and John Campbell, who is pretty stellar here in the Scottish scene. I have also spoken to Americans such as Kenneth Cloke and William Ury as well as our own mediators here in Scotland, John Sturrock and David Semple, and lots of Law Society members. The feeling is that there is a real potential for Scotland to be a centre for alternative dispute resolution—that is very much on the cards.

I will share with members a wonderful quotation from Kenneth Cloke, which, in essence, reinforces what we do for a living:

> "It is my belief … that ardent dissent, courageous confrontation and a willingness to personally engage in conflict are essential to bringing about fundamental social, economic and political changes."

We will stick to our tools while we move forward.

Another interesting thinker in this area is a guy called Chris Argyris, who urges us not to take positions but to look at the facts, understand the problem, look at the alternatives that could be used to overcome the problem and consider using hybrids of those alternatives. The nice thing that he encourages us to do—which I think Wendy Alexander was also encouraging—is not only to stick at it, as Gavin Brown was suggesting, but to look for long-term improvements as we move forward, which will ensure that an idea does not become frozen in time.

Rob Gibson shared with us some interesting thoughts about international arbitration. Although I have calmed down about the economic benefit of the legislation, I must tell members that, had they been at the session on 30 April with the various stakeholders, they would also have been swept up in the enthusiasm around the potential that we face. I leave that thought with members.

My enthusiasm was fired up again today when I heard Chris Harvie talking about Adam Ferguson, because the ownership of a brand called the progress of civilisation is pretty interesting. Chris Harvie spoke about the need to cherish that legacy in making Scotland a centre for the peaceable—I think that that was the phrase. I rather like that idea and I think that it has enormous scope.

We have travelled a good way on what has been an interesting journey. As recently as 2002, Robert Hunter, the author of a leading textbook, wrote about the 1996 report on the modernisation of Scottish arbitration law:

"It was, of course, politically naïve on my part to expect that a technical and relatively uncontroversial report, on a subject which is understandably of little interest to the general public, would be speedily implemented, even by a new Scottish Parliament… Eventually, I realised that there was no immediate prospect of a … Bill to reform the domestic arbitration law of Scotland."

I am really glad that, together with others, we have been able to develop the measures in this bill. As Lewis Macdonald said in the stage 1 debate, this Parliament was specifically established to address issues such as the one that Robert Hunter raised.

I look forward to the implementation of the bill, to maintaining a watching brief on the situation and to knocking down some of the barriers that lie in our way. I confidently commend the Arbitration (Scotland) Bill to Parliament.

The Deputy Presiding Officer: As we have finished our deliberations on the bill, I suspend Parliament until 4.59.

16:43

Meeting suspended.

16:59

On resuming—

Business Motion

The Presiding Officer (Alex Fergusson): Members should be aware that a revised section A of today's *Business Bulletin* is now available at the back of the chamber. It includes a new business motion, which sets out a programme of business for the weeks beginning 23 and 30 November. The previous business motion, which was printed in this morning's *Business Bulletin*, has been withdrawn.

The next item of business is consideration of new business motion S3M-5223, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, which sets out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 25 November 2009

2.30 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Ministerial Statement: Renewable Heat Action Plan
followed by	Scottish Government Debate: Learning About Scotland and its History
followed by	Legislative Consent Motion: Child Poverty Bill – UK Legislation
followed by	Business Motion
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

Thursday 26 November 2009

9.15 am	Parliamentary Bureau Motions
followed by	Ministerial Statement: Local Government Finance Settlement
followed by	Stage 1 Debate: Criminal Justice and Licensing (Scotland) Bill
11.40 am	General Question Time
12 noon	First Minister's Question Time
2.15 pm	Themed Question Time Europe, External Affairs and Culture; Education and Lifelong Learning
2.55 pm	Continuation of Stage 1 Debate: Criminal Justice and Licensing (Scotland) Bill
followed by	Financial Resolution: Criminal Justice and Licensing (Scotland) Bill
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time

followed by	Members' Business
Wednesday 2 December 2009	
2.30 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Scottish Government Business
followed by	Business Motion
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business
Thursday 3 December 2009	
9.15 am	Parliamentary Bureau Motions
followed by	Scottish Government Business
11.40 am	General Question Time
12 noon	First Minister's Question Time
2.15 pm	Themed Question Time Health and Wellbeing
2.55 pm	Scottish Government Business
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

—[*Bruce Crawford*.]

Motion agreed to.

Parliamentary Bureau 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-5216, on the approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the draft Water Environment (Groundwater and Priority Substances) (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 two questions to be put as a result of today's business.

The first question is, that motion S3M-5176, in the name of Jim Mather, on the Arbitration (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Arbitration (Scotland) Bill be passed.

The Presiding Officer: The second question is, that motion S3M-5216, 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 Water Environment (Groundwater and Priority Substances) (Scotland) Regulations 2009 be approved.

Athletes (Rural Areas)

The Deputy Presiding Officer (Alasdair Morgan): The final item of business today is a members' business debate on motion S3M-4762, in the name of Jamie Stone, on increasing opportunities for rural athletes. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes that, as part of the *Reaching Higher* revised national sports strategy, launched on 8 March 2007, the Scottish Government committed itself to achieving increasing participation and to improving performance in sporting activities; commends the Scottish Government's continuing commitment to delivering equal opportunities for all regardless of personal circumstances; is concerned, however, that such equality has not been achieved in the field of sport, in that the careers of promising young athletes from remote areas, such as Caithness, are being held back by the high financial costs incurred in travelling to and participating in national sporting events, and would welcome the availability of funding for athletes from remote areas and their families to offset the considerable costs of pursuing their sporting goals.

17:02

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): At the outset, I thank the members who supported my motion and have stayed back for the debate. I also make the important point that in no way do I seek to make tonight's debate a party-political point-scoring exercise. The problem that I am about to outline has been in the making for a long time, and should be considered against the backdrop of United Kingdom and Scottish Governments of all colours, and of local authorities made up of a mixture of independent and party-political councillors.

I will begin by describing the bricks and mortar, or, if I can put it this way, the situation on the ground that we face in the far north around access to sports facilities.

As Sutherland has a low population, the former district council of Sutherland did not have large amounts of capital to construct new sports facilities. In the case of Caithness, because the former district council wanted to maintain a low community charge or council tax regime, it too did not invest large amounts in sports facilities. The net result was that, by the 1995 local government reorganisation, the far north was underprovided for in terms of sports facilities, especially when compared with the neighbouring council areas of Inverness or Ross and Cromarty.

To make matters worse, during the run-up to the 1995 local government reorganisation, during its final months and weeks the former Highland Regional Council decided to embark on a number of expensive capital spends on sports facilities, such as the aquadome in Inverness. The council

knew full well that it was going to leave the bill to be paid by the successor authority, the Highland Council. Thus, following reorganisation, the council tax payers of the far north found themselves having to pick up their share of a post-dated cheque that increased the geographical imbalance in sports facilities.

That takes me to where we are today. With one council tax rate per household all over the Highland Council area, I argue that taxpayers are paying the same rate for hugely different levels of sports facilities. Although some might argue that the Inverness-based abundance of sports facilities serves all the Highlands, including the far north, that does not take into account the important issue of distance.

That takes me neatly to the main thrust of my motion. Families in the far north who are not wealthy find it a real burden to pay for talented youngsters to travel to training and events further south. Christina Raeburn, a constituent of mine and of Rob Gibson and Mary Scanlon, has been active in taking a petition on the issue to Parliament's Public Petitions Committee.

I put on record my thanks to the members of the Public Petitions Committee for their interest, understanding and patience. They have taken on board the problem that my constituents face. I thank those members personally for the way in which they have kept up with the issue. Most recently, they agreed on 6 October to write to sportscotland. I also thank Jude Payne of the Scottish Parliament information centre for the briefing that he has written on the issue. I appreciate the great effort that has been put into that. I am sure that members have read the briefing, so they will know that it highlights the fact that not much is in place to address the issue that I am raising.

The situation that we are left with is that budding athletes in the far north are disadvantaged when compared with similar youngsters who live nearer Scotland's population centres. The SPICe briefing points out some interesting UK disparities—for instance, Scotland has only 18 coaches per 1,000 of population, as opposed to a figure of 24 for Northern Ireland and Wales and 21 for England—but the problem that I have highlighted for my constituents remains. We are poorly off in terms of local sports facilities, and access to facilities that are further away is beyond the pockets of many.

I believe that it is a fundamental right of youngsters with ability to have easy access to sports facilities and events, regardless of where they live. As we know, and as all of us have said in the chamber many times, the health of the nation is linked to the sport of the nation. I do not stand before members as someone who was particularly sporty at school but, as I have entered my middle age, I fully value the point about exercise.

Mary Scanlon (Highlands and Islands) (Con): I congratulate the member on raising the issues for Caithness and Sutherland. When the Public Petitions Committee was in Invergordon, the issue was raised that, for people who wish to be competitive swimmers, the nearest 50m pool to Caithness is in Stirling.

Jamie Stone: That is absolutely correct.

I have talked about the historical capital spend but, given the current financial problems that the country faces, the chance of Highland Council or anybody else being able to invest large amounts of capital to build new facilities is even less than it was 10 or 20 years ago. The problem is compounded by the current situation.

The issue is not easy for the Minister for Public Health and Sport. As I said at the outset, I would not be so cheap as to suggest that the situation is the Government's fault. My point to the minister and the Parliament is that the problem has existed for many years, so we need to get the issue on the Government's and sportscotland's radar. I await the minister's thoughts with great interest.

The very fact that we are here talking about the issue will mean an enormous amount to my constituents. I am sure that members will agree that the fact that we have talked about the issue in the Scottish Parliament's chamber is hugely important. Before devolution, it would have been absolutely impossible to debate such an issue in Westminster, given the tight timetable. That is a benefit of the Scottish Parliament. I hope that we can deliver for my constituents and tackle the problems that they face. I look forward to hearing the other speeches and I thank members for their support.

17:08

Rob Gibson (Highlands and Islands) (SNP): I congratulate Jamie Stone on achieving the chance to discuss the issue in the Parliament. Mary Scanlon talked about the distance to swimming pools. I correct her slightly, in that the Public Petitions Committee was in Alness academy and not in Invergordon. They are only 2 miles apart, but, having taught in both places, I can tell the member that there is nevertheless a big difference between people in Alness and Invergordon.

One interesting part of the business of that day was consideration of a petition from school students in Alness academy that suggested that, because they are on the periphery, consideration should be given to providing them with travel expenses to reach the many cultural events that take place in Edinburgh and the museums and

national galleries that are situated there. In a country that is not a circular one in which everyone is equidistant from the centre, we must get comfortable with our geography and find ways in which to give the best support to promising students in the arts and sports.

Jamie Stone talked about athletics. I will give an example of the issues that he raised. If an athlete was leaving Orkney to attend a race, they would probably have to leave on Thursday to get to a Saturday event, and they would not get back until the Sunday or Monday. That would be very difficult for young people, who would miss out on schoolwork or other work.

There are youngsters in such places who excel—for example, Orkney rugby club is currently doing very well—but it is often youngsters who have been trained at university and come home who are members of the team.

Mary Scanlon: I confirm that the Public Petitions Committee visited Alness and apologise for saying Invergordon.

Given that Rob Gibson mentioned university, can I confirm that the pupils made the point that they did not have money to visit universities, whether from the academic point of view or from the competitive leisure and physical activity point of view?

Rob Gibson: I hope that we can find a way to address those matters. It is interesting that, despite the poorer facilities that exist in remote areas, Orkney rugby club is, as I said, doing extremely well and is top of the national league with 10 wins out of 10 so far and Wick Academy—the Scorries—is doing very well in football's Highland League.

The issue of what are appropriate facilities has been raised. We must recognise that there are too many different ways of providing such facilities. The Government has been good at promoting certain kinds of centres in larger areas. We know that that is more difficult in remote areas and the islands, but I suggest that we need to get it together. For example, in seeking to create a very good centre in Halkirk in Caithness, it is not possible to get money directly from the Government, because there is already support for smaller centres in Wick and Thurso, yet the idea of providing facilities that could serve the whole of the county is excellent and it would be a way of bringing together the talent that could be better trained in such a centre. We must stick with the idea that starting small and incrementally building on facilities from the ground up in small ways is probably the only way, in the current financial climate, for organisations to take matters forward in remote areas.

I ask the minister whether she can discuss in her speech how it might be possible for us to get some justice for young people and to ensure that up-and-coming athletes, as well as those of an artistic tendency, can come into the main stream of Scotland. The likes of Ross County, which has set up a football academy and is able to draw in talent from quite a way across the north, is a good example, but that cannot be replicated without the business support that football clubs receive. We are in a bind, and we need to find a way of doing things better. This is a good chance for us to reflect on matters and to find ways forward.

17:13

Elizabeth Smith (Mid Scotland and Fife) (Con): It is a pleasure to support Jamie Stone in this members' business debate and I congratulate him on bringing this important, yet sometimes overlooked, subject to the Parliament. It is never easy to ensure that our talented sportsmen and women from our rural areas, particularly the most remote areas, have a level playing field when it comes to the pursuit of their sporting talents. It is a matter not only of geography and the related travel issues, but of available coaches and facilities, plus the inevitable additional expense of finding accommodation when people are away competing.

When we hear stories circulating that Moray Council is considering closing all its local authority swimming pools in the mornings and that Highland schools are complaining that some pupils' Duke of Edinburgh awards are in jeopardy because of the closure of the outdoor centre at Muir of Ord, we should be under no illusions about the potential problems that such issues can create for anyone from our rural communities who wishes to participate in any sport, particularly competitive sport. We should also acknowledge that too many of those people miss out on the opportunities that are afforded to athletes in our more populous areas.

Sportscotland is very aware of the issue—indeed, I am having a meeting with two senior representatives of sportscotland in a few weeks' time to discuss it further. The issue has also been raised by Margo MacDonald on the cross-party group in the Scottish Parliament on sport. I take up the theme of both Rob Gibson and Jamie Stone that this is not about party politics.

What can we do to help? One of the most important issues is to promote genuine recognition and understanding of the challenges that rural athletes face. This debate can be part of the process, but there is no doubt that real action is required to improve both the quality of facilities that are available and the ability of rural athletes to use them. In relation to school events, in

particular, we need to be aware of the central belt mentality when it comes to staging competitions. Some sports in Scotland have made a conscious effort to use locations in the Borders, the north-east and the Highlands, but other sports seem totally wedded to the central belt, which means that some competitors must regularly travel hundreds of miles just to participate.

From my experience of 30 years of taking a variety of sports teams to events across Scotland—I still do it from time to time—I believe that some organisations would help matters a lot if they provided participating schools with as much notice as possible of their calendar of events, so that rural communities would have a much better chance of planning ahead to organise family life around someone's athletic interest. Likewise, if an extensive training programme is in operation, it must be accorded practical timings. We cannot expect a young athlete from Oban, Mallaig or, as Rob Gibson said, Orkney to make a long journey to Glasgow every weekend simply to find that their training session lasts only an hour. On the subject of better information, I am keen that local authorities should encourage their schools to publish details of the facilities and competitions that are available in their areas. Sometimes children are left out because their families were unaware of the facilities that were available; that is not good enough.

Of course, we have the benefit of the 2014 Commonwealth games and the welcome announcements of new facilities, which will provide a lasting grass-roots legacy. That is good news, but we must remember that a great deal of grass-roots work takes place in facilities that are not necessarily state of the art. Across Scotland, especially in many rural communities, there has been a deterioration in facilities such as pavilions, changing rooms and pitches, which is sad. However, there are communities that, through their joint efforts, have provided new goalposts, painted their changing room facilities, fixed the leak in the roof and, in some cases, built a new clubhouse. I am well aware of the fact that funds are tight and that there is not an endless pot of gold, but I like to think that the percentage share of national lottery funding that is spent on sport could be increased, so that we can be more helpful when it comes to assisting community trusts to look after the best interests of their grass-roots sports.

Nor should we forget the excellent work that has been undertaken by many outdoor pursuits bodies to improve the diversity of sports facilities in areas such as the Highlands. I refer to the mountain bike tracks at Laggan and Aonach Mòr, the cycle tracks on the west coast, the geological trails in Assynt and the John Muir Trust's work at Loch Ossian. Such bodies are crucial to allowing youngsters to develop a love of the outdoors and to providing better outdoor experiences on their doorstep.

However, the bottom line is to encourage more people to help to run and coach our athletes. That is why the volunteering theme is crucial, in an age in which volunteering is threatened by health and safety, a fear of litigation and an increasing unwillingness among adults to put themselves through the disclosure system. I suggest that that is the biggest area of concern. I have no easy answers, but I believe that our grass-roots policy must be the strict focus in that regard.

I reiterate my congratulations to Jamie Stone on bringing this extremely important issue to the Parliament. We must not forget about it.

17:18

Mr Frank McAveety (Glasgow Shettleston) (Lab): I thank Jamie Stone for raising this issue. The concerns that he identified were expressed even during the period in which I undertook ministerial duties, which was a considerable time ago. The fact that we are still debating them a number of years on from that may reflect the massive challenge that lies ahead.

Elizabeth Smith touched on a number of issues that we need to address. Having attended major events, both regional and national, I know that it is easier for those of us who live in the central belt to have reasonable links to the places in which such events are held. I am always amazed at the capacity of families and young athletes to get to places such as Grangemouth and to perform at the top level that is expected of them.

There are three fundamental issues that require proper debate. We need to debate them together in the Parliament, because the solutions lie not singularly with the minister but with a combination of forces. The first is the fact that, despite some of the national documents that we have produced, we have never really treated sport seriously enough, largely because we do not have a framework for working in partnership with the major providers of infrastructure; in many communities, that means local authorities. That issue bedevilled previous Administrations and remains a challenge to the present one. As we see in the briefing from the Scottish Parliament information centre, there is concern about a number of local authorities that still do not spend above their grant-aided expenditure. A considerable number of councils do, but Western Isles and Highland, notably, do not. That is a challenge for all of us here to take up, as well as for the elected members in those areas to take up with their authorities.

The fundamental question is who takes responsibility for easing the pathways into sport.

The Health and Sport Committee, which produced a major report on that subject, identified some key issues. One of the committee's key recommendations was to use the existing sports facilities and space, as well as buildings that could be imaginatively utilised for sporting activity and participation, rather than focusing on apocalyptic figures such as the £500 million that would be required to address our sporting infrastructure needs. I do not imagine that any minister, even with the best will in the world, could conjure up anything near that level of funding. Perhaps it is a matter of sweating the assets that we have more effectively.

A second, critical point that was identified in the pathways into sport inquiry was the need to secure better partnerships. We all use the word "partnership"; I have used it, and the minister will no doubt use it in her speech this evening and in future discussions. It is a matter of bringing together partnerships in which we look beyond local boundaries to find ways of pulling together resources. With the reorganisation of the Scottish Institute of Sport and the development of hubs, which I welcome as part of the present direction of sports policy, the fundamental point is to pull together partnerships so that providers can offer young people access to opportunities and activities.

Rob Gibson touched on another important point, which was accurately highlighted by the youngsters at Alness academy who took part in the proceedings of the Public Petitions Committee. Even with such access, it can still be extremely difficult to get to regional locations, never mind central locations such as Edinburgh and Glasgow. This is a difficult period for us all when it comes to budgets, but a bit more imagination is needed in looking for ways—through a combination of sportscotland, Government, lottery and local authority money—of minimising the cost element for youngsters so that they can access the facilities that are available.

I emphasise the whole issue of cost. For local authorities that have a low asset base, there is a serious problem in pulling together the resources for the big things that people might expect to take place—particularly taking into account the ambition that we all have for the success of the 2014 games. I come from a large city with many assets that it can realise and put into the equation in order to get resources, but that is not always possible for some of the smaller councils or the more sparsely populated local authority areas. A national direction is required, with an imaginative way of identifying additional resources, a different way of allocating resources, or even a different approach to calculating resources.

I hope that those remarks were helpful, and I look forward to the minister's response.

17:23

Aileen Campbell (South of Scotland) (SNP): I had not intended to speak in the debate but, having heard other speeches, I wanted to highlight some of the things that are going on in the rural parts of the South of Scotland. I congratulate Jamie Stone on securing the debate.

In particular, I wish to highlight the international youth games in Lanarkshire. I hope that there will be a legacy and role for some rural parts of South Lanarkshire, which could benefit from the games when they take place in 2011. Rural South Lanarkshire and places further afield could also benefit, I hope, from any legacy to arise from the Commonwealth games, which Glasgow will hold in a few years' time.

Some individuals in Clydesdale, in the South of Scotland region, have acted in a way that we should encourage. One chap in Lesmahagow who realised that there was no football coaching in the area, and who had a coaching badge, decided to set up some coaching there—and 60 kids from Lesmahagow showed up one night to play football. They used a local hall and facilities, and it was a success. He is even trying to encourage girls to play football—buying pink balls and using other innovative ways to encourage youngsters from the area to take up sport. That is the kind of initiative that we should encourage.

We should encourage parents to take responsibility for encouraging their children to take part in sport. Biggar rugby club is working with parents to encourage folk from the area, including the small villages around Leadhills, to take part in the sport. The club has held youth championships, which have attracted rugby clubs from throughout the South of Scotland. People have shown up to take part and be taught how to play and how to display good sportsmanship. When parents take responsibility, they will travel far afield to enable their children to take part in sports.

An issue sprung up for me not long ago when a youngster approached me because she wanted to get access to skating rinks. Because she was not one of the top three skaters in the country, she could not access local authority initiatives that would have helped her to get access to rinks in the area. She could not break into the top three because the national governing body for skating is UK based. Youngsters in Scotland can have a difficult time trying to break through to UK level. Perhaps we should consider having a Scottish arm of governing bodies, so that youngsters can get the access to facilities that they need and become the best that they can be in their sport.

I know that all members, regardless of their political party, want to ensure that people in Scotland become a wee bit healthier and more active. Individuals who are committed to the same outcome are doing much good work on the ground. It is important to link up the initiatives that are being taken across Scotland and, in so doing, provide a platform on which we can all build.

17:26

The Minister for Public Health and Sport (Shona Robison): I congratulate Jamie Stone on securing an important debate. I think that all members want more people throughout Scotland to take part in sport more often and to be given opportunities to do so. Everything else flows from that: benefits to the individual, benefits to communities and, ultimately, success on the national and international stages. We are committed to working with our partners in delivering the reaching higher strategy, and we are committed to putting in place the appropriate infrastructure, which will encourage greater participation.

On a positive note, athletics has been particularly successful. Athletics clubs have more than 8,500 members who regularly participate, and the sport hopes to increase club membership to 14,000 by 2014. If that is to happen, participation must increase throughout Scotland.

If they are to be successful at any level, individuals must commit a substantial amount of time, energy and enthusiasm to their chosen sport. Although the direct cost of buying equipment for athletes is not always huge, for many other individuals a huge personal sacrifice in time and money is demanded. I value the support and dedication of volunteers, who are the unsung heroes. Coaches and parents spend a considerable amount of time providing support and ferrying athletes around Scotland so that they can train and compete.

As many members said, people often travel long distances and—of course—rural athletes face particular challenges and must travel long distances because facilities are remote from them and because of the need to attend structured training sessions, particularly as they move up the rungs towards elite status. Attendance at competitions can involve long journeys and people sometimes incur overnight-stay costs. I assure members that we are doing all that we can do to support such people, but we must be pragmatic, and I appreciate that members have acknowledged that it is simply not possible to have an Olympic stadium in every town and village in Scotland.

Decisions on what facilities are developed are informed by local need and are taken, rightly, by local authorities. Of course, 90 per cent of all spending on Scottish sport comes through local authorities, who have a statutory responsibility to ensure that there is adequate provision.

I want to put on the record where the investment goes. We recently announced investment of £5.5 million to improve facilities in Dundee and Fife. Of the investment that has been announced since May 2007, 25 per cent—some £4.6 million—has supported facility development in the north and the north-east. I know that Jamie Stone will immediately ask how much of that went to Caithness. Investment was made in facilities in Caithness Rugby Football Club and Invergordon Football Club, for example. Such investment stands us in good stead to build on that and increase participation levels, about which I will say a bit more.

In one way or another, everybody has pointed to the need to make more of what we have and to add value. Sportscotland will work with every local authority to develop the strategy and the framework, about which Frank McAveety talked. All those discussions are well advanced. One of the biggest opportunities and possible solutions to many of the problems that Jamie Stone and others mentioned comes from the community sports hub model. The hubs are the key outcome of the legacy plan for 2014. They will help to improve use of, and access to, school and community facilities for physical activity and competitive sport. All rural communities have school and community facilities, although I acknowledge absolutely that some of them are not as we would want them to be and that clubs, coaches and volunteers are not coming together in each area. Everybody who is involved in sport in an area needs to be brought together to make the best use of what is available and to add value where possible. We are making available £23.5 million of legacy investment to ensure that we add value to facilities, and for recruitment of more volunteers and development of existing volunteers and coaches. A once-in-a-lifetime opportunity is available.

I suggest that members, including Jamie Stone, should engage in that process. In talking to Highland Council, he should ensure that the council discusses with sportscotland where the community sports hubs will be located. I am sure that he will not be backward in coming forward to ensure that Caithness is considered for such a hub, because that is the solution that everyone has touched on. That is how the investment of £23.5 million will create a difference by being well spent.

As all speakers have acknowledged, resources are finite, so the money that we spend must make

a difference. If the spend is in the right place, it will make a difference for the long term. Sportscotland's new decentralised structure will help: the six regional sports hubs will enable detailed discussions to take place and will ensure that sportscotland is on the ground. The Highland partnership has met regularly and sportscotland has recently appointed a partnership manager who will be permanently located in Inverness but will be responsible for, and must focus on, the whole Highlands and Islands area.

Jamie Stone: Does the minister accept that it has been hard for people—even if they are based in Inverness—to lift their eyes to further horizons? I hope that sportscotland and perhaps the minister's officials will keep an eye on how far beyond Inverness delivery goes.

Shona Robison: I assure Jamie Stone that I will keep an eye on that, because the legacy should have the opportunity to reach every community. The legacy will not be a success if it reaches only Inverness—it must reach communities throughout the Highlands and Islands.

Communities must, however, rise to the challenge. Aileen Campbell's point was important in that respect. Perhaps we do not ask enough of parents who take their children along to local sports clubs: in other countries, for example in Scandinavia, parents do not just drop their children off at the local sports club, but are asked what they will do to support the club. There are therefore opportunities to engage more people, but in doing that we must ensure that the children have a good-quality experience, which means that volunteers and coaches have to be trained. Liz Smith made an important point in that regard, which is that there are sometimes difficult barriers for people. I am very keen to take advantage of the interest that I think there will be from communities across Scotland, but we must make it easy for them to get involved and we need to support them in doing that.

I want to mention a couple of specifics in respect of financial support, because it is important to get them on the record. Highland Council provides support to its eight local sports councils by providing £100,000 each year, with nearly half of that being used to help with athletes' travel costs, entry fees for competitions and the food and accommodation costs of being away from home.

I put on the record, too, the important Duncraig educational trust, which supports young talented people from the Highlands by providing up to £25,000 each year. It, too, can be used to support individuals who are engaged in national or international sporting events. We should pay tribute to the work of the Duncraig trust.

The awards for all programme offers grants of between £500 and £10,000, which local clubs can apply for. Amateur athletics clubs have taken advantage of that to provide for some of their running costs.

There are no easy answers to the important points that were raised during the debate and I appreciate the challenges that rural athletes can face. However, we have opportunities with the legacy of the 2014 Commonwealth games to get to a better place. That does not mean that there are the resources for all-singing, all-dancing facilities. I am very pleased that no one is calling for that, because it would be unrealistic. However, there is an opportunity to bolt together the partnerships, as I think Frank McAveety said. There is a resource to ensure that every community gets something from the 2014 legacy that is better than what they have now. I assure Jamie Stone and other members that ensuring that we do that is a top priority for me.

Meeting closed at 17:37.

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