

MEETING OF THE PARLIAMENT

Thursday 7 January 2010

Session 3

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Scottish Parliament

Thursday 7 January 2010

[THE PRESIDING OFFICER *opened the meeting at 09:00*]

Severe Weather

The Presiding Officer (Alex Fergusson):

Good morning. Our first item of business is a statement by John Swinney on the impact of severe weather on Scotland. The cabinet secretary will take questions at the end of his statement, so there should be no interruptions or interventions.

09:00

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): Scotland is experiencing some of the coldest weather and the worst snow and ice that we have seen for many years. December 2009 was the third coldest since records for this purpose began in 1914—the coldest, so far, being December 1981. In the new year, conditions have become more severe.

Snow is an inevitable part of the Scottish winter, and some parts of Scotland are accustomed to the significant volumes of snow that we have experienced over the past few weeks. However, what is unusual is the unprecedented duration of this freezing weather—temperatures have been extremely low for three weeks now. We have already seen the temperature drop as low as -18° , and the forecast is for -20° in some parts by this weekend. More cold weather is forecast for the next few days, and the Met Office is not yet predicting any end to the cold weather, which will remain in Scotland and across the United Kingdom for at least another week, and possibly longer.

The Scottish Government is working with its partners to overcome some acute difficulties that arise from the conditions in discharging our obligations to help and protect the public. What I want to do today is provide Parliament with information about what is already being done for Scotland. The Scottish Government resilience room—SGoRR—was activated on 22 December to help to co-ordinate the response. Each day, throughout the Christmas and new year period—including on Christmas day—Scottish Government officials worked to gather information and deliver the support and help that is needed by Scotland's local authorities and communities.

I will deal first with the support to ensure that transport networks are able to function effectively. The Scottish Government's resilience team—

involving the Convention of Scottish Local Authorities; the local authority chief executives group, the Society of Local Authority Chief Executives and Senior Managers; and the Society of Chief Officers of Transportation in Scotland—is monitoring details of salt stocks and supplies each day in every local authority and trunk road operating company area. The challenge is to ensure that the salt gets to where it is needed most. That is what the Government and its partners are focused on achieving.

Yesterday, there was more salt in Scotland—45,000 tonnes—than there was on the previous day. The stocks need to be replenished on a regular basis to enable local authorities and trunk road operating companies to meet demand. There have been pinch points in the past few days when supplies were low in some areas. The SGoRR process of managing salt supplies has already resulted in supply difficulties being resolved in Fife, Dumfries and Galloway and the City of Edinburgh Council areas since the weekend.

We will continue to work collaboratively with all councils to assist with any difficulties that they have. The strategic co-ordinating groups that operate in eight localities in Scotland bring together in formal partnerships the organisations that are involved in dealing with these situations. They have been encouraged to make decisions about mutual aid within their areas, and there have already been a number of transfers of salt across local authority boundaries within those localities, which is the sensible and responsible course of action.

In some cases, imaginative and innovative solutions will have to be developed as a useful complement to ensuring the sharing of resources. For example, in order to stretch our salt supplies, it makes sense to mix sand with salt and grit to ensure that it goes further or to fill community grit bins with sand only. The Government encourages all public agencies to continue to develop innovative approaches.

Across the UK, the Scottish Government and the UK Department for Transport have been in contact to ensure a joined-up response. We continue a regular dialogue with the salt suppliers, who have worked hard over the past few weeks to ensure that supplies can be replenished. We will continue to maintain this communication as such dialogue is vital to provide assurances on future supplies.

Hundreds of local authority and trunk road operating company staff are working around the clock to treat key roads throughout Scotland. In particular, I would like to record our thanks to the staff who are involved in operations and who have been working continuously throughout and since the festive season. *[Applause.]*

In the course of this work, priorities have had to be established and, clearly, there has been inconvenience to members of the public. This has restricted the ability of individuals to move around, particularly due to the condition of roads and pavements in residential areas. We are working with the local authorities to ensure that this disruption can be minimised if at all possible. Air, rail, ferry and road links have all been disrupted to some degree, but the operators have continued to move people and goods both internally within Scotland and in order to maintain connections with the rest of the world.

Transport Scotland has worked closely with the trunk road operating companies, the police and other key agencies to ensure that Scotland's strategic road network continues to function effectively. The trunk road operating companies and local authorities have been working around the clock, deploying snowploughs and laying salt across the road network to keep Scotland moving. Since the severe weather started, more than 35,000 tonnes of salt have been distributed across the national network alone. More than 100 gritters have been in operation, additional machinery such as snow ploughs have been made available, and 300 members of staff have been working to keep the roads clear. The work that the local authorities have undertaken is over and above that.

Despite the significant challenge that is caused by particularly severe and sudden snowfall and very low temperatures, disruption on sections of Scotland's 3,500km trunk road network has been kept to a minimum, with the vast majority of roads remaining open and operational. Where trunk routes have been closed, they have been reopened in a quick and effective way. Importantly for road safety, it is crucial that people observe the guidance that the authorities issue on the advisability of undertaking journeys.

The Scottish police service has clear structures and procedures in place to deal with the severe weather that we are experiencing. Forces up and down the country are working hard to ensure that our roads, and those who travel on them, are safe. The Scottish Government and our partners are doing everything that we can to support communities.

Local authorities have emergency plans for dealing with disruption to services, including disruptions that arise from severe weather. Of course, those plans cover community care services in which the key question is the maintenance of services to vulnerable people. The action that is required to maintain those services will depend very much on the weather conditions in each area and whether the area is rural or urban—there is no standard solution. That is why responsibility rests with individual local authorities,

working with their partners through the strategic co-ordinating groups, to bring to bear all appropriate resources in a prioritised way. Dialogue has taken place at local level with the third sector and other service providers to ensure as much continuity of service as possible.

The Scottish Government has worked with national health service boards throughout the year to ensure that robust plans are in place for managing winter pressures. NHS boards across Scotland are continuing to deliver safe and effective services. However, some routine services are being cancelled in the areas that are hardest hit in order to minimise the risk to staff and patients of travelling in severe weather. Decisions to cancel services are being made locally, based on clinical advice and local circumstances.

NHS Borders has been particularly badly affected by the severe weather and has activated its winter plans, cancelling routine out-patient appointments at Borders general hospital, community hospitals and health centres and those for day-hospital patients. The situation is under constant review, and NHS Borders is providing regular updates to the public. Priority services continue to be delivered to ensure that urgent patients are treated, and NHS Borders will make arrangements to agree suitable new out-patient appointments for affected patients. NHS boards will accommodate patients who have difficulties in travelling and who therefore cannot make routine appointments.

Throughout Scotland, there have been higher than average attendances at accident and emergency due to falls and fractures, which have had a knock-on effect on orthopaedic and trauma emergency admissions. Despite that, NHS boards are reporting that they are maintaining good performance against key waiting time standards. It is clear that NHS staff are making exceptional efforts to maintain high-quality services for patients.

The Scottish Ambulance Service has introduced a number of measures to manage the situation and mitigate the impact on ambulance services. They include ensuring that all-terrain vehicles are available for use in response to emergency calls and providing for patient transport service personnel to be deployed in supporting paramedics in accident and emergency units.

Some of those measures mean that patient transport service staff are being pulled away from their normal patient transport service duties of taking patients to and from hospital for out-patient appointments and non-urgent treatments and therapies. The service is continuing to provide patient transport for the patients whose needs are greatest. In some cases, it is getting fantastic support from unsung heroes in the community who

are doing their bit to transport patients. However, some lower priority patients will be advised that the patient transport support that they would normally receive will not be available at this time.

This week, schools in all but three local authority areas were due to reopen after the Christmas break. Today, around 2,000—or 83 per cent—of the 2,400 schools that should be open are expected to be fully open. That is an improvement on yesterday's 75 per cent and Tuesday's 64 per cent. In the current situation, that is a real achievement.

The majority of school closures have been in significantly affected areas such as Aberdeenshire, the Borders and Dumfries and Galloway. The safety of staff and pupils must always be the paramount consideration in decisions by local authorities and headteachers about whether to open schools. The Scottish Government is in frequent contact with all education authorities in support of their endeavours to ensure that schools are able to open as effectively as possible.

Our rural communities are used to dealing with severe weather. Through our work with stakeholders on preparing for and responding to pandemic flu, we have confidence that, in these difficult weather conditions, resilience plans exist in the supply chain to ensure that food continues to be available to the Scottish public. Our on-going contact with stakeholders has identified that, although there may be some localised issues, the farming industry is coping with the real and practical difficulties. However, we are mindful of the fact that a sustained period of severe weather could have real implications—including for the welfare of livestock on higher ground—and will continue to work with stakeholders to monitor the situation. There will be a challenge in supporting people in rural locations, so we welcome the initiatives of the National Farmers Union Scotland to encourage mutual assistance in rural areas.

There are further actions that can be taken to assist the situation. The Cabinet Secretary for Justice has made it clear that people on community service orders have been out clearing streets and helping the elderly and other vulnerable people in local communities. The Government recognises the support that members from other parties have given to that initiative, and I am pleased that the Government's approach has been endorsed in that way.

Later today, the Cabinet Secretary for Justice will visit a sheltered housing complex in Fife where offenders on community service schemes have been clearing snow and ice from the pavements thanks to an initiative by Fife Council, which moved quickly at the start of the cold weather to switch the offenders' usual community clean-up

work to the more immediate need of helping the vulnerable in their communities. In both North and South Ayrshire, community service offenders have been out gritting or shovelling snow on roads and pavements in areas where there are vulnerable members of the public, around residential homes and sheltered housing complexes. In addition to gritting, in Falkirk offenders will assist community care providers to deliver essential services to the elderly and vulnerable. In the Scottish Borders, community service offenders will be out this weekend to clear paths.

There is much that individuals can do to be more resilient and to help in their community. I appeal to Scotland's strong sense of community resilience and encourage everyone to play their part by helping to clear paths and checking on elderly and vulnerable neighbours and relatives.

There are other ways in which people can seek help. NHS 24 is staffed round the clock for those with medical problems. Local authorities also have helplines that people in each area can call if they experience difficulties. Those local authority numbers should already be well known locally but, to ensure that no one is in doubt about their local number, we have agreed to publicise them centrally through the "Weather Wise" section of the Government's website, which contains valuable information for members of the public on action to take and help that is available in these conditions. The Scottish Government website will shortly contain the numbers for each local authority area.

We are in touch with the local radio stations about what they can do to help. Not everyone has access to a website, but almost all of us have a radio. In past similar situations, local radio stations have broadcast programmes aimed at tackling difficulties that are experienced by people who do not want to bother the emergency services. They have also enabled other members of the public who can help to get in touch to provide that help. We have had an enthusiastic response from the radio stations and look forward to the positive impact that that can make in supporting vulnerable individuals.

Scotland's key utilities providers are working extremely hard to ensure that vital utilities of energy, water and telecoms are provided and maintained as normal. I underline the point that there is no imminent threat to gas supplies and that there is sufficient in reserve to see us through the rest of the winter. In addition, as part of the cross-Government approach, Scottish and Southern Energy have sent engineers to help their counterparts in the south of England to restore power supplies.

In due course, the freeze will give way to a thaw. At the moment, there is no sign of the kind of rapid

thaw that could lead to flooding. However, the Scottish Environment Protection Agency has reassured us that, in co-operation with the Met Office, it is considering the potential flood risk and preparing accordingly. The Scottish Government and COSLA have discussed the need to prepare for any flooding that may occur as a result of a future thaw.

We are in a situation of weather on a prolonged timescale the like of which we have not seen in recent years. Although the burden of responsibility to keep Scotland moving falls on local government, the trunk road operators and other agencies, I encourage individuals and communities to consider what responsibility they can take on, even on a small scale, to help the situation locally. With determination and partnership, we can get the country through these significant weather conditions.

The Presiding Officer: The cabinet secretary will now take questions on the issues that are raised in his statement. We have around 30 minutes for such questions, after which we must move to the next item of business. An almost unprecedented number of members wish to ask questions, so there is a strong need for brevity.

Johann Lamont (Glasgow Pollok) (Lab): I thank the Scottish Government for agreeing to Labour's demand for a statement on what is a national emergency, demanding a national co-ordinated response. Labour adds its gratitude to all those at local level, whether in a voluntary capacity, in local authorities or in health, who are doing what they can to address that emergency.

In the face of what most of our constituents have recognised as a national emergency, so far the Scottish Government's response has been complacent and defensive and, critically, has displayed a lack of leadership. That is captured in a statement—perhaps an understatement—that talks of there being

“inconvenience to members of the public.”

The Government's response has been short on action taken and full of hope for the future. There has been little concrete evidence to give us hope that action is being taken.

Even more troubling, in the face of the largely hidden and as yet unmeasured impact of this emergency on some of the most vulnerable people in our communities, has been the absolute silence from the Cabinet Secretary for Health and Wellbeing—no statement, nothing on the Scottish Government website and no central point of contact. Local numbers will be made available “shortly”. What meetings has the Cabinet Secretary for Finance and Sustainable Growth had with the Cabinet Secretary for Health and Wellbeing to ensure that the central concern about

the impact on vulnerable people shapes the Scottish Government's response and priorities?

What meetings has the Cabinet Secretary for Health and Wellbeing had with COSLA, health boards and voluntary sector organisations to discuss how local community networks, general practitioners, voluntary groups, housing associations and carers centres can be best co-ordinated to identify vulnerable people and to get help to them? What meetings has she had with community care providers and those delivering caring services to identify not Mr Swinney's pinch points but the real pain that is being suffered across Scotland? What will she and Mr Swinney do to ensure that the work of voluntary organisations is properly recognised and recompensed, so that their instinct to act now does not come at the expense of budgets that are already committed to the important work of supporting older and vulnerable people throughout the year?

John Swinney: I do not think that there has been a more miserable contribution to a parliamentary debate than the utterly miserable one that the member has just made. I set out in significant detail the fact that the Scottish Government's emergency team has been in place since before Christmas—before the period of acute winter weather took effect—to ensure that there is co-ordination of all activity in every circumstance.

In her usual cheery, charitable style, Johann Lamont is muttering the word “ministers”. If she will calm herself for a second, I will explain ministers' role. Throughout the Christmas and new year period, ministers have been constantly involved in dialogue with the Scottish Government's resilience room team. Our officials have led that process in an operational sense; ministers have directed it with political authority. Ministers have been involved in a number of meetings over the Christmas and new year period. Johann Lamont asked several questions about the involvement of the Cabinet Secretary for Health and Wellbeing. I assure her that the cabinet secretary has been absorbed in the discussions in which we have been involved.

Since, I think, just before Christmas—if not, since immediately after Christmas—we have published on the Government's website a daily update on the actions that the resilience team has taken. That update has been issued to the media daily, with comment from ministers on the actions that are being taken.

We are in touch with health boards about the situation several times a day. Dialogue with NHS Borders about the acute difficulties that have recently been experienced in that area has been

intense on the part of the Government, and we will continue with that.

As for the voluntary sector, Johann Lamont will acknowledge in her charitable moments—she has commented publicly on this—this Government's appreciation, and certainly this cabinet secretary's appreciation, for the role of voluntary organisations, which have made a significant contribution. I am aware and have seen examples around the country of where voluntary sector organisations are changing their working practices to reach people who cannot be transported to them. That is the type of pragmatic approach that we are all looking for, and I warmly commend voluntary sector organisations on their efforts.

Alex Johnstone (North East Scotland) (Con):

I thank the cabinet secretary for advance sight of his statement and for the efforts that he has put in during the holiday period to keep in contact with party spokesmen and keep them up to date with what has been going on.

I welcome the cabinet secretary's acknowledgement of the support by David McLetchie for the idea of getting people on community service orders out to work. It was taken as a joke at the time, but I am glad that it has delivered real benefits in many parts of the country.

My questions relate to three areas. First, let us remember that in these conditions people, and older people in particular, can find themselves seriously isolated, even in the centres of our cities. What effort has been made to monitor the required supplies for such individuals? I draw the cabinet secretary's attention to people who use off-grid gas, oil and other fuel supplies, who, after three weeks of bad weather—and a holiday period, we must remember—might be running very low on supplies. With roads in a very poor condition in many areas, it might be difficult to get supplies to them, and we must be up to speed on that.

Secondly, although the statement is on "severe weather in Scotland", much of Scotland's industry and economy depends on cross-border links and main roads south of the border. What efforts are being made by the Government to interpret or assess the impact of severe weather in England on Scottish economic performance? What changes might need to be made in future in that regard?

The Presiding Officer: Very quickly now, please.

Alex Johnstone: I must mention issues concerning local authorities. I have been concerned that there might be a lower level of preparedness, given that we have had a series of very mild winters. Is any work being done to

assess whether local authorities' preparedness this winter has been appropriate?

Finally—

The Presiding Officer: Hurry up, please, Mr Johnstone.

Alex Johnstone: Is there any provision in the 2009-10 budget for a contingency fund that local authorities, health boards and other public bodies may draw on in order to offset the cost of this event?

John Swinney: Mr Johnstone makes a fair point about people in isolated areas. There is a range of ways to identify isolated individuals. He gave the example of off-grid fuel supplies, and we can have dialogue with the suppliers, who perhaps cannot reach individuals in need, to find other ways to assist them. Individuals have access to local networks through local authority contact points, which are well advertised locally, but we will encourage awareness to be raised further about where to go for help.

As I know Mr Johnstone will appreciate given his background in the agricultural sector, it is important in rural communities—and this is as valid in urban communities—to look out for individuals who need assistance at this time.

Secondly, on the main routes south, we have endeavoured to keep the trunk routes open at all times. Yesterday was the first major occasion when a number of the trunk routes to the south were blocked, although most of them are now reopened and efforts are under way to complete the process.

The winter weather has had more effect in Scotland than in England, and the prolonged period of winter weather started earlier in Scotland, but there will be a period of disruption to the economy south of the border due to the adverse weather there. We will work closely with the Department for Transport regarding transport connections and the supplies of salt and grit. There will undoubtedly be pressure on those supplies, because of conditions in England and Wales, as we ensure that the Scottish interest is protected.

On the third point, about local authority preparedness, local authorities are independent statutory bodies that have to make their own preparations. They have their own local winter maintenance plans. This has been a very challenging period for them. I would not underestimate or understate for a moment the inconvenience and difficulty that this weather has caused to members of the public, but local authorities are working very hard to minimise disruption where possible.

Finally, the member asked about contingency funds in the 2009-10 budget. As he will appreciate, the budget does not have contingency provision. We will be involved in a dialogue on the financial implications of what has clearly been a period of significant strain on public services.

Alison McInnes (North East Scotland) (LD): Local authorities and trunk road contractors are doing a good job, against the odds, to keep main routes open. I take this opportunity to pay tribute to all the front-line workers in depots, on snow ploughs and in gritting lorries, who are out in the worst of weathers, at all hours. We owe them a great deal.

If main routes are prioritised, it must be acknowledged that that is at the expense of minor roads in towns and villages, rural routes and—truth be told—footpaths everywhere. Although that is okay over a short spell, when there is a sustained period of bad weather such as the present one it begins to impact severely on the elderly and disabled, in particular in rural communities. One fifth of Scotland's population lives in rural communities, and I am concerned that those communities are beginning to find themselves cut off from vital services and supplies. That includes home carers, the delivery of prescription drugs and heating fuel such as liquefied petroleum gas and oil for those who are off the gas grid, as has already been mentioned.

On the arrangements to ensure that heating fuel can get through, what consideration has the cabinet secretary given to better working between local road winter maintenance and trunk road winter maintenance? When those two were disaggregated, it resulted in some unproductive double running. Perhaps, in these exceptional times, there should be some joint working to tackle the issue. Could the cabinet secretary tell me about that, please?

John Swinney: I acknowledge Alison McInnes's point that priorities have been established. We must carefully steward our salt supplies. As I said in response to Mr Johnstone, there will be significant strain on salt supplies across the United Kingdom given the adverse weather in England, and, as I said in some detail in my statement, we are carefully managing and developing a dialogue about the management of supplies. I readily concede that, as a consequence, pavements and minor routes have been accorded less priority than the major routes.

The fact that so many routes have been maintained and kept open—I am talking not just about trunk routes but about other main routes through our cities, rural communities and towns—is a tribute to the way in which resources have been deployed. There is good co-operation between the trunk route operating companies and

local authorities. They sometimes share depots, and in some cases they are sharing supplies of salt, which is how we are overcoming some of the local difficulties. There is also good co-operation among local authorities.

I assure the member that every effort is being made to ensure that, in any areas that are not getting the appropriate gritting operations where that is necessary to allow services to be accessed by vulnerable people, local authorities are attending to the challenge.

As I said earlier in response to Johann Lamont, community care providers—some of which are in the public sector, some of which are in the private sector and some of which are in the third sector—are going to extraordinary lengths to reach vulnerable individuals. I have looked at some examples of that from around the country, and I pay warm tribute to the individuals concerned for the extra effort that they are putting in to reach vulnerable citizens.

The Presiding Officer: If I am to fit in every member who wishes to ask a question, I have exactly one minute for each question and answer, so there should be no unnecessary preamble, please. I ask for one simple question and one simple answer.

Tricia Marwick (Central Fife) (SNP): I thank the cabinet secretary for his intervention earlier this week to ensure that emergency supplies were delivered to Fife Council.

The Presiding Officer: Just a question, please.

Tricia Marwick: I am just coming to it—

The Presiding Officer: Now, please.

Tricia Marwick: Does the cabinet secretary agree that, when the current emergency is over, a review across Scotland will need to take place to ensure that the lessons learned can be implemented by next winter?

John Swinney: That would be sensible. At all times, winter maintenance plans are reassessed and reconsidered by public authorities, and it is essential that we continue that effort year on year. As I said, this is an exceptional period of weather, but it is important that we learn lessons as we go forward.

Jackie Baillie (Dumbarton) (Lab): Given that the unprecedented weather is set to continue, and given the increased attendance at casualty units throughout the country, will the cabinet secretary provide us with exact details of the additional capacity, over and above existing planning for winter pressures, that is being provided by the Scottish Government and the NHS to cope with the increased demand?

John Swinney: As I said, the health service, through work between the Government, the Cabinet Secretary for Health and Wellbeing and health boards, has put a great focus on maintaining robust winter plans. If winter plans are to be robust, they must be able to deal with circumstances during the winter. That is exactly what the plans are focused on delivering and it is what the Cabinet Secretary for Health and Wellbeing will expect from health boards. The matter will be the subject of dialogue between the Government and health boards.

Ted Brocklebank (Mid Scotland and Fife) (Con): I thank the cabinet secretary for early sight of his statement. He will be aware of the embarrassing situation in which Fife Council found itself earlier this week when its supplies of road treatment materials ran out. Will he assure the Parliament that a complete explanation will be provided as to why Fife Council apparently experienced the most severe problems of low salt and grit stocks of any Scottish council? Will he specifically seek answers to the question whether the blame lay with contractors who failed to live up to delivery obligations or with a local authority that allowed stocks to fall too low without having made alternative arrangements?

John Swinney: I do not think that Mr Brocklebank will be surprised to hear what I have concentrated on. When I became aware on Sunday morning that there was a shortage of supply in Fife Council, I took steps to divert into the council stocks that the trunk road operating companies held, to address the situation. I repeated that on Monday, and I was extremely grateful for assistance from neighbouring local authorities, which provided supplies into the bargain. The issue was resolved.

Who said what to whom is—frankly—a matter for Fife Council. My priority is to ensure that such problems are addressed, and that is what I focused on.

Angela Constance (Livingston) (SNP): Given that we have specific emergency plans for bird flu, pig flu and flooding, how will the cabinet secretary ensure that locally and nationally we have specific emergency plans for snow that effectively prioritise the needs of elderly, disabled and other vulnerable people who are stranded at home?

John Swinney: I give the example of Dumfries and Galloway Council, which this morning activated its winter emergency plan. The plan involves a far more formal approach to joint planning among the different public bodies. On the radio this morning I heard the chief constable of Dumfries and Galloway Constabulary explain the impact that the approach will have on the provision of services. Such plans exist in strategic co-ordinating groups in all localities around the

country. The Government encourages the process, and plans are taken forward by the relevant public agencies in each locality.

Charlie Gordon (Glasgow Cathcart) (Lab): I press the cabinet secretary on a point that I put to him when he telephoned me earlier this week. The unusual longevity of the current emergency has meant that hard-working road workers have had to continue to concentrate their efforts on main roads. In previous, shorter spells of bad weather—

The Presiding Officer: Question, please.

Charlie Gordon: In a shorter spell of bad weather, we would have turned our attention by now to side roads and minor roads, and—this is crucial—to pavements. Given the social consequences for vulnerable people of these exceptional circumstances, and given the cost impact on the health service, it would be cost effective as well as beneficial—

The Presiding Officer: Question, please, Mr Gordon.

Charlie Gordon: It would be cost effective and beneficial to the hard-pressed public to give emergency funds to councils to mobilise additional labour to clear pavements. Will the cabinet secretary do that now?

John Swinney: We must be clear that there are statutory responsibilities that local authorities take forward, which extend to winter maintenance in localities—Mr Gordon will be familiar with that from his long experience in local government. It is therefore for individual authorities to take the matter forward. Of course, I have on-going dialogue with local authorities about financial arrangements, and I am sure that there will be discussion on that question, but local authorities have the statutory duty to make plans in respect of winter maintenance and I know that they are concentrating on doing that.

Jim Hume (South of Scotland) (LD): Does the cabinet secretary agree that there is great benefit in using contractors, for example through co-operative machinery rings, to clear roads, especially B roads, C roads, unclassified roads and all the cul-de-sacs in the country? Will he and his colleagues assist local authorities in tapping that usually unused resource?

John Swinney: Given the nature of my constituency, I am familiar with the concept of machinery rings, which are effective in relation to the work of the agriculture sector and the wider contracting sector in rural areas. There is clearly an opportunity. In our dialogue with local authorities we are focusing on how we can take as comprehensive action as possible to address the situation in every locality. I will certainly raise with

local authorities the opportunity that Mr Hume has identified.

Rob Gibson (Highlands and Islands) (SNP): Will the cabinet secretary work with Network Rail and the ScotRail franchisee to ensure that normal services are restored as soon as possible on the railways, especially on the Highland main line, which is blocked, and on lines where points need to be unblocked? The serial offenders need to be tackled right away, so that people can avoid alternative, treacherous road travel.

John Swinney: Mr Gibson makes an important point about the Highland main line. The derailment of a freight train at Carrbridge has caused significant disruption to the line. There have also been blockages on occasions as a consequence of heavy snowfall, particularly on the northern lines and the Aberdeen to Inverness line.

Work is under way to understand as quickly as possible the causes of the freight train derailment at Carrbridge. A train derailment is a significant issue that requires great consideration. Steps are being taken to resolve the issue, restore the site and ensure that the train network functions as effectively as possible.

We have had disruption on the rail network, which is being attended to as speedily as possible. I assure the member that the Minister for Transport, Infrastructure and Climate Change has been in touch with First ScotRail and Network Rail to ensure that we maximise the effectiveness of the rail network at this time.

George Foulkes (Lothians) (Lab): Will the cabinet secretary admit that the real reason why councils are struggling hard to clear roads and pavements is the cuts that have been imposed on them by the concordat, which he, on behalf of the Scottish National Party Government, forced them to sign up to?

Given that the statement covered health, community care, schools, farming and offenders, all of which matters are outwith the cabinet secretary's responsibility, why did the First Minister not make the statement, in what Johann Lamont rightly described as a national emergency, which is being seriously underestimated by the Government?

John Swinney: The First Minister is with me in the chamber—I do not know whether Lord Foulkes did not see him, but he is right here. He chaired the emergency meeting yesterday and—

George Foulkes: Why did he not make the statement, then?

John Swinney: I made the statement because during the past few days I have been leading, on behalf of the Government, in addressing the acute

pressure point, which has been in connection with—*[Interruption.]*

The Presiding Officer: Order.

John Swinney: The acute pressure points have been the road and transport networks and relationships with local authorities in the context of maximising supply.

Lord Foulkes asked about cuts. What a barefaced cheek! Not only did Johann Lamont spectacularly miss the tone of the moment, but Lord Foulkes has traipsed into the problem in his usual chaotic, shambolic fashion. Has he forgotten—if I have not reminded him enough of this, I know that my good friend the First Minister will remind him—that cuts of £500 million have come down the road from the Labour Government in London? Perhaps he should have thought about that before he asked his silly question.

Patrick Harvie (Glasgow) (Green): That was all fun, wasn't it? Alongside the important transport issues and the other issues that have been mentioned, is it not equally—*[Interruption.]*

The Presiding Officer: Order. Could we hear the question, please?

Patrick Harvie: I appreciate that.

Is it not equally important that people can afford to keep warm in their homes at this difficult time? Why was there not one mention of fuel poverty in the statement?

John Swinney: Part of what the Government's information campaigns do is encourage people to participate in initiatives such as the energy assistance package—a first-class initiative that exists to assist individuals who are addressing fuel cost issues.

Patrick Harvie raises a significant issue. Tackling it is part of the Government's continuing priorities and it will remain in our focus.

Karen Gillon (Clydesdale) (Lab): Will the cabinet secretary agree to share with local authorities the details of salt stocks that Scottish Government agencies such as Transport Scotland hold? Will he consider putting in place strategic contingency supply arrangements for the future, given that all salt supplies now come from outwith Scotland?

John Swinney: We are actively managing with local government the arrangements on salt supplies, and where there are difficulties in salt availability we work to resolve them. In a number of cases, that has involved using stocks that are held by the trunk road operating companies, which must be used to keep trunk roads operational.

Karen Gillon suggests a strategic contingency supply. There is some merit in that point and, in

light of the issues that Tricia Marwick raised, the Government will consider it as part of future developments. Throughout the country, trunk road operating companies and local authorities hold stocks in advance. Our challenge now is to manage those stocks responsibly, because we expect a prolonged period of winter weather and we must be assured that we can replenish the supplies as effectively as possible.

David McLetchie (Edinburgh Pentlands)

(Con): I was gratified to hear the specific examples that the cabinet secretary gave in his statement of persons on community service orders doing work in our communities at present. To put this in overall perspective—

The Presiding Officer: Just ask a question, please.

David McLetchie: Will the cabinet secretary tell us how many persons who are presently subject to community service orders have been involved in clearing snow and ice from our roads and pavements over the past fortnight?

John Swinney: I am glad that Mr McLetchie welcomes the fact that I have already given the Parliament some details on all those issues. I am also pleased to hear that he is now a great supporter of community service. I was not aware of that given his contributions to discussions in the past, but I am glad that we have found common ground in tackling the winter difficulties in our communities.

Christine Grahame (South of Scotland)

(SNP): In the cabinet secretary's discussions with COSLA, will special regard be given to the Scottish Borders in preparation for the inevitable thaw, given the heavy snowfall that has already been referred to and the region's existing vulnerability to flooding?

John Swinney: Christine Grahame makes an important point. As I said in my statement, we have opened up discussions with SEPA, which is the lead organisation on flood management. There is a clearly articulated system of alerts on the rivers throughout Scotland in relation to flood management. We will continue to monitor that information. A key contributor to that will be the long-term weather forecast, which will give us a sense of how rapid we can expect any thaw to be.

Elaine Murray (Dumfries) (Lab): Is the cabinet secretary aware that part of the problem that Dumfries and Galloway Council faced was that salt supplies that were originally destined for the region were diverted to other councils south of the border? He stated that the Scottish Government was working closely with the UK Department for Transport, so will he advise the Parliament what actions he is taking to ensure that vital supplies

that hard-pressed Scottish local authorities require are not diverted elsewhere?

John Swinney: I agree entirely with Elaine Murray on that. Yesterday was the first occasion on which the Department for Transport activated the so-called salt cell, which is a mechanism that was set up after the difficulties with salt supply last February in the rest of the United Kingdom—it was not a Scottish problem, but a problem in England and Wales. That mechanism is designed to ensure that salt supplies reach the parts of the country that require them when there is acute pressure.

As I said, the winter weather has gone on for a more prolonged period in Scotland, so we certainly have an acute requirement and demand for supplies in Scotland and we are actively participating in the salt cell discussions with the Department for Transport. We are also in touch with the salt suppliers; my officials had discussions with them yesterday on the issues that Elaine Murray raises and we will continue to press the matter regularly to protect the Scottish interest.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): This week, the Borders was

the only region to be cut off from the rest of the country. Indeed, many people outside the region, such as myself, could not get home on the main trunk roads or the local authority routes yesterday. Does the cabinet secretary have any estimate of when the supplies of grit that are expected for the Borders will be at maximum? Currently, the delivery is less than half of what is expected.

It was welcome to hear in his statement that the Government recognises the acute pressures on the health service. Given those pressures, will special consideration be given to NHS Borders and the community health partnership over and above the inevitable need to consider compensation?

John Swinney: I point out to Mr Purvis that, in the period since new year, yesterday was the day of the most acute difficulties on the Borders routes. The road clearing staff have worked exceptionally hard to try to clear some very difficult conditions in the south of Scotland and continue to do so.

We are actively managing the salt supply for Scottish Borders Council in dialogue with the council and the salt suppliers. I will not suggest for a moment to the Parliament that every local authority has all the salt supplies that it would ideally want to have at this time of year, because the work that has gone on over the past few weeks has depleted supplies severely. We are managing the situation to ensure that the supply is adequate to keep principal routes and major thoroughfares clear in all localities and will

continue to do that in partnership with Scottish Borders Council.

We will assess the financial impact of the difficulties in due course. The priority is to concentrate on activating public services to address the scale of the challenge that we face.

John Park (Mid Scotland and Fife) (Lab): I am sure that the cabinet secretary shares my concern about the circumstances in Fife at the weekend. Fife Council issued a press release on Sunday afternoon indicating that it would run out of salt, so could the cabinet secretary clarify when the Scottish Government became aware of the council's situation and what action it took?

John Swinney: The Scottish Government became aware on Sunday of the situation in Fife. We had been asking for information about the situation for some time. We obviously knew that there were strains on supplies—we knew that about every locality in the country—but the fact that there was an acute shortage and that there was a prospect of Fife Council being unable to undertake any gritting became clear to us for the first time on Sunday and I acted to resolve the situation as members would expect me to do.

The Presiding Officer: We are already taking time out of the next debate, but if the remaining two members who wish to ask a question are brief we will fit them in.

Stewart Maxwell (West of Scotland) (SNP): Will the cabinet secretary assure me that he and other ministers will press the power companies in Scotland to treat their customers with due care and attention at this particularly difficult time?

John Swinney: Mr Maxwell will understand some of the comments that the power companies have made about acknowledging their responsibilities in this period. I assure him that ministers will make the point clearly to the power companies in Scotland.

Jack McConnell (Motherwell and Wishaw) (Lab): The cabinet secretary rightly made the point at the end of his statement that individuals and communities could take on more individual responsibility. However, they have difficulty doing that because of the absence of grit in grit bins in streets and communities. I ask him for an assurance that any review of what has happened this winter will include the fact that authorities throughout Scotland appear to have failed, either deliberately or by omission, to fill grit bins to enable local individuals to take action on their own streets to secure the pavements for those who are more vulnerable.

John Swinney: It is essential that there is grit in the bins to allow individuals to take such action. We have encouraged local authorities to stock the

grit bins on streets around the country with alternatives to salt because of the pressures on salt supplies. The concentration has been on replacing salt with sand, which is not a perfect replacement, but it is an equivalent. That has been taken forward today by the City of Edinburgh Council and Glasgow City Council. We welcome that and we encourage the uptake of that initiative in other parts of the country.

Public Services Reform (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-5429, in the name of John Swinney, on the Public Services Reform (Scotland) Bill.

09:50

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): I am delighted to open the stage 1 debate on the Public Services Reform (Scotland) Bill. The Government came into office with one overarching purpose: to focus the Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish through sustainable economic growth. We started to focus Government by making clear our strategic objectives, by reducing the number of ministers and portfolios, and by putting in place the national performance framework.

Our wider public sector reform agenda, which was announced by the First Minister two years ago, is focused on simplifying and integrating public services and promoting the sharing of services through closer collaboration on a number of matters, including procurement. We are working closely with local government through the concordat and with public bodies as part of our effective public bodies programme to align objectives better to achieve the Government's purpose. We remain committed to simplifying Scotland's complex landscape of national public bodies, which has evolved over time and which for too long has been allowed to grow in an ad hoc and piecemeal fashion. The resulting overlap and duplication of function is clear to see, and changes are long overdue.

Against that background, the bill aims to remove overlap and duplication; provide greater clarity for service users and improved service delivery; and deliver more effective use of resources and better value for money. Our simplification programme is making progress, having already delivered a reduction from 199 public bodies to 161. The bill, together with other planned measures and legislation, will reduce that number to around 120 by 2011. No reasonable commentator can claim that this Government has not set its shoulder squarely to the wheel of simplifying and streamlining the public sector in Scotland. I note that the United Kingdom Government has recently announced its own plans for a modest streamlining of its public bodies.

Our public sector reform agenda was and remains the right approach. The Government's

simplification programme, including the proposals in the bill, will deliver net financial savings of around £127 million over the period 2008 to 2013 and recurring annual savings of around £40 million thereafter. However, the dramatically changing global economic circumstances and the tightening of the budget settlement that is afforded to Scotland mean that we need to go further and faster in our reform agenda as we seek to secure the best value for money for the public purse. It is therefore essential for this Parliament to be able to respond more quickly to changing circumstances and to take advantage of opportunities to streamline further the public bodies landscape without the need to introduce primary legislation on every occasion. That is why the order-making powers in part 2 of the bill, with appropriate safeguards and parliamentary procedures in place, are so important.

Contrary to some suggestions, such order-making powers are neither novel nor unprecedented. In essence, they are powers that allow secondary legislation to make potentially wide-ranging changes to primary legislation, subject to appropriate conditions and safeguards.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Does the minister accept that it is not constitutionally appropriate for a Government minister such as him to make changes to parliamentary appointees? That is for Parliament to decide, not the Government. That is a fundamental issue, which he has got wrong in the bill.

John Swinney: I am not sure whether Mr Rumbles has seen the text of the letter that I issued to the convener of the Finance Committee. However, it explains some of the changes that the Government proposes. I will get round to sharing more details, and if Mr Rumbles wants to ask further questions at that point, I will be happy to address them.

As I said, the order-making powers are neither novel nor unprecedented. Similar powers were included in section 57 of the Local Government in Scotland Act 2003, which provides wide powers for ministers to modify any enactment that prevents local authorities from discharging best-value duties, having regard to economy, efficiency and effectiveness. That legislation was of course introduced by the previous Labour-Liberal Democrat coalition, and the order-making powers were endorsed as entirely appropriate by the Subordinate Legislation Committee of the day and passed with the Scottish National Party's full support. The wide nature of the powers in the 2003 act is underlined by the fact that they were subsequently used to deliver the provision of free school meals.

Having said that, I do of course recognise that concerns have been raised about the scope and operation of the powers in part 2. I promised the Finance Committee that I would consider those concerns carefully when I received its stage 1 report, with a view to lodging appropriate amendments at stage 2 to provide additional procedural and statutory safeguards.

Before I say anything further about part 2, I wish to place on record my gratitude to the Finance Committee, the Subordinate Legislation Committee and the subject committees that took evidence on the bill for their very thorough and helpful stage 1 reports. We have enjoyed a very constructive dialogue and debate with the committees, which I am sure will continue during stage 2 consideration.

I will, of course, provide the Finance Committee with a detailed response to its stage 1 report in good time before stage 2. However, I recognise that particular concerns have been expressed about the order-making powers in part 2. As I said to Mr Rumbles, I wrote to the convener of the Finance Committee and to members earlier this week, setting out the amendments that I propose to lodge at stage 2 to address the concerns that have been raised about the scope of the powers.

We propose to lodge amendments, first, to provide additional procedural safeguards and, secondly, to address specific concerns that have been raised about the scope of the powers. As recommended by the Subordinate Legislation Committee, we will lodge amendments that require proposals for an order under section 10 or section 13 to be subject to an enhanced form of super-affirmative procedure. Under that procedure, a proposed draft order would have to be laid before the Parliament, together with an explanatory document, for a period of 60 days. That would allow a proper opportunity for public consultation, and the relevant committees could take evidence on the proposals contained in the draft order, if they so wished. Following that consultation process, a final version of the draft order would formally be laid before Parliament, together with a further explanatory document giving details of the comments received and any changes made, and the order would be subject to the affirmative resolution procedure. Although the power to initiate such a proposal would rest with ministers, the final decision—the ultimate control—would remain with Parliament, as it properly should.

Mike Rumbles: That is the fundamental problem that we face in Parliament today. The minister apparently does not accept that it is not up to him or the Government to initiate changes that are decided here in Parliament. It is not the prerogative of the Government to do that. He makes a point with regard to the Local

Government in Scotland Act 2003, but he misses the constitutional point of the difference between Government and Parliament.

John Swinney: Mr Rumbles is perhaps making a point about parliamentary officers and individual ombudsmen. If I were to follow the logic of his argument, Government would be unable to initiate legislation.

Mike Rumbles: No, the cabinet secretary misunderstands the point.

John Swinney: No, it is Mr Rumbles who misunderstands. My point is that the Government seeks the power to initiate changes to primary legislation through the route of secondary legislation. That power was included in the Local Government in Scotland Act 2003 and was voted for by Mr Rumbles. I do not think that Mr Whitton was here then, but Jackie Baillie, Karen Gillon and Mr McMahon certainly all voted for it—indeed, I voted for it.

Jackie Baillie (Dumbarton) (Lab) rose—

John Swinney: That act enshrined the ability to change primary legislation by secondary legislation. There is a separate point about parliamentary bodies.

Mike Rumbles: That is the point that I am making.

John Swinney: That is fine. I am just coming on to that point. If Mr Rumbles would listen to what I am saying, we might get somewhere. I will give way, though, to Jackie Baillie, who wanted to raise a point.

Jackie Baillie: Does the cabinet secretary recognise that the legislation to which he referred does not alter the function or, indeed, the existence of public bodies in the way that he proposes to do through the bill, so it is not a precedent?

John Swinney: Of course it is a precedent, because it allows secondary legislation to be used to change primary legislation by order. What I have announced today and shared with Mr Welsh in the letter that I sent him yesterday is, essentially, the ability for such matters to be taken forward with extra consultation.

I come to the point that Mr Rumbles is interested in. Concerns have been raised about the inclusion of parliamentary commissioners, ombudsmen and other parliamentary bodies, such as Audit Scotland. On the other hand, some commissioners have made the point that, provided that the bill contains appropriate safeguards, the order-making powers could provide a useful means of making sensible changes to their powers and functions without the need for primary legislation.

With that in mind, I propose—I set this out in my letter to Mr Welsh—that, in relation to parliamentary bodies, the power to initiate proposals for an order under part 2 should rest with the Scottish Parliamentary Corporate Body, not with ministers, and therefore ministers should be able to embark on a consultation process with a view to making an order that affects a parliamentary body only if invited to do so by the Scottish Parliamentary Corporate Body. The reason for that is that the SPCB is elected by MSPs to steward and take forward issues of concern to them. We are suggesting an alteration to our proposal, to give the power of initiation exclusively to the SPCB—although of course the same consultation requirements that I have announced with the strengthened super-affirmative procedure would apply, and of course the final decision would rest not with the SPCB or the Scottish ministers but with Parliament.

Ross Finnie (West of Scotland) (LD): Can the cabinet secretary point members to any part of the corporate body's constitution or standing orders that gives it any powers to deal with policy matters relating to the Parliament?

John Swinney: I have detected Parliament's concern at different stages—I certainly experienced it in opposition when I was a member of the Finance Committee prior to the 2007 election. Members of that committee were frustrated by the lack of power that the corporate body considered it had in addressing questions and resolving many issues connected with the financial sustainability and budgeting approaches of the parliamentary ombudsmen—[*Interruption.*] Mr Purvis says that it is not for the Government to decide; rather, it is for Parliament.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD) *rose—*

John Swinney: Wait a minute. That is precisely what I am saying. I am putting in place a power of initiation for the Scottish Parliamentary Corporate Body and reinforcing Parliament's ability to have the final say on such questions. That point is entrenched in what the Government is setting out.

Robert Brown (Glasgow) (LD): Does the cabinet secretary accept that the issue is not so much the initiation power, although that is important, as the substantial and widespread nature of the powers? As Jackie Baillie rightly said, those powers include the power to set up new bodies, abolish existing bodies, amalgamate bodies and so on. How does that fit with the Paris principles and the independence of the commissioners, which is important?

John Swinney: Those bodies are creations of Parliament, and Parliament could decide that it wished to change them. It has the right to do that. I

am in no way compromising Parliament's right to decide on that. I would have thought that what I am announcing would cheer up the Liberals a bit, but they are not very cheerful.

Jeremy Purvis *rose—*

John Swinney: I had better proceed to other subjects and address other ground that the bill covers.

Crucially, the Government proposes a number of changes that will strengthen the scrutiny process and Parliament's right to control areas that are entirely and properly in its preserve. I hope that members will consider the Government's announcements, understand the cementing of Parliament's role and responsibility in the process, and consider matters in a dispassionate fashion rather than in a purely partisan fashion. It is important that we turn the rhetoric about tidying up the public sector landscape into practicalities. I am regularly told by Liberal Democrats and members of the Labour Party, and I am told all the time by members of the Conservative party—we get this every Thursday from Miss Goldie—that we must act to tackle the number of public bodies. We are putting in place a practical way of making that happen. I hope that members will consider that on its merits.

Patrick Harvie (Glasgow) (Green): Will the cabinet secretary explain one thing? If he is willing to go through the super-affirmative procedure and to take time to allow committees to take evidence and consult, what is the unbearable burden of the short and simple pieces of primary legislation that are currently required? What is the big problem with them?

John Swinney: The problem is that the issues can never be taken forward in primary legislation in the fashion that Mr Harvie has characterised. Mr Harvie should consider the specific proposals in the bill to change a number of bodies, some of which are not terribly controversial—I am talking about the Deer Commission for Scotland and other bodies. It would be extremely difficult to find the opportunity to bring primary legislation to Parliament and the time to go through all the procedures. We are trying to develop an efficient way of rationalising public bodies where opportunities arise to do so in order to deliver greater public sector efficiency. That is the rationale and thinking behind the process.

We have listened to specific concerns that various committees that took evidence on the bill raised about the scope of the powers, and we propose to lodge a number of amendments in response to them. In particular, we will make it clear that the order-making powers cannot be used in such a way as to interfere with the independence of the judiciary, judicial bodies or

judicial decision making. As the Subordinate Legislation Committee recommended, we will also make it clear that the power to add bodies to schedule 3, and therefore to bring them within the scope of the order-making powers, does not extend to local government. Finally, we will lodge amendments to make it clear that the powers cannot under any circumstances cut across existing statutory duties to protect and preserve Scotland's cultural heritage.

Taken together, that package of amendments will deal fully with the concerns that have been expressed about the scope and coverage of the order-making powers in part 2 and the associated procedural safeguards. The process of debate and dialogue will no doubt continue during stage 2, but I hope that members will agree that we have responded positively and constructively to the concerns that the Finance Committee and other committees expressed in their reports.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): Will the cabinet secretary give way?

The Deputy Presiding Officer: The cabinet secretary should begin to wind up.

John Swinney: It would be helpful if the Presiding Officer gave me guidance on when I am due to complete my remarks.

The Deputy Presiding Officer: You may have another couple of minutes, given the number of times that you have given way.

John Swinney: I will treat Jackie Baillie to some more rhetoric and briefly cover some other provisions in the bill, which will also be covered by my colleagues in the closing speech this morning and in the opening and closing speeches this afternoon.

On creative Scotland, a great deal of hard work has been done to address all the points that stakeholders have raised, and I am pleased that the Education, Lifelong Learning and Culture Committee and the Finance Committee have recommended that creative Scotland should be fully established.

Parts 4 and 5 set out the functions for the two new scrutiny bodies: health care improvement Scotland and social care and social work improvement Scotland. Our intention is to establish two new scrutiny bodies that can fulfil the Crerar principles of public focus, independence, proportionality, transparency and accountability while contributing to the simplification of the scrutiny landscape.

On part 6, scrutiny improvement is a key part of our work. We are focusing on balancing the need for independent external scrutiny with the ability of service deliverers to undertake robust self-assessment and self-improvement. I stress that

many such issues will be addressed in much greater detail by my colleagues on the Government's front bench.

I have considered the options for accommodating the Office of the Commissioner for Public Appointments in Scotland's regulation of appointments to the board of Audit Scotland. My preference is for the Scottish Commission for Public Audit to commit to making those appointments in a way that reflects the spirit of the OCPAS code but without further statutory underpinning, thereby leaving it to Parliament to satisfy itself that those non-executive appointments are made in an appropriate way by the SCPA.

The Government has produced a bill that is consistent with its drive to deliver public sector efficiency, streamline the size of the public sector and respond to the challenges that we all know we are going to face in the years to come.

I move,

That the Parliament agrees to the general principles of the Public Services Reform (Scotland) Bill.

10:10

Andrew Welsh (Angus) (SNP): Although the Finance Committee considers the financial implications of all legislation, the committee has never before been designated the lead committee on a bill since the establishment of the Parliament in 1999. In what is therefore a unique position for a convener of the Finance Committee, I am pleased to speak on the committee's behalf in this stage 1 debate on the Public Services Reform (Scotland) Bill.

This wide-ranging bill touches on the remits of a number of different committees and is a good example of Parliament's committees working together by contributing their individual specialised areas of expertise.

While the Finance Committee took the lead role in examining the cross-cutting issues in the bill, the Rural Affairs and Environment Committee examined the provisions relating to Scottish Natural Heritage; the Health and Sport Committee considered the provisions relating to the care commission and care services, as well as the new health scrutiny body, health improvement Scotland; and the Education, Lifelong Learning and Culture Committee examined part 3, on creative Scotland, and provisions relating to social work. The committees also considered duties of co-operation and joint inspections and commented on the order-making powers in part 2.

I will leave the representatives of the secondary committees to detail their recommendations on

those areas, and I thank them for their detailed scrutiny of significant parts of the bill.

The Finance Committee was aware that the bill is only one element of the Scottish Government's programme for the reform of public services. We sought to place the bill in a wider context that includes issues that were being actively scrutinised elsewhere, such as single outcome agreements and the Scotland Performs programme.

The wider programme for simplifying the public sector landscape is clearly linked to parts 1 and 2 of the bill. The committee heard a range of evidence about the simplification programme. Although I will not pre-empt discussions on our future work programme, the issue of the future shape of public services during a continuing squeeze on all budgets has exercised us throughout this parliamentary session and will continue to be a major focus for the Finance Committee.

Part 2 proved to be by far the most contentious area of the bill during our stage 1 scrutiny. The cabinet secretary has already given his initial response to our detailed recommendations on it, both in correspondence and in his opening remarks today. However, large parts of our evidence taking and our report were focused on the implications of those powers.

Part 2 contains the public functions power, in section 10, and the burdens power, in section 13. It is important to distinguish between those two powers because although many of the safeguards in the bill apply to both of them, their purposes and possible implications are markedly different.

The section 10 power to

"improve the exercise of public functions"

certainly exercised our witnesses and the committee to the greatest extent. Many of my comments on procedure and other safeguards apply to both powers.

On the safeguards that are applied by the bill, I express the committee's thanks to the Subordinate Legislation Committee for its detailed and thoughtful work and thorough recommendations. We have already heard from the cabinet secretary that he plans to bring forward a range of amendments to address our concerns in this area, and I thank him for the early notice of his intentions.

A major area of debate for the committee was the list of bodies in schedule 3 to the bill, to which both the powers in part 2 will apply. A range of bodies listed in the schedule, their stakeholders and other experts expressed concern over the potential impact on the independence of some of the bodies. Again, the cabinet secretary has

already outlined his intention to come back at stage 2 with significant changes to address the committee's concerns.

Mike Rumbles: Will the member give way?

Andrew Welsh: I want to make progress. Mr Rumbles can raise his point later in the debate.

It is worth highlighting some of the specific concerns that were expressed in evidence to the committee.

The list in schedule 3 contains all the parliamentary commissioners and the ombudsman. The commissioners and the SPCB all submitted evidence to the committee that, due to the possible and the perceived impact on their independence from the Government, they should be removed from the schedule.

The Scottish Information Commissioner explained that the Freedom of Information (Scotland) Act 2002 was deliberately framed by Parliament to safeguard the commissioner's independence from Government, and the Scottish Human Rights Commission claimed that its inclusion in schedule 3 could threaten its application to the United Nations as a category A national human rights institution and would affect public confidence in its independence. Those are serious concerns, and the cabinet secretary has agreed to take them into consideration.

The list in schedule 3 also includes Audit Scotland and the Accounts Commission; the Scottish Court Service; a range of quasi-judicial bodies such as the Judicial Appointments Board; the Mental Welfare Commission; and the police complaints commissioner. Again, witnesses from those bodies and their stakeholders all expressed serious concerns about their inclusion. It is, therefore, welcome that the cabinet secretary has committed to consider those issues, and the committee looks forward with interest to the stage 2 proceedings.

The committee heard evidence from legal academics and others who raised the serious point that, in their view, such powers have the potential to blur the dividing line between subordinate and primary legislation, and could alter the balance of power between Parliament and Government. However, although the committee takes those concerns seriously, we are also keenly aware of the need to speed up the pace of public services reform and we recognise that a parliamentary mechanism is needed to ensure that small-scale changes such as those in part 1 can be enacted without the need to resort to primary legislation.

It is the clear view of the committee that the safeguards, as currently drafted, do not go far enough in protecting the role of Parliament. Again,

I welcome the cabinet secretary's commitment to engage constructively in that area.

Part 6 was considered in detail by the secondary committees and, again, I express the Finance Committee's appreciation of their work. When we considered the provisions related to the proposed duty of user focus, evidence was split between some legal academics and members of the Law Society, who questioned the value and impact of imposing such a general duty, and Professor Crerar and people from the voluntary sector, who were clear that the provisions should encourage cultural change in scrutiny bodies that would be of benefit to the users of public services.

Although other committees took the lead on the policy implications of certain areas of the bill, the Finance Committee considers the financial implications of all bills, and this legislation was no different.

In general terms we found the financial memorandum to be a detailed and useful document that sets out the financial implications of the bill, although we raised some specific issues. Concerns were expressed in evidence to the committee regarding whether the £3.2 million savings that it was anticipated would result from the bill would be sufficient, and whether the bill could or should be used to drive through a higher level of savings. However, the committee recognises that the bill is not designed to be a cost-saving exercise, although we encourage the cabinet secretary to look for further savings from the measures in the bill and the wider simplification programme, which I am sure he will be happy to take on board.

We considered the area of the financial memorandum that dealt with creative Scotland to be extremely detailed and a major improvement on the document that we considered in 2008. However, although the financial memorandum provides ranges of figures and attempts to give a "best estimate", some areas are subject to "significant margins of uncertainty", particularly the voluntary early severance or retirement scheme and the harmonisation of business systems and information technology. We appreciate that much of the work is on-going and is the responsibility of Creative Scotland 2009 Ltd. However, due to the wide range of costs involved, we have asked the Government to monitor and report to Parliament regularly on progress towards establishing the new body.

The committee was content to recommend to Parliament that the general principles of the bill be agreed to. However, we had a range of concerns about part 2, and we asked the cabinet secretary to bring forward revised proposals prior to stage 2 consideration. I am pleased that the cabinet secretary has recognised the strength of the

committee's concerns in that area, and that he has responded by correspondence prior to this debate. I am sure that the rest of the committee members look forward to discussing in detail those revised proposals and others at stage 2, if the bill receives support at decision time tonight.

10:21

Ross Finnie (West of Scotland) (LD): I will confine my remarks to the Liberal Democrat amendment.

As Andrew Welsh made clear, part 2 of the bill proved to be by far the most contentious. Indeed, it was on the convener's casting vote that the Finance Committee disagreed to a proposal from the Liberal Democrats to recommend the removal of part 2 from the bill.

On part 2, as Andrew Welsh pointed out, the committee relied heavily on undertakings from the cabinet secretary. Paragraph 48 of the report details that he undertook

"to look again at the issue of preconditions";

paragraph 53 says that he will

"consider the balance between the scope of the powers and the accompanying safeguards";

and paragraph 68 says that he undertook

"to look at the list of bodies in schedule 3".

I make it clear to the cabinet secretary at the outset that I accept that his letters to the Presiding Officer and the convener of the Finance Committee were issued in good faith and represent the Government's best endeavours to answer the substantial concerns that were raised by the Finance Committee and others in relation to part 2. We have considered those letters carefully and have concluded that the responses do not adequately address the very serious concerns that have been raised. Accordingly, we continue to believe that part 2 should be withdrawn from the bill if it is to proceed.

The general principles of the bill, as set out in the long title, include

"simplifying public bodies, including ... the dissolution of certain bodies".

Part 2 gives effect to that principle. On the grounds of "efficiency, effectiveness and economy", ministers would be given order-making powers under section 10 whereby they could modify, abolish or transfer the functions of most of the 78 or so persons, office-holders and bodies that are set out in schedule 3.

On the ground of reducing burdens, ministers could, under section 13, abolish, confer, transfer or delegate functions of any description, or create or abolish a body or office, all by means of a

statutory instrument. I say to the cabinet secretary that those powers are not analogous to the powers in section 57 of the Local Government in Scotland Act 2003, which at no stage gives anybody any power to abolish, transfer or confer the powers of any part of local government in Scotland.

John Swinney: Does Mr Finnie accept that, as I said in my opening speech, stage 2 amendments from the Government will implicitly exclude local government from that process and from any suggestion that it could be included?

Does Mr Finnie recall any moment in his long ministerial career when he considered that minor changes to the arrangements for public bodies in Scotland could be undertaken in a better fashion than by using primary legislation?

Ross Finnie: The cabinet secretary's first point is completely irrelevant, as I am not dealing with local government; I accept that he has said that the 2003 act is a precedent.

I move on to the issue of "minor changes". Liberal Democrats agree with the Finance Committee's conclusion at paragraph 87 of its report that, as Andrew Welsh pointed out—the cabinet secretary made this point, too—

"a parliamentary mechanism is needed to ensure that small-scale changes like those set out in Part 1 of the Bill can be enacted without the need for primary legislation."

However, the cabinet secretary's policy memorandum makes it clear that his Government considers the matters that fall within the ambit of part 2 to be small scale.

We do not accept that. Changes that could include the abolition of a body would not be small scale, and a change that had the capacity to alter fundamentally the policy intention of an act that has been passed by the Parliament would not be justified on that ground.

Mike Rumbles: Interference.

Ross Finnie: It is quite extraordinary that one has to bear such a degree of intervention from members on one's own back bench.

The Deputy Presiding Officer: I am sure that you will be able to deal with it, Mr Finnie.

Ross Finnie: Furthermore, such changes do not lend themselves to the use of the short-form procedure of secondary legislation. There is a fundamental difference between primary and secondary legislation, which is made clear in paragraphs 75 and 76 of the Finance Committee's report, and no amount of so-called safeguards can alter that fact.

John Swinney: Will the member take an intervention?

Ross Finnie: I will finish my point.

Andrew Welsh commented on the number of bodies that are listed in schedule 3, but the cabinet secretary, in his letter to the Presiding Officer, rejects any change to that list.

In his letter to the convener of the Finance Committee, the cabinet secretary's first proposal is that any order that is made under section 10 or section 13 should

"be subject to an enhanced form of 'super-affirmative' procedure".

I confess that in the past, I may have been seduced by the offer of a super-affirmative procedure, but here we are dealing with the principle of whether the provisions that are contained in part 2 could potentially alter the balance of power between Government and Parliament.

When a Government feels compelled to offer not just an affirmative procedure, or a super-affirmative procedure, but an "enhanced super-affirmative procedure", Parliament is entitled to conclude that if the provisions that are set out in part 2 require that degree of procedural and statutory safeguard, they do not warrant the use of secondary legislation.

John Swinney: I take Mr Finnie back to his point about changing primary legislation by the use of secondary legislation. Can he explain his justification for supporting that principle when he supported the Local Government in Scotland Act 2003? Why will he not take the position that he took at that time in relation to the bill that is before us today?

Ross Finnie: I am sorry that the cabinet secretary was not listening when I made abundantly clear the distinction that I am drawing, and which the Liberal Democrats are drawing in this debate: nowhere in section 57 of the 2003 act are powers given to anyone to abolish transfer or confer the powers of any part of local government in Scotland. That is distinctly different from the powers that the Government seeks under part 2 of the bill.

The cabinet secretary's second proposal is that the power to initiate an order under part 2, as far as it affects parliamentary bodies, including Audit Scotland, the Scottish Commission for Public Audit and the various parliamentary commissioners and ombudsmen, should rest with the SPCB rather than with ministers.

Liberal Democrats welcome the cabinet secretary's acknowledgement that it is not appropriate for ministers to propose changes to parliamentary bodies, commissioners, ombudsmen or bodies with an audit function. However, we cannot accept that it would be appropriate for the SPCB to do so, and we think

that it is inappropriate for ministers to prescribe who might propose such changes.

As the cabinet secretary is well aware, the SPCB was established under section 21 of, and schedule 2 to, the Scotland Act 1998. As members are aware, the SPCB's principal functions are to manage the Parliament building, to ensure that the Parliament has the appropriate level of resources, and to be responsible for the Parliament's budget. It has no policy function. Therefore, it is wholly inappropriate to suggest that the SPCB should initiate a procedure that might have the effect of countermanding policy intentions that have already been agreed to by the Parliament. Parliamentary committees might do that, but it is not for the Government to prescribe what committees should or should not do.

Joe FitzPatrick (Dundee West) (SNP): Who does the member think should be able to initiate that procedure? Given that the corporate body is a committee of the Parliament, surely it is the appropriate body.

Ross Finnie: If the member had been listening, he would know that I deliberately went on to add a caveat so that he would not make that intervention. I made the point that committees of the Parliament are perfectly entitled to initiate such a procedure. The point is that it is not for the Government to prescribe what parliamentary committees do.

In relation to part 2, the cabinet secretary proposes to lodge amendments that make it expressly clear that the order-making powers in sections 10 and 13 cannot be used in such a way as to interfere with the independence of the judiciary, judicial bodies or judicial decision making, and that the power in section 11 cannot be used to add local government bodies to schedule 3. Liberal Democrats welcome the proposal to clarify the position, but the fact that the Government concedes that part 2, as drafted, is open to such interpretation only underpins our view that it has been far too widely drawn.

As Patrick Harvie made clear in his intervention, administrative convenience should not be used as an excuse to resort to secondary legislation when substantive changes are in contemplation and primary legislation is clearly the most appropriate route. Part 2 is far too widely drawn. It attempts to shift the balance of power between the Government and the Parliament, and its so-called safeguards are both inadequate and inappropriate. It should be withdrawn.

I move amendment S3M-5429.1, to insert at end:

"but, in so doing, calls on the Scottish Government to remove Part 2 of the Bill at Stage 2."

10:31

David Whitton (Strathkelvin and Bearsden) (Lab): It is fair to say that it has not been the best start to the year for Mr Swinney and his department. Yesterday, his deputy minister Mr Mather could see no definite start or finishing date for the long-awaited Beaulay to Denny transmission line. Today, Mr Swinney comes before us to debate the Public Services Reform (Scotland) Bill at stage 1, and already, as we have heard, he is in trouble.

The Liberal Democrats have eloquently put forward an amendment that calls on the Government to remove part 2 at stage 2. I should tell the cabinet secretary and the Parliament that, at the moment, Labour is minded to support that amendment. That would be consistent with the position that Labour took in the Finance Committee, where we warned that we could not support the provisions in part 2 as they stood and that we looked to the cabinet secretary to bring forward some new proposals to address the concerns that have been expressed by those who would be affected by his wide-ranging power grab.

As Ross Finnie outlined, the committee disagreed by division to a proposal to recommend the removal of part 2 from the bill. Members will not be surprised to learn that it was my good friend Mr Brownlee who rode to the SNP's rescue by voting with it yet again, causing a tie, and giving the casting vote to our convener, Mr Welsh. That has happened before and no doubt it will happen again.

It is a pity that Mr Brownlee had not discussed his views with his colleagues on the Education, Lifelong Learning and Culture Committee, the Health and Sport Committee or the Rural Affairs and Environment Committee. The Education, Lifelong Learning and Culture Committee recommended the removal of part 2, with only the SNP members who were present dissenting. The Rural Affairs and Environment Committee said that it would prefer the powers that the cabinet secretary is seeking to take to himself to be removed from the bill, while members of the Health and Sport Committee recommended that the Scottish Public Services Ombudsman and other bodies that were established and are funded directly by the Scottish Parliamentary Corporate Body be removed from schedule 3 and added to the list of those that would be exempt from ministerial control. Committee members came to those conclusions as a result of the evidence that they heard from a wide range of witnesses from all corners of Scottish public life, all of whom told the cabinet secretary that what he was proposing in part 2 was more than a step too far. Indeed, it is unprecedented.

So, what is the cabinet secretary proposing? As Mr Finnie reminded us, part 2 contains two order-making powers. It is worth repeating that section 10 allows ministers to

“make ... provision which they consider would improve the exercise of public functions”.

That includes

“modifying, conferring, abolishing, transferring, or providing for the delegation of, any function”.

It also includes abolishing, creating or amending the constitution of public bodies. Section 13 allows ministers to

“make any provision which they consider would remove or reduce ... burdens”.

That can also include

“abolishing, conferring or transferring, or providing for the delegation of, functions”

and “creating or abolishing” a public body.

The bill team confirmed that the list of bodies that would be subject to those powers is the original list of 199 national public bodies that was drawn up at the beginning of 2007 when the overall review of the public sector began. Basically, the cabinet secretary, in a minority Government with no parliamentary majority, wants to take to himself the power to do what he likes because, as he said, he wants to go further and faster without bothering with minor details such as primary legislation to make major changes.

John Swinney: Does Mr Whitton recognise that the final decision on any change that was proposed by any such order would be taken by the Parliament and not by ministers? That means that those powers are not taken by me or ministers but remain with the Parliament, where they are today.

David Whitton: The point is that the minister wants to take the powers in the first place and that less scrutiny will be involved.

John Swinney: Come on. That is rubbish.

David Whitton: The cabinet secretary says that that is rubbish, but more learned members of the Parliament, such as Mr Finnie, disagree with him.

John Swinney: Will the member take another intervention?

David Whitton: Of course.

John Swinney: This is a fundamental point. Mr Whitton and his colleagues press me to take action to make the public sector more efficient, and in the bill we are seeking to take powers of initiation, not of final decision. That is the bit that I do not understand about Mr Whitton’s—

Jeremy Purvis: Unamendable.

John Swinney: Mr Purvis says, “Unamendable”. Under the super-affirmative procedure that we have said we will use, there will be a draft order, on which consultation can take place. There will then be a further order, which, if it is not satisfactory, can be rejected by the Parliament.

The Deputy Presiding Officer: I remind the cabinet secretary that he is making an intervention and not responding to one.

John Swinney: I am aware of that, Presiding Officer.

The final decision rests here in the Parliament. If members have concerns about an order, those can be advanced in the scrutiny process.

David Whitton: I am grateful to the minister for his short speech, but it does not alter the fact that he is trying to take to himself powers that he should not have.

As the learned legal professors told the Finance Committee, the order-making powers are unprecedented at both Scottish and United Kingdom levels. By taking the powers to themselves, SNP ministers would be able to abolish or merge public bodies at will. Mr Swinney says that he knows better. Indeed, he just tried to argue that there is a precedent for his proposal in section 57 of the Local Government in Scotland Act 2003, but as the Finance Committee noted, that was not mentioned as a precedent for the power in section 10 in the accompanying documents or during the evidence that was given by his bill team. In addition, there are key differences between the powers in the 2003 act, which are essentially for local authorities, and the wide-ranging and extensive powers that are listed in section 10. Again, Mr Finnie enunciated those.

As for section 13, the Scottish Government argues that it largely mirrors provisions in the UK Legislative and Regulatory Reform Act 2006, which I remind Mr Swinney was dubbed the abolition of Parliament bill, but it remains a mystery why Mr Swinney did not just adopt the provisions that are set out in that UK act.

Who are the people, apart from Opposition MSPs, who are defying the cabinet secretary’s will? We are in good company, as the list includes the Lord President of the Court of Session, who stated that the Scottish Court Service should be excluded from the dreaded list in schedule 3; Audit Scotland and the Accounts Commission; the Scottish Association for Mental Health; the police complaints commissioner for Scotland; all the commissioners who were appointed by the Parliament; and the learned legal professors whom I mentioned a short time ago.

Given the weight of public opinion against him, we would have thought that Mr Swinney might have had some second thoughts.

Gavin Brown (Lothians) (Con): The list that the member mentioned is indeed learned. Did those on it say that part 2 should be scrapped or that it should be amended?

David Whitton: Mr Brown is testing my memory as to what was actually said in committee, but given that he is a lawyer, I would have thought that he would listen to the Lord President of the Court of Session and take guidance from him. The Lord President was certainly of the view that the proposed powers were unprecedented and that they should not be taken by ministers because that would be unparliamentary.

The cabinet secretary said that he would reconsider the list of bodies in schedule 3, but so far it seems that he has decided to make no changes to it. To be fair, he wrote to the committee earlier this week with a proposal. His plan is to put in place what he described a few moments ago as further safeguards, but he still insists that he and the Scottish Government be given the wide-ranging powers. I am afraid that that is just not acceptable to us. Indeed, last month, Mr Swinney stated in a letter to the Presiding Officer that he still believed that the best way forward was to keep the parliamentary bodies including Audit Scotland, the Scottish Commission for Public Audit and all the parliamentary commissioners and ombudsmen on his long list.

The cabinet secretary needs to ask himself why these provisions are in such a mess. The answer probably lies in the lack of consultation right at the beginning. If at the start Mr Swinney and his officials had asked the parliamentary commissioners about their inclusion in schedule 3 they could have told him what they thought and he could have saved himself a lot of trouble.

In his letter to the Finance Committee, Mr Swinney remains unrepentant, declaring:

"In the present financial climate it is more important than ever we get the best possible value from the public pound."

Moreover, he says:

"Parliament must be able to respond more quickly to changing circumstances and take advantage of opportunities to further streamline the public bodies landscape and improve delivery of public services without the need for primary legislation on every occasion."

Despite that, the leader of the bill team told the Finance Committee:

"the bill is not ... a cost-saving exercise".—[*Official Report, Finance Committee*, 1 September 2009; c 1394.]

Many of those who gave evidence to the various committees were less than impressed by that. As Mr Welsh has made clear, the financial

memorandum states that the net savings over the period to 2014 amount to just over £3 million. Leading economist Jo Armstrong of the Centre for Public Policy for Regions—an organisation much quoted by SNP ministers—told the committee:

"If the bill is not about cost savings, that is a lost opportunity."—[*Official Report, Finance Committee*, 15 September 2009; c 1488.]

I venture to suggest that there is not a party—or indeed an MSP—in the chamber that does not support the idea of public services reform to make things better for those whom we seek to represent. The Finance Committee encouraged the cabinet secretary to look for further year-on-year savings, and one area that he might still consider is why each parliamentary commissioner has his or her own human resource and finance function. Surely some streamlining is possible there.

The Minister for Public Health and Sport (Shona Robison): Does the member not accept that the order-making powers could be used to merge those very backroom functions? Does he not realise that he has made our argument for us?

David Whitton: I do not believe that I have—

John Swinney: Thank you for that contribution, David. That was absolutely fantastic.

David Whitton: Very good.

The SNP has set itself a target of cutting the number of public bodies. I do not believe that that will require secondary legislation, but I see that Mr Finnie wishes to intervene.

John Swinney: Ross to the rescue!

Ross Finnie: Indeed. Perhaps I can assist Mr Whitton. Would it not have been more appropriate for the cabinet secretary to have implemented the recommendations of the Review of SPCB Supported Bodies Committee? At least those suggestions came from a parliamentary committee, rather than from the Government itself.

The Deputy Presiding Officer (Trish Godman): Mr Whitton, you should watch your time.

David Whitton: I will do so, Presiding Officer. I am grateful to Mr Finnie for his intervention.

The SNP has set itself the target of cutting the number of public bodies; however, merging some bodies and transferring responsibilities between others does not necessarily constitute real reform. The Finance Committee shared the view of some witnesses that the bill does not go far enough. We are in favour of streamlining the quango state and reforming the delivery of public services but that has to be done in a way that improves service delivery not only for customers—in other words, the tax-paying public—but for the staff involved.

The Deputy Presiding Officer: You should finish now, Mr Whitton.

David Whitton: In conclusion, with its crude arithmetical approach, the SNP is in danger of missing a golden opportunity. Its fixation on securing the extraordinary powers demanded by ministers to force through change in the teeth of widespread opposition is not the answer. Constructive dialogue and wider consultation can still take place before stage 2, and I hope that the cabinet secretary does not miss the opportunity to engage in that dialogue and consultation to save his bill.

10:43

Derek Brownlee (South of Scotland) (Con): As most of the bill is relatively uncontentious, I will begin by looking at its contentious part. Concerns have been expressed about the very existence of part 2, the list of organisations in schedule 3 and, crucially, the mechanism for amending that list. All those points are important and I will touch on them, but I point out that they are important only if we accept that there is in principle a case for part 2. If we take the view that has been expressed by the Liberal Democrats and which I think the Labour Party is moving towards, which is that, as a matter of principle, the powers in part 2 are simply too broad and should not exist and that primary legislation should be used for the proposed changes, we do not need to get into the detail about safeguards and the list of bodies that are subject to them.

Although I understand the Liberal Democrats' argument about part 2, I do not necessarily accept it. If we can get the safeguards right, and they are not right in the bill as drafted; if we can get the list in schedule 3 right, and it looks as if the Government is proposing a separate schedule of parliamentary bodies; and, crucially, if we can get the mechanism for amending the schedules right, there is a case for allowing secondary legislation to achieve some of the aims in part 2.

Robert Brown: Does the member accept that there is a big distinction to be made between the major powers set out in part 2 and the more minor administrative changes that it might be worth having the power to deal with?

Derek Brownlee: That is potentially the case, but it all depends on what one might consider to be major. For example, the proposal in part 1 to merge the Deer Commission for Scotland and SNH, which is not particularly controversial and seems to be worth while, was unlikely to have been effected by primary legislation, which is probably why it has been included in this catch-up bill. If, under the powers set out in part 2, the Government were to propose a similar merger, I

would not consider that to be major; if, on the other hand, the Government were to propose that Audit Scotland should not exist, that would be major. The issue is how we define a major change.

We have heard what the Government intends to do at stage 2 to address some of the concerns. We should look at the detail of those amendments, ensure that the people who have expressed concerns about part 2 have the opportunity to comment on them and only then take a view on whether they can be supported or whether other amendments are required. Whether we end up with a part 2 that Parliament can support will very much depend on the shape of Government or Opposition amendments at stage 2. We believe that, as the bill stands, part 2 is too widely drawn, but Parliament will be able to change it at later stages in a more considered and thoughtful way.

Jeremy Purvis: I do not think that the member has sufficiently explained why he thinks that the Rural Affairs and Environment Committee, in particular, was wrong in its perfectly clear conclusion that the majority of its members would prefer to see these powers removed from the bill.

Derek Brownlee: If I recall the evidence correctly, the Rural Affairs and Environment Committee was told by the Cabinet Secretary for Rural Affairs and the Environment that he could not envisage the powers being exercised within the rural affairs remit, which probably led the committee to conclude that they were not particularly necessary in that respect.

Karen Gillon (Clydesdale) (Lab): I point out to the member that the Rural Affairs and Environment Committee concluded that the proposal was unnecessary and too over the top in light of the proposal in the SNP manifesto to merge the Scottish Environment Protection Agency and SNH.

Derek Brownlee: I am responsible for many things, but thankfully the delivery of the SNP's manifesto is not something that I have anything to do with.

Mike Rumbles: Oh I do not know about that. *[Laughter.]*

Derek Brownlee: If the overexcitable Liberal Democrat members check carefully, they will find that we on this side of the chamber are busy implementing the Conservative manifesto.

The oral evidence that the Finance Committee took on part 2 was very interesting. As Mr Whitton said, a parade of organisations came forward to suggest either that they be removed from schedule 3 or that part 2 be amended or deleted. However, there was a shining exception to all that. One organisation was even more enthusiastic

about these powers than the Scottish Government: the Convention of Scottish Local Authorities very much welcomed the proposals. Of course, neither COSLA nor its member organisations will be subject to those powers, and I was disappointed but not entirely surprised that the organisation showed little enthusiasm for my suggestion that schedule 3 be expanded to include local authorities and ensure that its members could benefit from the provisions that it finds so desirable. It appears that the Government, too, does not share my view.

The status of the various parliamentary commissioners and ombudsmen has already been touched on. It is important that we protect the independence of those organisations, but that is not the same as saying that no reform to them can ever be considered. The current arrangements for parliamentary commissioners and ombudsmen arose in a piecemeal fashion, as the Finance Committee of the second parliamentary session recognised. Reform should not be ruled out. The key point is that it is properly for Parliament and not the Government to drive that aspect of the reform agenda.

The independence of the organisation or group being scrutinised is an important principle that we need to retain, and be seen to retain, but that operational independence cannot and should not mean that we absolve ourselves of responsibility for considering the appropriateness of the current arrangements. Independence is not the same as a lack of accountability and, ultimately, as a democratically elected Parliament, we should not shy away from asking questions of organisations merely because we have designed into their operation a degree of separation from Parliament or Government.

Related issues arise on the audit bodies, and the Government's proposals for the role of the SPCB will need careful thought. In particular, the SPCB is audited by Audit Scotland, and that might give additional complexity to the question whether the SPCB should have a role in the initiation of the powers in part 2. As members are aware, along with four other MSPs, I am a member of the Scottish Commission for Public Audit, although I do not intend to speak on behalf of that organisation today. Later in the debate we might hear about some of the more technical points. That is a distinct issue, although it is related to the points about the parliamentary commissioners and ombudsmen.

The broader point is about the ambition of the bill. It was heartening that all members of the committee agreed that it does not go far enough. When the Finance Committee first took evidence on the bill, we were told:

"the bill is not primarily a cost-saving exercise".—[*Official Report, Finance Committee*, 1 September 2009; c 1394.]

The question should be, "Why not?" Everyone is aware of the scale of the financial challenge that will confront the Scottish Government during the next few years. Reforming public services will be the only way to protect them, and to deliver more, or the same, with less resource. So the ambition of the bill, or perhaps the lack of it, represents the missed opportunity that Parliament and Government can and should address at later stages.

We have heard today, and it was also mentioned in the cabinet secretary's letter to the convener of the Finance Committee, that the bill will generate recurrent savings of £40 million by 2013. That is a fraction more than 1 per cent of the likely reduction in the Scottish budget that has been forecast by independent commentators. So when the cabinet secretary says that we must go further and faster, he is right—we need to go very much further. As it currently stands, the efficiency and reform programme is helpful, but it barely scratches the surface of what is required to tackle the spending reduction that will be required to pay off the United Kingdom's national debt. If the bill were any more timid, it would be a minister in Gordon Brown's Cabinet. It is time that the Scottish Government moved up a gear to instigate wider-ranging public sector reform.

Members will have seen the Scottish Council for Voluntary Organisations submission. The SCVO was right to say that public sector spending cuts change the bill's context. The bill would be more effective at achieving public service reform if, for example, it encouraged greater use of the voluntary sector in the delivery and design of public service. Public sector reform could mean greater diversity in the provision and design of public services across the country to allow innovation in service design and greater personalisation of services to users. The opportunity to move to a more flexible provision of services and away from a one-size-fits-all approach could benefit service users. The Government does not have to be the provider of all services, even if it is the funder or the enabler. Indeed, the Government should probably be the provider only if there are no better alternatives. The Government needs to tackle the broader part of the public services reform agenda.

As we have seen, at the core of part 1 is a variety of fairly modest reductions in the number of existing bodies. The target of a reduction of 25 per cent in the number of quangos is aimed more at getting headlines than achieving results, because it does not mean the same reduction in the budgets or head counts of non-departmental

public bodies. A reduction in the reach of NDPBs is not much in evidence in the bill.

Creative Scotland has not been mentioned much so far, although it is broadly welcomed by members. My colleagues will talk about it later today, but it is difficult to avoid the conclusion that creative Scotland is in the bill simply because it is an available legislative opportunity. When the Creative Scotland Bill fell in 2008, it was only because some Opposition members did not understand that a bill cannot carry on if we vote for the general principles but against the financial resolution. It would be unfortunate if the Public Services Reform (Scotland) Bill meant that creative Scotland ended up in the long grass once again.

We support the general principles of the bill because we support public service reform. We will use stages 2 and 3 of the bill process to improve the bill and to encourage the Government to increase the pace of public service reform.

10:55

Linda Fabiani (Central Scotland) (SNP): The Parliament should agree to the general principles of the Public Services Reform (Scotland) Bill. We should welcome it because the Government is committed to delivering real improvements in a public sector landscape that has been left cluttered and complicated despite decades of previous Administrations talking about bonfires of the quangos. The overlapping and duplicating network of public sector bodies that was inherited from the previous Lib-Lab Executive causes unnecessary difficulties to members of the public and to the voluntary and private sector groups that have to work with them. That problem is really holding Scotland back.

It is ironic that members are saying that the bill does not go far enough when, for the first time ever, a full list of Scottish public bodies was published under the current Government in October 2007.

Derek Brownlee: It might be ironic, but did the member not sign up to the committee report that said just that?

Linda Fabiani: I do not believe that we can cut a swathe through decades of incompetence and of public bodies evolving on an ad hoc basis without taking a co-ordinated and strategic approach. We have made a start.

We have had interesting discussions at the Finance Committee and we heard interesting contributions from right across the public sector about simplifying the landscape. There was general agreement that it is time for public service reform. The bill's objectives should be admired. It

seeks to streamline decision making and transparency in the network of Scottish public bodies, and to reduce bureaucratic complexity for the private and voluntary sectors and also for individual citizens who have to engage with those bodies in their regulatory or other functions. We want greater clarity of role, remit and function, and we have to bring together bodies that have similar skill bases and prevent that needless overlap that we all know happens. We have to create greater critical masses of expertise and stop unnecessary activity.

It is also right that we should create hurdles that will mean that new bodies have to be clearly justified. As a parliamentarian during the past 10 years—particularly during the first eight of those—I have felt that we created another body every time there was a problem. It was like putting a sticking plaster on something instead of dealing with it properly. We now have a chance to do it properly, and we should all welcome that. It is shame that the entire debate so far has centred on one part of the bill. That might sound quite confusing to anyone outside who has not had the privilege of sitting through the committee meetings. I know that part 2 is contentious, and that there was a lot of discussion and understandable concern about it among many people who came to the Finance Committee to give evidence. However, along with that concern was expressed the view that public services in this country need to be reformed, and that we could go further.

I was particularly interested in what Derek Brownlee said about the SCVO, because further discussion could be had about the voluntary sector's role in public services. The SCVO's submission talks about that. We can use the bill as a basis for going further. Understandable concerns were also expressed by SAMH, Unison, which talked about public sector pay, and by Voluntary Arts Scotland, which talked about creative Scotland in its written submission, saying, quite rightly, that we have to be sure that we involve the voluntary sector as proper partners with creative Scotland.

What is all the fuss about part 2? I, too, had concerns about it, but I am really pleased that the finance secretary has been more than willing to talk about amendments at stage 2. The letter from the finance secretary to the convener of the Finance Committee—I understand that it went to the corporate body, too—lays out plainly the flexible approach that the cabinet secretary is willing to take.

Robert Brown: Will the member give way?

Linda Fabiani: No—I am nearly finished.

David Whitton quoted from the cabinet secretary's letter. It states:

"In the present financial climate, it is more important than ever that we get the best possible value from the public pound."

Yes, it is, and I believe that the bill is a start in doing that. We have heard criticism that massive cost savings will not start immediately. We cannot mess about with people's jobs and lives and expect instant cost savings. A long-term approach is needed. There are hidden savings for voluntary groups and individuals in our communities that are not reflected directly in a financial memorandum from Government.

I do not have time to detail all the issues that Mr Swinney has said he is willing to consider, but I want to mention the power of initiation, which, as Mr Swinney said, is important for any Government to have. It is also important that use of the power is scrutinised appropriately by Parliament. The cabinet secretary is moving towards that and has shown his willingness to do so.

I will requote another comment from the cabinet secretary's letter that Mr Whitton read out. The letter states:

"we must go further and faster. Parliament must be able to respond more quickly to changing circumstances and take advantage of opportunities to further streamline the public bodies landscape and improve the delivery of public services".

I believe that the bill is moving towards that. It should be supported, so I ask members to support it and to reject the Liberal Democrat amendment.

11:01

Tom McCabe (Hamilton South) (Lab): Few members will be keener than I am to discuss public service reform that takes account of our need to use our human capital as efficiently as possible, as well as the way in which the world around us is changing and the economic circumstances that we face now and will face in future. In the interests of the people whom we serve, we need a debate on public service reform that is predicated on all those things, because public services are the critical threads that hold our society together. They are the critical protector during the vulnerability of childhood and of old age. Throughout our lives, they facilitate the opportunity for each and every one of us to be all that we can be.

We have a duty to future generations to ensure that those services are sustainable, have developed and are relevant to the circumstances of the time. If we were serious about that, a public service reform bill would deal with organisational structures in our public services, eliminate duplication, oppose professional demarcation on

every front and allow dedicated and committed front-line professionals to do their job because of the system rather than in spite of it.

Sadly, we are discussing none of that today. Sadly, relative to the size of the issues in the public sector, we are playing with words rather than instigating effective actions. To achieve the things that I have mentioned—to sustain services and meet expectations—we require reform that frees up hundreds of millions of pounds. However, the proposals that we are discussing will produce anticipated savings of just over £3 million in the first four years. That is an avoidance of the responsibility that we took on when we sought representative roles in the Parliament. That avoidance will eventually do a great disservice not only to public servants, but to the public whom we serve. The bill is in no way a substantial reform of our public services.

John Swinney: As Mr McCabe knows, I share entirely his analysis so far about the scale of the challenge that faces public services in Scotland. However, does he not consider that elements of the bill will assist us in facing that challenge—although they are not the entire answer—and that some of the powers in the bill, which he might be coming on to, are worthy assistance in meeting that objective?

Tom McCabe: Of course I recognise that the bill is of assistance, but my point is that it is minuscule assistance in dealing with the very large problem that faces us now and which will be even greater in the years to come.

Rightly, the powers that ministers propose to take under part 2 have attracted considerable attention from various committees of the Parliament and from many external organisations, particularly voluntary ones. As has been explained, those powers will allow primary legislation to be amended by secondary legislation. They will allow ministers to act in a way that many people feel does not give sufficient regard to our system of parliamentary democracy.

I have read the cabinet secretary's letters of 18 December and 5 January and I acknowledge that he has made significant concessions that will go some way to allaying those concerns. That said, I have two specific points. First, when similar proposals went through the Westminster Parliament, they were dubbed the abolition of Parliament bill. That was, no doubt, an exaggeration, but it is an indication of the level of concern about proposals that could circumvent the role of Parliament and the scrutiny that a Parliament should give to proposals by any Government. It is a Parliament's role to hold Government to account, which can be inconvenient and at times incredibly frustrating for Government. However, it has to be so because, as

I have said many times, it is not an even contest. Governments hold most of the cards, which makes the job of Parliament all the harder.

Secondly, I know from experience that any minister worth their salt will be anxious to get things done. No matter how much bravado they engage in, all ministers know that their roles are time limited, so the obstacles and barriers that the parliamentary process puts in their way can, on occasion, allow their thoughts to stray to a more simple process that would allow them to pay less attention to parliamentary process and to move ahead with simply getting things done. That is tempting, but it is not the system that we have. I respectfully suggest that many of the concerns about the proposed ministerial powers are legitimate enough to encourage the Government to reflect further on how they could be reformed.

As I said, we need substantial changes to effect genuine and worthwhile public sector reform. That cries out for an up-front set of proposals that would require debating and defending, rather than a set of legislative clauses that would allow changes to be made under the cover of darkness.

11:08

Ian McKee (Lothians) (SNP): I will devote most of my speech to a health care aspect of what is a welcome and comprehensive bill although, as a member of the Subordinate Legislation Committee, it gives me pleasure to note that the Government is prepared to take on board so many of that committee's constructive suggestions.

The vast majority of the bill's health care proposals are excellent, but I will concentrate on concerns that have been expressed by the British Medical Association—which I share—about the confidentiality of patients' health records, as affected by part 5. Members will be aware that medical records often contain a host of intimate details, which might be unimportant in the greater scheme of things, but which a person would find highly embarrassing if they were released to a wider audience. Until halfway through the last century, medical records were available only to a patient's clinician. In fact, when Edinburgh's Sighthill health centre—Scotland's first health centre—was designed in the early 1950s, there was no central records department, as it was considered totally unacceptable practice for records to leave the consulting room of the individual practitioner.

With changes in the way in which medicine is practised and the development of larger teams in general practice and hospitals, it has gradually been accepted that many more people should be able to access individual medical records, as that is in the patient's long-term interests. Patients

have, by and large, accepted that further invasion of their privacy, for the same reason. However, that does not mean that medical records should be available to all and sundry. A receptionist who scrutinises records without authorisation, for example, to investigate a neighbour's affairs, faces instant dismissal if caught.

There have been one or two rare but highly publicised cases in which medical information has been accessed by hospital staff, perhaps out of simple curiosity or even to pass information to the press about a celebrity. Again, severe punishment is warranted, because once a person feels a lack of confidence in the security of case notes, then he or she loses confidence in the rest of the service provided.

Section 90 in part 5 seeks to modify the National Health Service (Scotland) Act 1978 to allow the establishment of health care improvement Scotland, which is a welcome body that will have a general duty to further improve the quality of health care. I support totally its establishment. To perform its task, HIS is to exercise the functions conferred on it by the bill, once enacted, and by any other enactments. One of the functions conferred on it is to make regulations to require anyone or any organisation providing health services to provide individual health records for the purpose of inspection and, in new section 10N(f) of the 1978 act, to undertake

"interviews and examinations ... which may be carried out in connection with the inspections".

Although it might be argued that that is in the interests of a particular patient, or, to use an Orwellian argument, that only those who have something to hide have something to fear from the process, the provision exposes a serious concern. Nowhere does the bill state that informed consent from the individual should normally be obtained before medical records are handed over to someone from HIS, or an examination conducted. Of course there are occasions when it would be inappropriate to seek informed consent, such as when a child or an adult with severe learning disability is concerned. However, I am concerned that a blanket policy of sharing confidential notes with outside agencies without a person's consent, or even knowledge, is leading us down a path that the majority of the public would not wish us to travel.

What are the possible outcomes of such a policy? There is the intended outcome of allowing scrutiny bodies immediate access to information that could help them to decide whether the health care provided is up to standard. However, there could also be unintended outcomes. A patient might not reveal important information to a doctor for fear that confidentiality could be abused or a doctor might not record sensitive information for

the same reason, despite the fact that the information could be important to another doctor caring for that individual. Ultimately, the entire confidence of a person in those offering care could be seriously compromised.

When those concerns were put to ministers during an evidence-taking session at the Health and Sport Committee meeting on 23 September last year, the committee was reassured that a code of practice was being developed that would deal satisfactorily with that problem. I am always a little worried about bills that have possibly draconian measures, but which will be modified and made acceptable by subsequent non-statutory activity, be that a code of practice, regulations or whatever. However, I am reassured that the ministers are aware of those genuine concerns and I look forward to any further observations in their summing up.

In his letter of 5 January to the convener of the Finance Committee, the Cabinet Secretary for Finance and Sustainable Growth showed a welcome willingness to realise that well-meaning legislation could have unintended consequences and he outlined action to avoid that outcome as regards the independence of parliamentary bodies. I hope that that course of action will also apply to the issue that I have raised today.

11:13

Malcolm Chisholm (Edinburgh North and Leith) (Lab): The Public Services Reform (Scotland) Bill is important and interesting and can generally be supported with the exception of part 2. However, as Tom McCabe emphasised, the bill could have been much more, as it lacks the strategic approach to reforming public services that the current situation demands. That deficiency and the problems with part 2 have arisen to some extent because of the failure to consult. That is extremely regrettable.

I will go through the bill in order. Part 1 is entirely acceptable, but part 2 is still problematic. I note the cabinet secretary's letter and welcome the changes in relation to the parliamentary bodies as well as the degree of procedural safeguard, but it is not as much as the Finance Committee asked for.

The fundamental objection to section 10 in particular remains. There was damning criticism of the section in the strong words of legal academics that are quoted on pages 17 and 18 of the Finance Committee report. In response to Gavin Brown's question, the academics said that they wanted section 10 to be removed. They said that the Henry VIII powers—or Macbeth powers, as we should call them—are unprecedented in their width. Much of the Government's defence hitherto

has been about the preconditions that are outlined in section 12 and the words "necessary protection" in section 12(2)(b) in particular. The problem is that those words are open to different interpretation and, to some extent, the cabinet secretary acknowledged that in his letter by being more specific, but only in relation to legal bodies and the national collections. I am not sure where that leaves the other bodies, and I have particular concerns about the Mental Welfare Commission for Scotland. I want to see much more movement in that regard and believe that the best remedy that is available to us under present circumstances is to remove part 2 from the bill.

Part 3 is much better and much better than last time round, particularly in relation to the creative industries. There are still issues to do with the relationship of creative Scotland to local authorities, the voluntary sector and indeed other key partners such as the enterprise agencies, but we do not want any further delay in establishing creative Scotland.

Parts 4 and 5 are by far the most interesting to me. They set up new social care and health care improvement bodies. As various witnesses said, there should perhaps be more emphasis on integration in each of those cases, rather than just on putting existing bodies and functions together under one roof. There should be a focus on scrutiny and improvement in each of those new bodies. However, there are good reasons why the Scottish Commission for the Regulation of Care and NHS Quality Improvement Scotland have taken different approaches to their work. There is no need for a complete alignment of functions, which might be an issue if there were to be a single scrutiny body, as was recommended by certain people. I think that the Health and Sport Committee made such a recommendation and I look forward to other contributions on the subject from members of that committee.

We should debate all those issues, so I find it regrettable that today's debate has been dominated by part 2. One of the consequences of the setting up by regulations of NHS Quality Improvement Scotland in 2002 is that, as far as I know, the nature of our health improvement body has never been debated in the Parliament. I hope that people will take that opportunity during our scrutiny of the bill.

The circumstances surrounding the establishment of QIS are different from those surrounding that of the care commission, which was set up through the Regulation of Care (Scotland) Act 2001. It is noticeable that the bill proposes to give ministers powers to make regulations about aspects of care provision inspection that are currently specified in primary legislation. That is probably acceptable in most

cases, but it highlights a major issue that we should debate during our consideration of the bill—the move towards having a more risk-based system of social care inspection. Some senior people in the field are concerned about the move towards there being less inspection and more self-evaluation of social care. That deserves to be debated today and at the committee stage.

Shona Robison: Is not the whole point of risk-based scrutiny and inspection that we can focus our attention on services that require more time and attention?

Malcolm Chisholm: I said that such an approach was acceptable in most cases; the concerns that have been expressed to me are more about increasing self-evaluation, but I accept the minister's point as it relates to most of the care commission changes.

I will mention three amendments that I would support. There was interesting evidence from community care providers that suggested that there should be a duty on local authorities to take account of gradings by the care commission or the new body—although I do not know how we will pronounce its acronym, SCSWIS—in their commissioning decisions. In view of recent experience in Edinburgh, I strongly support that.

It is important that there should be an amendment in relation to the proposed Scottish health council. I support the Health and Sport Committee's suggestion with regard to the council's establishment that the word "may" should become "must", or indeed "shall". There will be a continuing role for the health council.

In general, part 6 is very good, particularly its emphasis on user focus, but I support what Dr McKee said about the suggestions from the BMA in relation to medical records: there should be either explicit consent or anonymisation.

11:20

Mary Scanlon (Highlands and Islands) (Con): I commend Tom McCabe for his opening remarks, which were excellent. My comments, like those of Malcolm Chisholm and Dr McKee, relate to parts 4 and 5.

The purpose of the bill is to

"simplify and improve the landscape of ... public bodies, to deliver more effective, co-ordinated government ... for the benefit of the people of Scotland."

That is our starting point, and it is what I looked for from everyone who submitted or gave evidence.

However, on simplification, paragraph 74 of the Health and Sport Committee's report states that we found confusion and "potential duplication". We certainly did not find anything that pointed to a

more effective service and we found great difficulty in naming even one benefit to the people of Scotland.

The bill seems to be a missed opportunity to change from the current system, whereby considerable time and effort are taken to produce material that is not for the direct benefit of service users but is simply for inspection to a system that is based on efficiency, quality of service and user focus. On social care and social work improvement Scotland, which, from now on, I will refer to as SCSWIS, even NHS Forth Valley stated:

"The core functions of SCSWIS are regulation of care and inspection of social services with little mention of improvement."

In paragraph 28 of the Health and Sport Committee's report, we asked the Government to set out the patient-centred benefits, because we had no idea what they were.

Many witnesses doubted the estimated savings of £640,000 by 2014. COSLA and Unison believed that the reduction in the number of quangos is cosmetic and that many staff would want to apply for other civil service jobs rather than transfer to an NDPB.

The lack of consultation in relation to the Mental Welfare Commission for Scotland, which Malcolm Chisholm mentioned, was, at the least, arrogant and it illustrated clearly a lack of understanding of the commission's responsibilities, which we highlighted in paragraph 18 of our report. Looking after and protecting the rights of vulnerable individuals are very different from inspecting and regulating services.

The written evidence from the Mental Welfare Commission highlighted the confusion arising from the complaints function of SCSWIS applying to independent health care services but not to the national health service. We have no information about the Government's intentions and expectations about standards-based inspections in the NHS, although information on that is due at stage 2. NHS Quality Improvement Scotland also highlighted that by stating:

"While the NHS is heavily performance managed it is not formally regulated as such, and the sanctions that can be invoked are less explicit."

The Scottish Patients Association said that the issue of frail elderly patients with problems with nutrition and hydration should be looked at, which is another reason to have NHS hospitals inspected independently, on a par with the independent sector.

On inspection, the Mental Welfare Commission stated:

“people with continuing health and social care needs should expect the same basic standards regardless of whether they are in hospital, care homes or in their own homes. ... We see facilities for continuing care in the NHS that would be unacceptable in a registered care service ... It is vital that the Bill addresses that inconsistency.”

However, we know that the bill does not do that, at least not yet.

There is no provision in the bill for the investigation of incidents and events by an independent body in the NHS, as exists for other parts of the care service.

The functions under parts 4 and 5 are compared and contrasted by the Mental Welfare Commission on the basis of currently available information. Of the 11 separate functions, the independent health care sector and care services achieve 10, social services fulfil six and the NHS fulfils five. The lack of clarity that exists at this stage is not helpful for our scrutiny of the bill.

The Scottish Independent Hospitals Association was very positive in its approach to the bill. Given that it recorded no instances of MRSA or C diff in 2008-09—a period of 53,500 bed days—it is already prepared, with key performance indicators in place, to facilitate benchmarking performance. The witnesses from the association were probably the most enthusiastic witnesses that appeared before the Health and Sport Committee, despite their waiting seven years for care commission scrutiny.

It is fair to say that all MSPs will be aware of constituents who are assessed for a number of hours of care and support each week or who have concerns about their care review, community care assessment or care management review, but the bill does not give SCSWIS any power to investigate or respond to any such complaints.

As the paper from Community Care Providers Scotland stated,

“it is likely to be a source of considerable confusion ... if the body which has oversight of both social care and social work services has the power to handle complaints about some of those services, but not about others.”

As well as the confusion, there is the move to reduce the burden of inspections, which Malcolm Chisholm mentioned, which is resulting in local authority services being asked by SWIA to evaluate themselves. We should all be seriously cautious about that.

I hope that the Government will respond to the Health and Sport Committee's call for positive and constructive feedback from service users. Rather than have every piece of feedback channelled into a complaint, it should ensure that positive feedback can be taken, too.

I certainly support a reduction in the number of quangos but, like others, I expect real savings, a better service, and benefits for patients and service users. On all those counts, the bill needs considerable improvement.

11:27

Jackie Baillie (Dumbarton) (Lab): The context of this debate on the bill is worth considering, so that we can begin to understand the Scottish Government's direction of travel. Many moons ago, Alex Salmond promised to reduce the number of Government quangos by 25 per cent—a numerical target. As Tom McCabe rightly said, that target was not based on a strategy to reform public services or to reduce directly the regulatory burden. The reduction was to be achieved by April 2011.

We have a reduction of eight bodies in the bill, with a shortfall—if the target is to be met—of 37 bodies to be abolished in just over a year. By any measure, that is a tall order, even for the Cabinet Secretary for Finance and Sustainable Growth. I fear that it is in danger of becoming another Scottish National Party broken promise. It is disappointing that it remains a numbers game.

In committee, a Government official admitted that key to achieving the target was the abolition of children's panel advisory committees—down from 32 to one—which was opposed by hundreds of panel members and supporters throughout Scotland, which led to the withdrawal of the children's hearings bill. Forgive me for being cynical—it is not in my nature—but if we pass the Public Services Reform (Scotland) Bill as it stands, we will give the Government unprecedented order-making powers to abolish children's panel advisory committees, literally at a stroke of a pen, without the need for primary legislation and the fullest possible scrutiny by the Parliament. That would be a most unfortunate consequence.

Before I move on to consider the order-making powers more fully, I will talk about the two new health and social care bodies. We in the Labour Party are in favour of the creation of social care and social work improvement Scotland and health care improvement Scotland. However, if the Minister for Public Health managed to change the acronym for one of the bodies, I think that members throughout the chamber would be particularly pleased. It is entirely sensible to integrate regulation and improvement in social care and social work improvement Scotland and to create health care improvement Scotland to drive up standards and improve patient care.

The discordant note that I strike is that the lack of pre-legislative scrutiny and consultation has resulted in concerns about implementation, clarity

of purpose, staffing and administrative issues, which other members have outlined. I hope that ministers will address that during the bill's passage. One interest is in whether SCSWIS—I will not get used to saying that—can act as a pre-qualification registration body throughout the 32 local authorities for service providers that tender for contracts. That would be a positive move and I invite the minister to consider lodging amendments to achieve that.

I am curious about how health care improvement Scotland will operate. Will its approach be that of the health care environment inspectorate to the whole range of its responsibilities or is another mechanism proposed? Malcolm Chisholm and Mary Scanlon are right to express concerns about the increase in self-assessment. We have critical examples in which we know that that has not worked—it has spectacularly failed. We need to achieve the right balance and to be proportionate. I see the Minister for Public Health and Sport shaking her head, but the outbreak of *Clostridium difficile* at the Vale of Leven hospital was the subject of two self-assessment reports before things went badly wrong. We need collectively to learn to achieve the right balance.

I look forward to scrutinising the amendments in relation to the Mental Welfare Commission and I congratulate the minister on withdrawing the initial proposal, which failed to reflect the commission's important safeguarding role.

Despite what Mr Swinney says, no precedent exists for the proposed order-making powers, which cross the line between what is rightly the Government's responsibility and what is rightly the preserve of Parliament. When we stop to consider it, the evidence is compelling. It is not just the Education, Lifelong Learning and Culture Committee that wants the order-making powers to be scrapped, or the Rural Affairs and Environment Committee, which thinks likewise—the list is endless, as David Whitton said. The list includes the Law Society of Scotland and professors and academics who specialise in the constitution. I can think of few bodies—COSLA is one—that support keeping part 2 intact.

I invite the Parliament to take a step back. To get the bill through, the cabinet secretary proposes that we create a new parliamentary procedure, which I have heard described as resulting in a super super-affirmative order. Perhaps we will have an order next year that is super to the power of three. By its nature, the proposed procedure will provide less scrutiny than that for primary legislation. I say to Gavin Brown that, when Michael Clancy of the Law Society was asked to comment on the new procedure, he told Gavin Brown's colleague Derek Brownlee and me that

“that would mean the creation of an alternative bill procedure. We do not really need that.”—[*Official Report, Finance Committee*, 22 September 2009; c 1526.]

The Law Society's written submission says:

“at the very least the powers proposed to be used under these provisions should not be used as a replacement for primary legislation or full scrutiny by the Parliament.”

We need to amend the list of bodies in schedule 3. Strong evidence was given that a range of independent organisations and commissioners should be exempt. Independence is important. The great virtue that parliamentary status brings to many of those commissioners and bodies is independence. If that independence were compromised or threatened by ministers being given the power by order to do pretty much what they like in relation to those posts, that would be a backward step.

It is entirely wrong to say that people disagree with reform if they oppose the sweeping order-making powers in the bill. The Parliament has not been stretched with legislation and ministers have plenty of opportunities to introduce bills. The debate is about how reform is scrutinised—not about whether reform is undertaken—and, to be frank, about how we turn our public services towards the challenges for the future. The cabinet secretary needs urgently to reconsider part 2 and schedule 3.

11:34

The Minister for Public Health and Sport (Shona Robison): We have had an interesting debate about the bill. Several relevant and important points have been made. My colleague the Minister for Children and Early Years, Adam Ingram, will address in greater detail this afternoon some of the issues that relate to health care, social work and social care scrutiny improvements. I say to Malcolm Chisholm and Mary Scanlon that I am sure that Adam Ingram will respond to some of the points that were made.

Ian McKee expressed concerns about information sharing. We are confident that the issues that he and the BMA have raised will be addressed in regulations—through development of the existing code of practice or production of a separate code. We certainly have no blanket policy of allowing unrestricted access to medical records. Perhaps that can be debated at more length this afternoon.

In his opening speech, the Cabinet Secretary for Finance and Sustainable Growth explained the amendments to the order-making powers that he proposes to lodge at stage 2. I will say a little more about those powers, in response to some points that were made. Streamlining and simplifying the public bodies landscape is a continuing process.

Not everything can be done in a single bill or in several bills. It is therefore vital that the Government and the Parliament should have the flexibility to make further changes quickly, as and when opportunities arise. The order-making powers in part 2 will achieve that flexibility.

It is of course essential that any new powers are accompanied by appropriate safeguards. With that in mind, the bill defines the scope of the powers narrowly. The powers allow ministers to make proposals to improve the exercise of public functions or to remove and reduce burdens in existing legislation—that is all that the powers can be used for. Any proposals must be proportionate to the policy objective—they cannot remove any necessary protection in existing legislation, and any new or modified functions must be consistent with the general objects or purpose of the body in question.

Nevertheless, as the cabinet secretary said, we acknowledge and accept that concerns have been expressed at stage 1 about the scope and coverage of the order-making powers and that those concerns need to be addressed. As John Swinney made clear, we therefore intend to lodge a package of amendments at stage 2 that are designed to strengthen the statutory and procedural safeguards to which the powers are subject and to provide further reassurance on other issues that have been raised, such as the independence of parliamentary and judicial bodies and the protection of Scotland's cultural heritage.

Malcolm Chisholm: Is the minister prepared to apply a similar measure to the Mental Welfare Commission, whose independence also needs to be guaranteed?

Shona Robison: I have made it clear that we stepped back from including the commission in the bill as introduced, to allow further discussion—Malcolm Chisholm is aware of that. Following consultation, we informed Parliament of the Government's intention to lodge a range of stage 2 amendments in relation to the commission. We intend the commission to remain an independent body, with functions that primarily concern the protection of the rights of individuals with mental disorder or learning disability. The amendments will simply clarify that role and reflect the commission's current practice and activities. They will also tidy and simplify the commission's governance arrangements, which is what the commission wants. I hope that I have reassured Malcolm Chisholm about that.

Dr Simpson: Will the minister give way?

Shona Robison: I must move on, thank you—I have much to cover.

I return to the order-making powers. We propose to put in place an enhanced form of super-

affirmative procedure, so any proposals will be subject to full public consultation, parliamentary scrutiny and—if necessary—amendment before a draft order is laid before Parliament.

The amendments that I have described will address fully the concerns that were raised during stage 1 consideration. We are of course prepared to consider further the balance between the scope of the powers and the accompanying safeguards at stage 2—Derek Brownlee asked for that. However, I hope that the Parliament will agree that narrowly focused order-making powers that are accompanied by appropriate statutory and procedural safeguards have an important part to play in driving forward the public services reform agenda.

I will deal with specific points that were made. As always, Andrew Welsh made a thorough contribution to the debate, not least because he highlighted Finance Committee members' support for the Government to go further in the reform of public bodies. It is not in order for members to ask us to go further in reforming the public sector and then to vote against giving us the mechanism and tools to do so, while offering no credible alternative way forward.

Ross Finnie and David Whitton are concerned about the abolition of bodies. I say to them that the power is a power to transfer or abolish not bodies but functions. It is important to set the record straight on the point. We need the facts of the matter, not scaremongering.

I hope that members carry through on what they want to see happen by enabling us to put in place the mechanisms. Voting against the measures would be—at the very least—extreme hypocrisy.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:40

Community Hospitals

1. Elaine Murray (Dumfries) (Lab): To ask the Scottish Executive what it considers to be the role of community hospitals in the future delivery of health care. (S3O-9016)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): We are committed to providing health care services as locally as appropriate and possible.

Community hospitals have an important role to play in many areas as a resource hub to the community, integrating and co-locating services that are provided by health and other related services such as local access to out-patient and diagnostic services, day-case treatment, midwifery services, palliative care and intermediate care beds.

Elaine Murray: The cabinet secretary is aware that NHS Dumfries and Galloway is consulting on proposals to close community hospitals in Moffat, Langholm, Lochmaben, Thornhill and Kirkcudbright and to centralise services in four community rehabilitation units. As Scottish ministers will be required to agree to the eventual proposals, I do not expect the cabinet secretary to prejudge any application. However, will she reassure my constituents and those of the Presiding Officer who will be affected that their opposition to the closures will be fully considered when any decision is being made? Will she give the same weight to their views that she gave to patients who objected to the closure of accident and emergency units at Ayr and Monklands hospitals in 2007?

Nicola Sturgeon: I acknowledge Elaine Murray's constituency interest in the matter. I am, of course, fully aware of the proposals on which Dumfries and Galloway NHS Board is consulting. Indeed, I ordered an independent scrutiny of the proposals before the consultation commenced. I am grateful to Elaine Murray for acknowledging my role in the process. I will be required to approve, or otherwise, the proposals when they are formally submitted to me. I do not want to go into any detail or to give any view of my own on the proposals prior to that time—in fact, I am unable to do so.

I assure Elaine Murray that I will listen carefully to all representations that are made on the subject. I hope that even my political opponents acknowledge that I listen to what members of the public say about local NHS provision. Situations will inevitably arise in which not everyone is happy with the outcome of a consultation process. I assure Elaine Murray that this Government will always listen to the views that members of the public in local areas express.

Mary Scanlon (Highlands and Islands) (Con): Will the Government consider even greater utilisation of existing community hospitals? I am thinking of opportunities to provide locally physiotherapy, podiatry, and telehealth and telemedicine services. Doing that would reduce travel for patients and NHS staff.

Nicola Sturgeon: The short answer is yes. With the permission of the Presiding Officer, I will give a slightly more expanded and detailed answer. As Mary Scanlon is well aware, community hospitals are evolving all the time in terms of the services that they deliver. They have come a long way in recent years. Ted Brocklebank, who is sitting beside Mary Scanlon, has an interest in the new St Andrews community hospital, which is a fantastic example of a community hospital that is now providing locally services that thus far could not have been provided as locally and accessibly.

We are seeing great progress around services that are delivered in the community, not only in community hospitals but in other community settings. I am very keen to see that direction of travel continue in the coming months and years.

NHS Grampian (Meetings)

2. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Government when it last met representatives of NHS Grampian and what was discussed. (S3O-9026)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): I chaired NHS Grampian's annual review in Elgin on 2 November 2009. I discussed a wide range of matters affecting past and present performance and planning with the board chair and his senior management team. I also met the chair on 23 November 2009 at the last regular meeting of NHS board chairs. Officials from the Scottish Government health directorates also regularly meet representatives of NHS Grampian to discuss matters of current interest that affect health services in the area.

Brian Adam: One issue of current interest is the recent report on performance on health care associated infections at Aberdeen royal infirmary. Will the cabinet secretary join me in welcoming the

significant drop in the number of C diff cases that was recently reported in Grampian?

Nicola Sturgeon: I join Brian Adam in welcoming that extremely important and welcome development. Members may be aware that recent statistics show a further decrease across the country in cases and rates of C diff. There has been a reduction of more than 40 per cent in C diff across Scotland compared with the same period last year, which is extremely welcome. I congratulate NHS Grampian on the decrease that it has recorded. That said, we still face a big challenge on hospital infection, especially C diff. Although we should welcome the progress that we see today, we should continue to be focused on the issue, as I am. I take the view that any case of hospital infection is a case too many and that we should continue to do everything that we can to drive rates down even further.

Lewis Macdonald (Aberdeen Central) (Lab): Does the cabinet secretary acknowledge concerns in NHS Grampian and elsewhere about the impact of antibiotic prescribing on health care associated infections, both in hospitals and in wider communities? Has she discussed with NHS Grampian measures to reduce antibiotic prescribing? What conclusions has she reached?

Nicola Sturgeon: The issue of antibiotic prescribing is high up the agenda not just of NHS Grampian but of all NHS boards. As members who take an interest in these matters know, one of the key factors—if not the key factor—in reducing C diff, in particular, in our hospitals is ensuring that there is prudent and appropriate prescribing of antibiotics. All NHS boards have antimicrobial management teams in place and have as a key focus the need to reduce antibiotic prescribing. There is still work to do, but our increasing success in the area is one of the factors that are leading to the falling rates of C difficile that we see. The issue will remain high up the agenda of all NHS boards and of the HAI task force, which oversees all such work.

Nanette Milne (North East Scotland) (Con): It has come to my attention that in recent years NHS Grampian's department of child and family mental health has faced a number of medical staff constraints. Those were compounded by the retiral of a consultant in 2008, which has led to some unavoidable curtailment of service. Is there a general problem in recruiting specialist medical staff to deal with child and family mental health problems? If an NHS board is unable to provide an adequate service, what is the Scottish Government's advice on tertiary referral to other health boards where the appropriate services are available?

Nicola Sturgeon: I am more than happy to enter into discussion with Nanette Milne, perhaps

in writing, about the specific issues that she has raised with me. As far as I am aware, the issues of particular staffing shortages in NHS Grampian have not been raised with me before now, but I am more than happy to look into them.

On child and family mental health services more generally, I agree with the tenor of the member's question. Just yesterday, there was a substantial debate in Parliament on the issue. The Government is focused on increasing the workforce in the area and will invest £12.5 million over the next three years to do that in order to reduce waiting times, among other things. The issue is a key priority for the Government. I know that Parliament will continue to take a keen interest in it.

Bus Services

3. Hugh Henry (Paisley South) (Lab): To ask the Scottish Executive what steps it is taking to protect bus services across Scotland. (S3O-9000)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): The Scottish Government remains committed to promoting the use of bus services in Scotland. We are taking forward a number of initiatives with local government partners and bus operators to maintain and improve bus services. Those include statutory quality partnerships, punctuality improvement partnerships and the appointment of a senior bus development adviser.

Hugh Henry: Notwithstanding the minister's reply, there are still concerns in many parts of Scotland about the quality, consistency and reliability of bus services. Many of my constituents who live in Paisley, Johnstone and Elderslie depend on regular, affordable bus services. I am aware from local operators of challenges in preserving current service levels. Will the minister guarantee to my constituents that he will take steps to ensure that services are protected, without excessive fare increases?

Stewart Stevenson: I guarantee that I will work with the local authorities and with Strathclyde partnership for transport, which is responsible for bus services in the member's constituency. I note with great interest and substantial enthusiasm the plans by Glasgow City Council to introduce a statutory quality bus partnership. That is one of the ways in which councils are increasingly engaging with bus companies to address the concerns that the member has expressed.

Christine Grahame (South of Scotland) (SNP): Many bus services ought to begin and end at a bus station. As the minister is aware, buses on services between Edinburgh and the Borders have been excluded from Edinburgh bus station, apparently due to continuing tram-work

disruptions. Travellers and staff are consigned to Waterloo Place, without any facilities, often after long journeys and in very inclement weather, which at least raises questions of health and safety. Is there a role for the minister in remedying that situation, perhaps through new regulations?

Stewart Stevenson: I agree that bus stations, which provide a range of facilities, form an important part of the bus infrastructure. I understand that the companies that provide many of the services that are currently not going to Edinburgh's bus station made their own elective choice to terminate at locations such as Waterloo Place while there is disruption from the tram works. I hope that bus companies will review the needs of passengers and ensure that services stop in appropriate places. I continue to engage with local government, which exercises responsibilities for buses, in that regard as in others.

Christmas Bonuses

4. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): To ask the Scottish Executive whether any senior executive in the public sector received a Christmas bonus in 2009. (S3O-8976)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): We are not aware of any Christmas bonuses having been paid, nor of any public sector body operating a Christmas bonus scheme.

Jeremy Purvis: That reply will be welcomed. Regarding consultants in the health service, last January the Cabinet Secretary for Finance and Sustainable Growth signed off more than 25 additional bonuses amounting to about £1 million. From 1 April 2010 a new scheme will be introduced by the Scottish Government for clinical excellence awards, which will be different from the scheme in England and Wales. Can the cabinet secretary guarantee that no additional bonuses for consultants will be provided this year, and that the two new additional bonuses that health boards can introduce from 1 April 2010, of £28,000 and £30,000, will not be issued either?

John Swinney: Mr Purvis should be aware that the Cabinet Secretary for Health and Wellbeing has taken a range of initiatives in this area. The cabinet secretary has made clear the intention to freeze that proposal. I assure Mr Purvis that the concerns that a number of members of the Parliament have expressed on this aspect of health service remuneration have very much formed the focus of what the Cabinet Secretary for Health and Wellbeing and I have been doing. We will make clear further steps that the Government will take in this regard in due course.

Aberdeen Airport (Globespan)

5. Maureen Watt (North East Scotland) (SNP):

To ask the Scottish Government what impact it anticipates the collapse of flyglobespan will have on passenger numbers at Aberdeen airport. (S3O-9051)

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

Flyglobespan carried an estimated 100,000 passengers on services out of Aberdeen last year.

Maureen Watt: Given that Aberdeen airport has lost a number of routes over the past year, does the minister believe that if control over air passenger duty were to be devolved, that could be used to stimulate new routes from Scottish airports, which would reduce the need for connecting flights within the United Kingdom and help to offset the economic impact of situations such as the collapse of flyglobespan? Does the minister share my disappointment at the UK Government's apparent hostility to devolving that power and its omission from the white paper on devolving further powers—despite that forming part of the Calman commission's recommendations?

Stewart Stevenson: When there is a substantial political consensus in the Scottish Parliament that this place would be well placed to use air passenger duty as one of the levers to support passenger numbers from Scottish airports, it is disappointing that there is no process for giving us the power to do so. The Cabinet Secretary for Finance and Sustainable Growth and Government in general have engaged with the UK Government on a number of the Calman commission's proposals. It is time for action.

Lewis Macdonald (Aberdeen Central) (Lab): If the minister wants to stimulate new direct routes into airports such as Aberdeen airport, does he acknowledge that he already has at hand the means to do so?

Stewart Stevenson: I think that the member is referring to the route development fund, on which there has been discussion. It might be worth reminding him that we have limited opportunities to support, given that European rules prevent us from supporting routes that go anywhere outside the European Union and prevent us, in essence, from supporting destination airports with more than 5 million passengers per year. That, in essence, removes from consideration all the important routes that people want to fly.

The Presiding Officer (Alex Fergusson): Question 6 has been withdrawn.

Zero Waste Policy

7. Elaine Smith (Coatbridge and Chryston) (Lab): To ask the Scottish Executive what action it is taking to meet its zero waste policy. (S3O-9022)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): The consultation on the draft zero waste plan for Scotland ended on 13 November 2009. The Scottish Government is considering the responses and will produce a final zero waste plan, which we intend to publish in spring 2010.

Scotland met the 2010 landfill diversion target 18 months early and the Scottish Government will continue to work closely with all partners who will be vital to the successful delivery of the zero waste plan.

Elaine Smith: I look forward to that.

Does the cabinet secretary agree that meeting the ambitious targets would be better achieved by Government provision of waste facilities than by private companies whose main concern is to maximise profit? Does he support pyrolysis, which is an incineration-type process? If so, can he assure my constituents in Carnbroe who oppose the use of the process that no long-term health risks of any kind are associated with the process?

Richard Lochhead: The decision whether to support the treatment process that is proposed in the member's area is for the local authority. The application must go through the due planning process. The member should take comfort from the fact that the Scottish Environment Protection Agency would have to license any such facility if it were to be given the green light. The factors that she raised are taken into account by the regulatory authorities.

On the ability of local authorities and others to deliver our zero waste targets, it is interesting that North Lanarkshire Council, which covers the area that the member represents, has already passed the 2010 recycling target and has achieved a commendable rate of 41 per cent. It is clear that the member's area is making substantial progress and we should pay tribute to it for doing so.

The Presiding Officer: Question 8 has had to be withdrawn, for entirely understandable reasons.

Aviation Industry (State Aid)

9. Charlie Gordon (Glasgow Cathcart) (Lab): To ask the Scottish Executive whether it will assist Scotland's aviation industry through measures that are compliant with European rules on state aid. (S3O-8998)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): The Scottish Government would consider assisting the

aviation industry, where assistance was appropriate and compliant with state aid rules.

Charlie Gordon: In light of the recent loss of the Glasgow to Lahore link, the recent demise of flyglobespan, which has just been mentioned, and the difficulties that face Glasgow international airport, not least as a result of the cancellation of the Glasgow airport rail link, will the minister speedily develop an action plan to help our aviation and tourism industries?

Stewart Stevenson: The member will be aware that I share his disappointment at the withdrawal of the Glasgow to Lahore flight. Of course, that is one of the routes that the European Commission's rules ensure that we would be unable to support; it falls outside the European rules on state aid.

I engage regularly with airport operators and airlines and will continue to do so, to ensure that the best range and quality of services are available to travellers from Scotland.

Army Cadet Force

10. Elizabeth Smith (Mid Scotland and Fife) (Con): To ask the Scottish Executive whether it intends to celebrate the 150th anniversary of the Army Cadet Force and, if so, how. (S3O-8961)

The Minister for Housing and Communities (Alex Neil): Scottish Government ministers will be delighted to support and participate in the celebrations being planned by the Ministry of Defence's cadet tri-service forum for the 150th anniversary.

Elizabeth Smith: The minister will be aware of the current situation. United Kingdom Government cuts in the Army Cadet Force will have a significant impact, with local attachments throughout Scotland being badly affected. What representations has the Scottish Government made to UK ministers regarding the proposed cuts to the Army Cadet Force training budget, and what impact does the minister expect the cuts to have on youth training throughout Scotland?

Alex Neil: As the member knows, the budget for the cadet forces is reserved and is a matter for the Ministry of Defence. We are concerned about the cuts and we are making our position clear to the UK Government. The cadet service is a valuable service for young people, not only in Scotland but south of the border, and it is unfortunate that it is another victim of the savage cuts that the UK Government is imposing on a range of services in Scotland.

First Minister's Question Time

12:00

Engagements

1. Iain Gray (East Lothian) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S3F-2111)

The First Minister (Alex Salmond): Later today, I will take forward the Government's programme for Scotland. Immediately, ministers are going to another meeting of the ministerial resilience committee, which gives us all the opportunity—which was well received this morning—to thank all the workers in the gritters throughout the local authorities, and our third sector who are making heroic efforts to keep the country moving.

Iain Gray: I join the First Minister in paying tribute to all those who are working to keep our roads clear, all those who are working to keep our care and emergency services moving, and the often unsung heroes who are doing what they can to help out their friends and neighbours.

However, the Scottish people rightly expect the Scottish Government to do its bit too, so they must have been astonished on Monday to hear a bumbling John Swinney say that, as far as he could see, there were “perfectly adequate walking conditions” in Scotland. There is no wonder that one headline read, “John Swinney rubs salt into public's wounds”, and that another read, “Emergency? Not in Swinney world”. Does the First Minister agree that Mr Swinney's statement was perhaps just a little bit on the complacent side?

The First Minister: No. I would say that Mr Swinney—in sharp contrast with some United Kingdom Government ministers, including the Secretary of State for Transport—had been working with other ministers to ensure that there was ministerial direction of the resilience committee, which was meeting every day at official level in order to ensure that Scotland had such leadership throughout the holiday period. *[Interruption.]*

I hear some questions as to what I am talking about. I notice from the ministerial rota that the Minister for Transport, Infrastructure and Climate Change worked on Christmas day—as, indeed, he should have done, because Scotland experienced cold conditions on Christmas day. His counterpart in the UK Government was reported as being on a skiing holiday—not in Scotland, where there would have been plenty opportunity to ski, but elsewhere. Mr Swinney worked on new year's day. We expect our ministers to do that and it is right

that they should work. The reason is that, throughout Scotland, there are gritters and road workers who have not had a holiday over the festive period because they have been working round the clock.

Everyone is doing their bit—the Scottish Government, local authorities and voluntary organisations. Instead of totally missing the moment, as Johann Lamont did earlier, Iain Gray should try to rise to the occasion and get together with the all-Scotland team that is taking Scotland through the crisis.

Iain Gray: We know that John Swinney was working on Monday; we just do not recognise the Scotland that he described when he went on national radio. I am not alone in that, nor in hearing from many elderly constituents who have been housebound for almost three weeks and do not know what to do. Walking conditions have not been “adequate” for them; they are impossible for them. Many of those people usually manage on their own, so they do not have carers coming in and do not know where to turn. Where was the hotline that they could phone? Where was the Government advice on radio? Where were the adverts on television telling them what to do?

This morning, we heard that the Government is only now putting that information on its website and talking to local radio. Is not that a little late in the day? How complacent is a Government that takes three weeks to provide advice to vulnerable people?

The First Minister: I am glad that Iain Gray at least gives me the opportunity, because of the nature of his question, to talk about the weather wise advice section of the Scottish Government website. I advise all MSPs, as well as everybody who is watching the First Minister's questions programme, to consult the advice site if they can, because it has valuable information, including details of the local government helpline numbers across Scotland, weather information, health advice, particular information for older people, information on the Government's excellent energy assistance package—which is particularly important at this time—and up-to-date information on travel and schools.

No doubt, when Iain Gray gets time to look at the site—when he left the chamber halfway through the question time that followed the Government's statement this morning on the severe weather, I thought that he was perhaps going to inform himself of the detail that was available—and when members get time to do so, they will see how it pulls together the efforts that are being made across the country.

I understand full well the frustration of people across Scotland about local roads and, indeed,

about pavements and walking conditions. However, I know that people in Scotland understand the point that was made to me yesterday by the leader of the Convention of Scottish Local Authorities, Pat Watters, which is that, in the circumstances, all of us—Government and local authorities—have to husband our supplies of salt and grit in order to be able to cope with expected further weeks of severe weather. Believe me, nobody would want to thank the Scottish Government or local authorities if we fell into the trap that Iain Gray apparently advocates of not husbanding supplies and being unable to respond to the worst possible circumstances over the next few weeks. If that is understood by Labour leaders of COSLA and by local government across the country, why on earth is it not understood by the Opposition leader in this Parliament?

Iain Gray: The First Minister is right. I did go earlier this morning to the Scottish Government website to see what advice was readily available for older people who might have turned to it in recent days. As far as I can see, if they looked in the past week at the news site, which is the front page of the Scottish Government website, they would have had two bits of advice: a press release telling them to get outdoors in 2010, which they are trying to do but cannot; and a press release entitled “Cold comfort for garden birds”. I, too, feed the birds in my garden, but that is not my first priority at a time like this. That is the information that has been readily available over the past two or three weeks.

This morning, in response to questions in the chamber, Mr Swinney told us that the Cabinet Secretary for Health and Wellbeing had been fully “absorbed” in the emergency. Really? Why, then, was she not on the radio giving advice to the vulnerable? *[Interruption.]*

The Presiding Officer (Alex Fergusson): Order.

Iain Gray: Yesterday, ministers finally met council leaders. Was the health secretary there to discuss services for the vulnerable, or was she not?

The First Minister: Strangely enough, I wondered whether Iain Gray's early departure from questions on the severe weather situation meant that he was running to the website. I anticipated that he would do that, so I brought along a printout of the web page, because I would not want any member to suffer from any possible misinformation from the Labour leader in Scotland. I have the full information from the website, which I will go through again. Incidentally, it is timed with the information on a similar United Kingdom website for the rest of the country.

The website links to every local council in Scotland, with the local emergency numbers. There is also weather information, health advice, information specifically for older people on winter fuel payments, as well as information on—of course—the Government's keep warm, keep well campaign and the energy assistance package, and on a range of measures that we have to help people in Scotland. The site goes on to provide specific and up-to-date information on travel and schools, and on the NHS 24 service, which operates its emergency lines in all circumstances.

Instead of coming along and trying to find any possible fault in the ministerial response, which has been comprehensively better and superior to anything else that has been happening in these islands, perhaps Iain Gray will finally come to the realisation that he should get on board and try to rise to the occasion in finding a constructive role for the Opposition, and stop trying to deflect attention from the chaos of the Labour Party south of the border. Interestingly, the only things that have kept the cold weather off the front page are stories about Labour's leadership crisis.

The Presiding Officer: This is all taking far too long. We are running out of time. Your final question should be brief, please, Mr Gray, and the response should be equally brief. *[Interruption.]* Order.

Iain Gray: We have, indeed, heard the ministerial response from Mr Swinney in recent days. On Monday, he told us that the pavements were fine. Yesterday, he told us that he is “not a player” in contracts with salt suppliers. This morning, he told us that he has no contingency funds to deal with any kind of emergency. Therefore, there is no problem, there is no contingency fund, and the matter is nothing to do with him. I have a constructive suggestion to which the First Minister can give a simple answer. Will the First Minister get a grip of the matter and within the next 24 hours get a national single hotline number set up for vulnerable people, instead of taking three weeks?

The Presiding Officer: The First Minister should be brief, please.

The First Minister: If Iain Gray ever talked to his colleagues in local government, he would know that they specifically asked for information to be publicised about their telephone numbers. They do not want a number that would supplant the emergency and help numbers for every service at local level. That was the specific advice from Councillor Pat Watters, who represents COSLA. I do not know whether Iain Gray engages in conversations with his own political party, never mind with ministers, but I know that people in Scotland expect better of their Opposition leader, just as people expect the Scottish Government to

work as it has done over the holiday period, unlike the United Kingdom Government.

I have two final things to say to Iain Gray. First, the last entry on the Scotland Office website was for 24 December.

The Presiding Officer: You should be brief, please, First Minister.

The First Minister: Secondly, Iain Gray should take a leaf out of his predecessor's book. Earlier today, his predecessor came to the chamber when Iain Gray was already absent and made an entirely constructive suggestion about how local authorities could fill up gritting bins around the country with sand and other materials to help communities to help themselves. That is exactly what the Scottish Government and local authorities are recommending. Iain Gray should take a leaf out of his predecessor's book and come to the chamber with something constructive to say. *[Interruption.]*

The Presiding Officer: Order.

Secretary of State for Scotland (Meetings)

2. Annabel Goldie (West of Scotland) (Con):

To ask the First Minister when he will next meet the Secretary of State for Scotland. (S3F-2112)

The First Minister (Alex Salmond): I have no plans to meet the Secretary of State for Scotland in the near future.

Annabel Goldie: No one can doubt that we are facing the worst winter weather for decades. I, too, pay tribute to the outstanding work that the essential services have carried out, but I am concerned that the Scottish Government has been reactive and that it does not seem to be in control of the situation. For example, although a resilience unit was set up 17 days ago, the Scottish Government did not know about the acute situation in Fife until only four days ago. The Government also claimed that our pavements are in "adequate" condition, but the rest of us know that their condition is appalling. No one seems to know who is in charge. Mr MacAskill seems to run the resilience unit, but Mr Swinney made the statement to Parliament this morning.

At the beginning of the week, my party asked how many offenders who are on community service were being deployed to clear pavements. The Scottish Government had no idea. I know that conditions are bad, but the Scottish Government has not gripped the challenge from the outset. Which minister is in overall charge? Where is the detailed plan to deal not only with the on-going serious situation, but with its aftermath?

The First Minister: Specifically, I am in charge. I have been convening the Scottish Government resilience room meetings at ministerial level.

Alex Johnstone made some constructive points this morning; perhaps Annabel Goldie should consult the *Official Report* to see what her spokesman said. I see that he is hanging his head in shame. There is no need to be ashamed that a Conservative spokesman has made constructive suggestions, even if he should perhaps have informed his leader before she got to her feet.

David McLetchie constructively suggested that community service offenders throughout Scotland should help in this time of crisis. I will read out the numbers of people who have been employed throughout the country in doing exactly that. In North Lanarkshire, 60 have helped and 30 have helped in Aberdeen. Others have been involved in such work in Lochaber in the Highlands, 15 in East Renfrewshire, and 60 people were keen to point out that they have worked in deprived areas of Glasgow since before Christmas.

There are also plans in the Lothians to mobilise all five of the Lothian and Borders community service squads this weekend, and there is activity in south-west Scotland, Lanarkshire, Fife, and the Forth valley. That seems to me to be a substantial effort to implement a sensible suggestion—even if the councils point out that they were doing it for a wee bit of time before David McLetchie made the suggestion.

I should, of course, point out that, if the Conservative party had had its way, instead of those people working on community service orders the length and breadth of Scotland, they would be safely tucked up in prisons with three square meals a day and central heating.

Annabel Goldie: Like most people in Scotland, I am totally supportive of community service in which the offenders are doing meaningful work. Heaven knows what work they could be doing that would be more meaningful than making our streets, pavements and public places safe.

Why did it take clarion calls from my party and from my colleague, David McLetchie, to produce at First Minister's question time a response that eluded the Scottish Government earlier this week and in this chamber earlier this morning? At the end of the day, the First Minister has merely narrated events in a handful of local authorities, and has failed to observe that there are more than 5,500 people with community service orders currently available to give such assistance. The First Minister may lecture me on not consulting colleagues, but he had better consult Mr MacAskill—when he can find him, because he does not seem to be in the chamber this morning.

I call on the First Minister to look at the list that he read out, to think about how much is missing from it and to get to work in giving shovels to our

offenders on community service so they can get on with making our streets and pavements safe.

The First Minister: First, I should correct Annabel Goldie's statistics. Yes—more than 5,000 community service orders have been allocated, but not all those people are on community service orders at any one time, because some will have served their community service orders. At any one time, there are about 2,500 people on community service orders in Scotland.

Annabel Goldie is not in a position to judge the excellent statement that was made by Mr Swinney this morning because she wasnae in the chamber to hear it. She asked where Kenny MacAskill is. He is in the kingdom of Fife, visiting and seeing for himself a community service order team clearing the streets of that county.

Cabinet (Meetings)

3. Tavish Scott (Shetland) (LD): To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-2113)

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

Tavish Scott: I express my sympathies to the family who live on the west side of Shetland whose mother was tragically killed in a weather-related car accident yesterday.

Like other party leaders, I acknowledge the work of all those who have been working to keep Scotland moving in the winter conditions.

People who live off the main road network often live off the main gas network as well, and need supplies of bottled gas, solid fuel or fuel oil. Homes, care homes, community hospitals and schools need such supplies. The First Minister has mentioned the Government's resilience sub-committee. What assessment has the Government made of the problems of people whose supplies are at risk of not getting through? For example, how many schools will stay closed if they cannot get a fuel tanker to the door?

The First Minister: Tavish Scott should know that more than 80 per cent of schools are open today, which is up from 75 per cent yesterday and 60 per cent the day before. That represents a huge effort by all concerned to get those schools open. I make it clear also that local authorities such as Aberdeenshire Council and those in the south of Scotland that have decided on a school-closure programme because of the extremity of the conditions that they have been facing have made perfectly sensible decisions in the light of local factors.

The issue of off-grid supplies has been discussed in the Cabinet sub-committee on

Scottish Government resilience. Contact is being established with the suppliers to determine the extent of the problem. I do not think that it is too difficult to establish where the particular issues are in Scotland at the moment, given what has happened over the past few days, but the matter is uppermost in the minds of ministers, civil servants and local government officials.

I join Tavish Scott in expressing condolences for the death of his constituent, and I extend my sympathy to her friends and family.

It should be said that during the holiday period, there has not, mercifully, been a rise in fatalities in accidents on our roads. However, there has been a substantial number of more minor incidents. Obviously, every death is a tragedy, and that should be acknowledged.

Tavish Scott: I am grateful to the First Minister for his words in relation to that particular incident.

The First Minister mentioned schools, so I will press him on that particular point. Parents can well understand that snow causes disruption, but on better days, with no wind and good forecasts, parents do not always understand why schools are closed by education authorities.

I ask the First Minister to bring together those who are responsible in local authorities in order to assess why it appears that the easy option is to close schools, often in a blanket fashion. Is it because of a legalistic worry about being sued? Is it because of transport to schools, or heating and water in school buildings? Should not we support the go-ahead teachers who get schools open and, as we have seen in recent days, use snow to support learning? We have potentially two more weeks of this weather. How can we ensure that every school takes that approach?

The First Minister: Tavish Scott should be aware that the blanket closures in Scotland during the past few days have been in Aberdeenshire, the Scottish Borders Council area and in East Lothian. Most of us would acknowledge—certainly in my constituency, and I am sure it is the same for people in the south of Scotland—that it would have been impossible to take any decision other than that which was taken by the local authorities concerned.

I have the exact figures for Tavish Scott. On Tuesday, 64 per cent of the schools that should have been open were open, 75 per cent were open yesterday and 81 per cent are open today. That is 1,950 schools throughout Scotland in the areas in which school terms started this week.

Over the piece, given that all the country is suffering extreme weather, that seems to represent a very substantial effort by parents, teachers and local authorities. I know that Tavish

Scott would not want to give the impression that people were doing anything but making every effort to keep school attendance up. Obviously it would be ideal if the figure was nearer 100 per cent, but under the circumstances that we have been suffering in the past few days, the figure of 81 per cent indicates that people are certainly making every effort to sustain the education of school children.

Scottish Legal System (Peter Tobin)

4. Stewart Maxwell (West of Scotland) (SNP):

To ask the First Minister what lessons the Scottish legal system can learn from the Peter Tobin case. (S3F-2116)

The First Minister (Alex Salmond): Peter Tobin has, as members will know, been convicted of yet another despicable and vile crime, and I know that Stewart Maxwell and all members will join me in expressing our sympathy for the families of all his victims. We are determined to bring all criminals to justice, no matter how long it takes. Tobin was convicted as a result of determined and professional work over many years by police officers, forensic examiners, scientists and prosecutors. Scotland's police are working with other forces throughout these islands as part of operation anagram to examine Peter Tobin's history and movements to establish whether there are any connections to other crimes. Our officers will co-operate in other serious cases, where new evidence becomes available.

The Government is committed to giving Scotland a justice system that is fit for the 21st century. To that end, we have introduced a wide ranging Criminal Justice and Licensing (Scotland) Bill and have asked the Scottish Law Commission specifically to examine a number of issues that affect the fairness of our criminal justice system.

Stewart Maxwell: The First Minister will be aware that during the trial of Peter Tobin in England for the murder of Dinah McNicol, evidence was led in relation to the murder of Vicky Hamilton. However, if the Dinah McNicol trial had taken place first, evidence such as the fact that the two bodies had been buried in the same garden would not have been allowed to have been mentioned to the Scottish jury in the Vicky Hamilton case.

Although I welcome the fact that the issue has been passed to the Scottish Law Commission, can the First Minister inform me of when the SLC can be expected to report on the matter? Does he agree that the inability here to lead such vital and crucial evidence is absurd, and that had the Vicky Hamilton case been tried after the Dinah McNicol case, there was a possibility that justice could have been denied to Vicky Hamilton's family?

The First Minister: As Stewart Maxwell rightly says, the SLC is working on the issue. It currently anticipates that it will issue its proposals around late spring. We should take this opportunity, however, to acknowledge that we have already published important reports, on Crown appeals in July 2008 and on double jeopardy as recently as 2 December 2009. As a Government we have, as members will recall, acted on Crown appeals by including provisions in the Criminal Justice and Licensing (Scotland) Bill. Mr MacAskill has confirmed that he intends to act on double jeopardy by bringing forward provisions as soon as is practicable. I anticipate that we will make the same timeous response to the SLC proposals when they are announced around late spring.

Richard Baker (North East Scotland) (Lab):

Does the First Minister agree that, in the light of Peter Tobin's most recent trial, it is important to ensure that changes to the law on disclosure of previous convictions have the right parameters and apply in appropriate cases? Does he agree that it will be useful for the Scottish Law Commission, in its deliberations, to look at how such reforms have worked successfully in England and Wales since 2004? Can he reassure Parliament that, in the light of the forthcoming report by the Scottish Law Commission, there will be timeous action to bring to Parliament new proposals for legislation in the area?

The First Minister: Yes. I have already given the assurance on timeous action from the Government. We have the Scottish Law Commission for a purpose, and we have to allow it to progress its work properly. I am absolutely certain that, in preparing its proposals, it will have looked at examples in other jurisdictions. However, Richard Baker certainly has my assurance that, once the proposals have been made and properly consulted upon, the Government will act timeously.

Climate Change Targets (Insulation)

5. Sarah Boyack (Edinburgh Central) (Lab):

To ask the First Minister what the Scottish Government's position is on WWF Scotland's statement that Scotland needs more insulation in homes urgently to help achieve its climate change targets. (S3F-2117)

The First Minister (Alex Salmond): Home insulation is one of the most cost-effective ways of improving the energy efficiency of our homes, and it will be central to meeting our emissions reduction targets and, indeed, in tackling fuel poverty. That is why the Government has introduced comprehensive support for home insulation through programmes such as the home insulation scheme, the energy assistance package

and the interest-free loans that were announced in October.

The home insulation scheme will offer help to 100,000 households in its first year, including 13,000 homes in the city of Edinburgh alone. From April this year, as the member well knows, Scotland's local authorities will introduce council tax discount schemes, which will act as a further incentive for home owners to insulate their homes.

The energy assistance package, which is particularly important at this time of year, is targeted at fuel-poor households. By the end of November 2009, 9,072 households had been referred for insulation work by energy suppliers under the carbon emissions reduction target obligations.

In the spring, we will publish an energy efficiency action plan for Scotland that sets out our policies across all sectors to help to meet Scotland's ambitious climate change targets, which were recognised recently by many countries at Copenhagen.

Sarah Boyack: When does the First Minister expect that all Scottish households will be able to apply for, and receive, money off the council tax, as recommended by the Energy Saving Trust, as legislated for in our Climate Change (Scotland) Act 2009, and as experienced by thousands of households throughout the rest of the country?

The First Minister: As Sarah Boyack well knows, it is for local authorities to introduce that measure. However, the information that we have is that, from April this year, Scotland's local authorities will introduce council tax discount schemes that will act as a further incentive for home owners to insulate their homes. That is the assurance that I have had from the Convention of Scottish Local Authorities, although I am perfectly happy to check the detail with COSLA to see whether there is any variation in terms of how many councils will introduce schemes and how early they will do so. I am sure that we can make that information available to all members.

NHS Dental Care

6. Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I want to draw the First Minister's attention—[*Interruption.*] No, I do not. I want to read my question first.

To ask the First Minister what action the Scottish Government is taking to reduce waiting lists for access to national health service dental care. (S3F-2124)

The First Minister (Alex Salmond): I thank Jamie Stone for notification of his question. As he knows, we are investing significantly in NHS dental services in Scotland to increase access to

dental care. We have the highest number of dentists working in general dental services since 2003, and spending on general dental services has increased substantially in the past two years.

We have already achieved our manifesto commitment to open a new dental school in Aberdeen: I will formally open the new state-of-the-art dental school building on 19 January. We have also introduced a preventive school-based dental service, which is being rolled out across Scotland, and we have delivered on what I think is a crucial target—that 80 per cent of three to five-year-old children should be registered with an NHS dentist by 2010-11.

Jamie Stone: The drive to reduce waiting lists in the far north is being undermined by the high number of missed appointments. An astonishing 268 hours were lost at the Lochshell dental clinic outside Wick during the first eight months of last year. At an average of 33 hours a month, that is the equivalent of losing one dentist for about 11 weeks of the year. As NHS Highland admits, that is a waste of resources and time and it prevents other patients from receiving treatment. What action is the Scottish Government taking to tackle this disturbing problem and to ensure that this frankly shocking waste of time and resources is brought to an absolute minimum?

The First Minister: That is an entirely legitimate question. Jamie Stone's concerns are shared, of course, by NHS Highland, which is taking steps to address the issue in two ways. One is by actively telephoning patients to remind them of their appointments. Text messaging goes along with those reminders. Secondly, it has issued press releases about the problem, and notices in every NHS dental clinic highlight the issue that has been raised by Jamie Stone about the hours that are lost due to non-attendance.

I know that, alongside the specific action that is being taken to tackle the problem, the local member will welcome the very substantial progress that is being made not only in NHS Highland, but in the rest of the country in substantially increasing access by the general population, particularly children, to NHS dentists, and that he will welcome the 13 per cent drop in the waiting lists for NHS dental registration from June to October last year.

The Presiding Officer: That concludes questions—

Margo MacDonald (Lothians) (Ind): On a point of order, Presiding Officer. I seek your guidance. My understanding is that the purpose of First Minister's question time is for the First Minister to account for the actions for which his Government is responsible. I do not remember reading in any publication that ministers are responsible for every

bit of grit or salt that is secreted on to Scotland's roads and byways—

The Presiding Officer: What is your point of order, Ms MacDonald?

Margo MacDonald: My point of order is that, with the honourable exception of the leader of the Liberal Democrats, members spent 22 minutes asking questions that should have been asked of Pat Watters and local authority leaders—

The Presiding Officer: We are very grateful for your opinion, Ms MacDonald, but it is not a point of order.

Margo MacDonald: Aye, it is.

George Foulkes (Lothians) (Lab): I think that mine is a point of order, Presiding Officer. In reply to Annabel Goldie's question about who is responsible for co-ordinating the Government's efforts and its response to the national emergency, the First Minister said that he is in charge. The First Minister was also present at the Cabinet Secretary for Finance and Sustainable Growth's statement this morning. My understanding is that you and Parliament expect the responsible minister to make such a statement. Will you inquire why, in this case, the responsible minister did not do so?

The Presiding Officer: The question of who is put forward to make a statement is a collective responsibility of the Government. That is what happened this morning.

12:32

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Education and Lifelong Learning

The Deputy Presiding Officer (Alasdair Morgan): Good afternoon. The next item of business is themed question time. Questions 1 and 2 were not lodged.

International Student Visas

3. Shirley-Anne Somerville (Lothians) (SNP): To ask the Scottish Government what assessment has been made of the effect on Scottish universities of the introduction of tier 4 of the points-based system for international students. (S3O-9049)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): The First Minister and I have both taken a close personal interest in the matter and in my previous role I specifically raised this subject on several occasions in discussion with my counterparts in the Westminster Government. At the First Minister's behest, officials wrote to college and university principals to ask for their feedback and examples, if appropriate, of where the new system has had a detrimental effect on their recruitment or retention of international students.

It remains early days for the new system. The overall message from Scottish institutions is that, although there have undoubtedly been problems and there is concern about how the new system will affect Scotland's reputation as an open, welcoming country, the system is operating better than expected. Some—particularly in the college sector—are positive about the increased capacity to prevent bogus institutions operating and to ensure that students arrive at their institution. The issues that have been raised tend to concern inconsistent and changeable procedures within the UK Border Agency, delays, and teething problems with the new system.

We are continuing to monitor the situation and will work to ensure that Scottish institutions are receiving the best possible service from the UKBA.

Shirley-Anne Somerville: The cabinet secretary will be well aware of the important contribution that international students make, both academically and financially, to Scotland's education institutions and economy. Concerns have been raised with me that the new tier 4 system discriminates against students from less

wealthy countries by requiring them to show that they have thousands—often tens of thousands—of pounds available up front in advance of their studies. Can he assure us that everything that can be done will be done to ensure that access to Scottish universities is not being unreasonably restricted to the detriment of students, institutions and the country as a whole?

Michael Russell: The member is right to say that a points-based system is not an ideal system. Indeed, at a national conversation meeting about migration that was held with a range of institutions, there was a feeling that we should not really have such a system at all. However, because such a system is in place and because we do not currently have the ability to change it, how we work within the system is very important. It is important that the Scottish Government makes representations repeatedly, regularly and clearly to the UK Government about the operation of the system. That is why, when we observe that tier 4 possibly discriminates against students from less wealthy areas, it is important that, with the backing of universities and colleges, we make strong representations to Westminster. I encourage the member so to do and not to take no for an answer. The UK Border Agency has an unfortunate tendency to try to brush off members of this Parliament, but I hope that we will resist that.

Class Sizes (P1 to P3)

4. Tom McCabe (Hamilton South) (Lab): To ask the Scottish Executive whether its new 20 per cent pass mark on reducing primary 1 to P3 class sizes is a threshold to be met by each local authority or an average target across them all. (S3O-9008)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): I do not, of course, accept the term “pass mark”. Our continuing objective is that all local authorities should make as much progress as possible towards the concordat’s class size target of 18 in all primary 1 to primary 3 classes. From the outset, the concordat recognised that progress towards class size targets would vary from authority to authority. In the short term, we are seeking to agree with the Convention of Scottish Local Authorities that more than 20 per cent of Scotland’s P1 to P3 pupils will be in classes of 18 or fewer by August 2010. I remain hopeful that that will be the case.

Tom McCabe: With respect, that answer will not give a great deal of comfort to parents. The original promise was to reduce class sizes, but the Government failed to deliver on that promise. There is an expectation among parents that the 20 per cent target will be met by each local authority.

Parents look for something more than a hope from the cabinet secretary that that will be the case.

Michael Russell: In the interests of strict accuracy—I am sure that Mr McCabe would want me to be strictly accurate—this Government has reduced class sizes and has done so more effectively than our predecessors. Of course we have a shared responsibility with Scotland’s local authorities to achieve the targets that we have set. If every one of Scotland’s local authorities works as hard as I intend to on this topic, we will achieve what we have set out to achieve. I have clearly recognised the difference in circumstances between now and 2007. That is why I have been prepared to enter into genuine, substantive and quite open negotiations with Scotland’s local authorities so that progress can be made and verified. If Mr McCabe would work with the local authorities in his area to support me in those aims, we would all get a result.

Margaret Smith (Edinburgh West) (LD): I want to ask a question that I have asked a number of times, but to which I have not had a response. How does the Government plan to deliver a 7 per cent increase in the number of classes of 18 or fewer in P1 to P3 in less than a year when it has delivered only a 1 per cent improvement over the past two years?

Michael Russell: The member has had a response—it might just not be the response that she wanted. The response is absolutely clear. The Government intends to do that through negotiation with the local authorities and through the local authorities setting themselves targets that they believe that they can achieve within the parameters that we have discussed and in a verifiable way. Each local authority may have a different way of doing so, but let us keep in view and not forget the general aim—I respect the fact that Margaret Smith has said repeatedly that she supports the drive towards smaller class sizes—which is to improve the contact between teachers of pupils in those early years and the children involved. If we can agree on that aim and can drive towards ensuring the highest quality of contact, which is symbolised by the target of class sizes of 18 or fewer, we will get genuine progress. We are getting such progress and I think that we will make the target in question by August 2010, although I have not yet seen the full returns from Scotland’s local authorities, which we expect to see in response to the discussions that we had before Christmas. When I have seen those, I will be happy to report back on them.

Apprenticeships (Central Scotland)

5. John Wilson (Central Scotland) (SNP): To ask the Scottish Executive how many people in Central Scotland have benefited from the

intervention to safeguard the completion of apprenticeships. (S3O-8966)

The Minister for Schools and Skills (Keith Brown): The Scottish Government has two schemes to help apprentices complete their training—the adopt an apprentice scheme and the safeguard an apprentice scheme. By the end of December, our adopt an apprentice scheme had supported a total of 254 apprentices back into employment, 45 of whom reside in local authorities in the Central Scotland area. The safeguard an apprentice scheme, which was launched in November 2009, is currently providing support to 49 individuals across Scotland.

John Wilson: I welcome the minister's response but, as he will be aware, certain employment rights are attached to apprenticeships and to the apprentices who hold them. What measures have been put in place to monitor the progress of the apprenticeship scheme and to ensure that employment rights, such as the right to the minimum wage, are in place?

Keith Brown: Skills Development Scotland monitors the uptake of modern apprenticeships and completion rates across Scotland. That information is used when the programme is recontracted for each financial year. Through its skills investment advisers, SDS is in regular dialogue with training providers to provide support. It is also true that many training providers still choose to operate the Scottish quality management system, which involves self-evaluation. SDS is considering how to better monitor national training programmes in the future.

As far as the national minimum wage is concerned, John Wilson will be aware that that issue is not devolved but is a matter for the United Kingdom Government. Apprentices are currently exempt from the national minimum wage legislation, although the Scottish Government encourages employers to pay apprentices at least the national minimum wage. The UK Government has asked the Low Pay Commission to consider what national minimum wage rate would be appropriate for apprentices, and it is due to report back to the UK Government in the spring of this year.

Margaret Mitchell (Central Scotland) (Con): Will the minister outline what is being done to reduce the bureaucracy for local businesses that agree to take part in the apprenticeship scheme?

Keith Brown: That is a legitimate point. It is quite a complicated landscape—different Government agencies and different Governments are involved in providing assistance on training and skills development.

A number of initiatives are being progressed, not least the co-location of Skills Development

Scotland staff and Jobcentre Plus staff, which has paid real dividends. We are grateful for the willingness of the staff of Jobcentre Plus in Scotland to be flexible in delivering that and in identifying what additional, simplified materials can be produced, especially for very small businesses, which find the landscape complicated. Those materials should be produced in the next month or so. We are extremely mindful of the needs of small businesses in this area.

Teacher Numbers

6. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive what action it is taking to maintain teacher numbers. (S3O-8984)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): I am pleased to say that, despite current financial circumstances, we are providing record levels of funding to local authorities, which will of course achieve the objectives that the member raises.

Jackie Baillie: That is a most interesting response. I reflect that the cabinet secretary has said that he is quite happy for local authorities to shelve their commitments to free school meals for action on class sizes, so that looks like two SNP broken promises. Does he agree that the key to reducing class sizes is to ensure that there are sufficient teachers? If that is the case, can the cabinet secretary explain why SNP-controlled West Dunbartonshire Council has reduced its teacher numbers by 84, why SNP-controlled Renfrewshire Council has reduced its teacher numbers by a staggering 210 and why there are, in fact, 2,089 fewer teachers in our classrooms than there were when this Government came to power, if it is so committed to reducing class sizes?

Michael Russell: It would be churlish of me to point out that Labour-controlled Glasgow City Council has reduced its teacher numbers by 379 and Labour-controlled North Ayrshire Council has reduced its teacher numbers by 97. We are not playing a blame game.

Jackie Baillie: You are.

Michael Russell: I emphasise that I am not playing a blame game. We will not get anywhere with that kind of pantomime performance.

Members: Oh yes we will!

Michael Russell: I am tempted, Presiding Officer, to say, "It's behind you," but I will not.

We are trying to get an agreement with local authorities that will allow us to make progress on key objectives. If it is done on the basis of stating, "This number of teachers will be here in this one place," we will not make progress. I would like all local authorities to ensure that they are employing

the ambitious, committed and dedicated teachers who are available in the labour market. Fortunately, the number of teachers who are managing to get posts is increasing, but, regrettably, there are still teachers who do not have posts and I want them to have posts in Scottish schools and to contribute their skills and abilities. What I want most of all is to recognise that, when the going gets tough—as it has, financially, over the past two years—we are all working together to try to get the best results. The blame game and negative politics that Labour is involved in—we heard it blame the Government for the weather this morning—get us nowhere.

Des McNulty (Clydebank and Milngavie) (Lab): Getting us nowhere might be described as 2,500 fewer teachers than there were in 2007. In the interests of getting us somewhere, I will pursue the minister a bit further on the nature of his discussions with councils about increasing the number of post-probationary teachers getting jobs. I believe that this is a national crisis. Those teachers are well qualified and they are required in the classroom, but they cannot find employment. What are the sticking points between the minister and the local authorities in relation to getting a number of additional jobs in schools? Has the minister discussed with the local authorities and the trade unions the introduction of a more flexible wind-down scheme that would allow some older teachers to retire and new teachers to take their places in the classroom?

Michael Russell: My predecessor offered to local authorities a new scheme that would allow them to introduce an earlier retirement for some teachers, thus creating space in classrooms. That offer remains on the table. Some local authorities have shown an interest in it and I encourage them to do so.

In the spirit of consensus, Mr McNulty is right that we should be talking to the trade unions about ways in which we could promote and possibly even enhance the career wind-down scheme. Indeed, yesterday I had those discussions in part with one trade union and I shall continue to follow them through. We want to ensure that teachers who have trained and are available on the labour market move into schools.

I would not call it a national crisis, but I would call it a personal crisis for each teacher who wants a job and cannot get one. We will certainly work hard to ensure, over a period of time, that they get jobs, but we need to acknowledge that the local authorities are the employers. There is at least one new scheme on the table and I am happy to discuss other possibilities as they emerge.

The Deputy Presiding Officer: Question 7 was not lodged.

Synthetic Phonics

8. Murdo Fraser (Mid Scotland and Fife) (Con): To ask the Scottish Executive whether it will promote the formal teaching of synthetic phonics as a way to improve literacy standards. (S3O-8960)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): The Scottish Government is committed to improving literacy for everyone in Scotland. The new curriculum—curriculum for excellence—has literacy at its heart and, for the first time, we are introducing specific qualifications in literacy in secondary school.

Schools throughout Scotland are rightly using multiple approaches to teaching literacy skills, including the use of synthetic phonics, the introduction of which in West Dunbartonshire is well known, although I understand that the approach was originally introduced in Clackmannanshire, when Clackmannanshire Council's leader was my colleague the Minister for Schools and Skills, who is sitting on my right. Guidance under curriculum for excellence provides an improved framework for developing literacy skills for the 21st century—and will be of use, too.

Within that diverse framework, local authorities and teachers will be able to make use of all proven teaching methods, including synthetic phonics, to develop an appropriate approach for each pupil, to ensure that they have the literacy skills that they will need for learning, life and work.

Murdo Fraser: The cabinet secretary referred to the success of the projects in Clackmannanshire and West Dunbartonshire, where the use of synthetic phonics has had dramatic results in improving literacy. Given that the programmes have been such a success in those two areas, does he agree that we should use them as best practice and encourage other local authorities to promote similar programmes?

Michael Russell: I agree that synthetic phonics has had considerable success. Many good teachers and lots of good schools are using the approach. However, it is important to stress that it is not the only approach. In certain circumstances, other approaches work well, in addition to or in place of synthetic phonics.

I do not think that we will fall out about the matter. The reality is that synthetic phonics is a good method, which works, and I encourage all teachers to use methods that are good and that work.

Scottish Literature

9. Alasdair Allan (Western Isles) (SNP): Tae speir the Scottish Guivernment whit it wull dae tae mak shuir awbodie at the high scuil gets Scottish leiteratur.

To ask the Scottish Government what steps it will take to ensure that every secondary pupil has access to Scottish literature. (S3O-9027)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): The Scottish Government is committed to ensuring that the place of Scottish literature is emphasised in our schools. The literature of Scotland provides a rich and valuable resource for children and young people to improve their literacy and to learn about Scotland's culture, identity and language.

Curriculum guidance on literacy states that learning should include

"examples of writing by Scottish authors which relate to the history, heritage and culture of Scotland. They may also include writing in Scots"—

the member has a distinguished background in that regard—agus Gàidhlig cuideachd.

Alasdair Allan: Wull the caibnet secretar tell's whit success compulsoir questions on Scottish leiteratur athin exams is haein in giein a heize tae the nummers o fowk stuidiein Scottish screivers, an whit place dis the Scottish edication colleges gie tae Scottish leiteratur noo tae alloo sic authors tae be teachd?

Michael Russell: We do a great deal of work, but there is always space for more work to be done. I am happy to give the member access to the information that we have on work in colleges.

A more central question is whether every pupil in Scotland has access to literature and writing in the three languages—what Iain Crichton Smith called the "three voices of Scotland"—so that they understand the linguistic and cultural diversity of that part of Scotland and Scotland's wider cultural diversity in terms of other voices and cultures that have come to us. We should think about studying writing and literature in that way and every school, college and university should encourage in their students knowledge of the great richness of our culture and tradition.

Aileen Campbell (South of Scotland) (SNP): Is the cabinet secretary aware of a project that Napier University runs, which allows third-year publishing students to manage the whole process of publishing and printing new editions of Scottish classics that are out of copyright? This year's project is James Hogg's "The Private Memoirs and Confessions of a Justified Sinner". The books are given free to secondary schools, so that great Scottish literature is made more widely available to

pupils. Does the cabinet secretary agree that this virtuous and simple project is worthy of recognition and will he join me in congratulating the Napier students who are doing their bit to keep Scottish literature alive?

Michael Russell: Very much so. I am always keen to see writers' works being distributed as widely as possible, although given that the project that the member mentioned does that for free, as a working writer I am glad that it deals with works that are out of copyright rather than in copyright.

The "Memoirs and Confessions" is one of the three great unfilmed books in Scotland—the others being "Annals of the Parish" and "The Cone-gatherers". If it is read by a much wider audience in Scotland, there will be a much better understanding of our dual nature in Scotland.

Colleges (Support)

10. Willie Coffey (Kilmarnock and Loudoun) (SNP): To ask the Scottish Government what support it is making available to colleges during the recession. (S3O-9029)

The Minister for Schools and Skills (Keith Brown): Scotland's colleges are central to supporting people and businesses affected by the recession. The Government plans to spend more than £2.5 billion on our colleges in the four years to March 2011. That represents an increase of 17 per cent on the previous four years and includes an extra £28.1 million last year to support young people at risk of unemployment.

Willie Coffey: Given the increasing number of students who are attending colleges during the recession and the number of school students who are accessing parts of their curriculum at colleges, can the minister assure me that our colleges are fully able to meet those increasing demands? In particular, will he encourage colleges to develop distance learning technologies to support their students?

Keith Brown: I certainly agree that the colleges have played a tremendous role during the recession in providing opportunities, especially for young people, but others as well. I point out that, in addition to the moneys that I just mentioned, we provide a higher proportion of the Scottish budget to colleges than was the case under the previous Administration.

However, colleges are autonomous bodies and it is for them to decide exactly how they deliver the courses that they want to deliver. I agree with the member that remote learning, distance learning, the use of the glow intranet, of which he will be aware, and videoconferencing—which is used widely, especially in the Highlands and remote areas—represent opportunities for colleges to provide a wider range of courses in a more cost

efficient and effective way and, thereby, meet the demands on them that he outlined.

Europe, External Affairs and Culture

The Deputy Presiding Officer: Question 1 was not lodged.

Joint Ministerial Committee (Meetings)

2. Sandra White (Glasgow) (SNP): To ask the Scottish Government what was discussed at the last meeting of the joint ministerial committee. (S3O-9053)

The Minister for Culture and External Affairs (Fiona Hyslop): The most recent meeting of the joint ministerial committee took place on 1 December 2009 in the format of the joint ministerial committee on Europe. I attended the meeting and the following matters were discussed: an update on the informal European Council meeting that took place on 19 November; priorities for the December European Council; horizon scan and co-ordination between the United Kingdom and devolved Administrations; and the common fisheries policy.

Sandra White: I thank the minister for her comprehensive reply. What are ministers doing to ensure that the UK Government takes account of Scottish interests in domestic and financial issues, as well as European ones, given the continuing difficulties in matters such as joint European resources for micro to medium enterprises funding and swine flu contingency funding?

Fiona Hyslop: We are pressing the UK Government through the JMC domestic process to take a more responsive attitude to the concerns of all the devolved Administrations and to take a new approach to resolving disputes, particularly in matters on which Her Majesty's Treasury is judge and jury on funding decisions. We hope to discuss that with the UK Government soon.

National Collections (Meetings)

3. Karen Whitefield (Airdrie and Shotts) (Lab): To ask the Scottish Executive what recent meetings it has had with representatives of the national collections. (S3O-9024)

The Minister for Culture and External Affairs (Fiona Hyslop): The Scottish Government meets representatives of each of the national collections regularly and frequently. I met the chair of the National Library of Scotland on 10 December 2009. In addition, officials have held constructive discussions in recent weeks with the national collections on their concerns about the Public Services Reform (Scotland) Bill. As a result, we will lodge amendments at stage 2 to ensure that

duties regarding cultural heritage are fully protected.

Karen Whitefield: I am sure that the minister is well aware of the concerns that the national collections have raised about the measures in the bill, which is being debated in the Parliament today. Indeed, they wrote to the Education, Lifelong Learning and Culture Committee when it considered the bill and urged that serious consideration be given to the proposals in part 2 of the bill. What assurances will the minister give that those proposals will be abandoned?

Fiona Hyslop: It is important to stress that, as we discussed this morning, the bill refers to necessary protections for core functions. I assure Karen Whitefield that the amendments that are being drafted are intended to make it explicit that the Scottish Government and ministers could not use the order-making powers in the bill to undermine or cut across existing statutory functions in relation to cultural heritage—in particular, the duties on cultural property that is held in trust for the nation. The amendments are at an advanced stage of drafting, and I hope to be able to approve them shortly and lodge them at stage 2, but that is dependent on parliamentary approval today.

Aileen Campbell (South of Scotland) (SNP): How does the Scottish Government support the national collections to increase public access to the nation's cultural collections?

Fiona Hyslop: The Government has shown great commitment to widening access to Scotland's national collections. We are funding more than £20 million on major capital projects that are due to be completed in 2011, allowing the National Museums of Scotland to display 8,000 items in the extensively refurbished royal museum of Scotland and the National Galleries of Scotland to double visitor numbers to 400,000 a year at the reopened Scottish national portrait gallery.

Scottish Culture (Local Newspapers)

4. Bill Aitken (Glasgow) (Con): To ask the Scottish Executive what it considers the impact will be on Scottish culture as a result of a reduction in advertising revenue for local newspapers if local authorities restrict advertising to the internet. (S3O-8956)

The Minister for Culture and External Affairs (Fiona Hyslop): As the member will know, the Scottish Government is consulting on draft secondary legislation that would enable local authorities to consider online publication of public information notices as an alternative to newspaper advertising. Local newspapers and other interested parties will be able to respond to the consultation, which closes on 12 February 2010.

Local authorities, like all parts of the public sector, have a duty to taxpayers to ensure value for money. Any savings attained by local authorities as a result of changes to the way in which they advertise can be redirected to front-line services, including support for culture.

Bill Aitken: While I am always anxious to encourage savings in public spending, does the minister agree that it is clear that difficulties might arise from the proposal? Many small rural local newspapers, for example, are the only source of advertisement of the activities of many cultural organisations, from country dancing to cookery. It would be a tragedy indeed and a loss to Scottish culture if such newspapers were to fold because of a reduction in local authority advertising.

Fiona Hyslop: The member is correct to accentuate the importance to rural and other areas of community and local newspapers. A balance must be found between ensuring that local authorities and taxpayers have value for money and recognising the cultural identity and importance of local newspapers.

There are issues about the future of local newspapers, which I know the Education, Lifelong Learning and Culture Committee is looking into as part of its inquiry on local newspapers. However, it is useful to look at best practice and how local newspapers have thrived when there is competition. In recent debates, for example, Kenneth Gibson has talked about *The Arran Voice* and *The Arran Banner*, which have improved their provision. The important point is that quality local newspapers will continue to be supported and paid for by local people, particularly when they publicise and report on local activities.

There is an on-going issue, and we cannot prejudge the consultation. I encourage everybody, including the member's constituents who have concerns, to respond to the official consultation. They may also have an interest in the Education, Lifelong Learning and Culture Committee's inquiry.

Hugh O'Donnell (Central Scotland) (LD): I have listened to what the minister has said, and I am particularly concerned about the elderly in our communities who may not have access to internet sites or council websites to gain information that is currently provided by statutory notices in local newspapers. I am interested to know what steps the minister has taken to ascertain the extent to which older people will not have access to public information notices if the advertising opportunities in local papers are withdrawn.

Fiona Hyslop: I point out that my responsibility is for the culture aspects of Bill Aitken's question and that other ministers have responsibility for the current consultation. However, I was interested to find research that suggests that fewer than 2 per

cent of the population read public notices in newspapers. If the savings to local authorities are at the level that we expect if public information notices go online, that resource can be applied to help front-line services, particularly those that support older people. However, we must consider how people can access information in public notices in alternatives to newspapers, and that is what the pilots have been trying to achieve. If the member has further issues or concerns about that, I suggest that he might want to make representations to my colleagues in finance in order to get answers to his specific questions.

Pauline McNeill (Glasgow Kelvin) (Lab): In the same vein, how can the Government argue that public notices online can be as effective as public notices in, for example, the *Evening Times*? In Glasgow, only one in four people has access to the internet. Surely the minister should be prepared to make the relevant representations to ensure that no changes are made to the legislation involved until more Scots have access to the internet. Will the minister assure members that the reliability of the 2 per cent figure will be tested? It seems so low and is questionable. I would like to think that ministers are on their toes and will have a way of monitoring that figure and showing the Parliament that it has been tested.

Fiona Hyslop: It is obviously a startling figure, and I share the member's surprise at it, but that was the research information that was provided. I am sure that we can test to see what the source was.

There are issues. The Glasgow *Evening Times* serves its locality extremely well, although some people may say that it is a national paper rather than just a paper for Glasgow. Pauline McNeill is correct to identify that the digital divide is not only a big issue in newspaper circulation and public notice advertising; it reaches across a range of areas for which the public sector has responsibility. Public notices are only one issue.

There is an issue about equity in the timing of implementation, but we need progress and improvements if we want public service reform in a difficult period of public sector investment to ensure that money is being spent wisely. Public subsidies for newspapers may be an issue that comes out of the consultation. Such issues will be taken forward by other ministers; the member may want to pursue the issue with them as well.

The Deputy Presiding Officer: Question 5 was lodged by Cathy Jamieson, who does not appear to be present. I hope that the whips will take the Presiding Officer's strictures back to her.

Aberdeenshire Art and Culture

6. Nanette Milne (North East Scotland) (Con):

To ask the Scottish Executive what actions it has taken to promote the arts and culture of Aberdeenshire across the European Union. (S3O-8962)

The Minister for Culture and External Affairs (Fiona Hyslop): The Scottish Government actively engages with European institutions on the European cultural agenda in order to ensure that Scotland's interests are positively represented. During Scotland week in Brussels in November, for example, the highlights of the culture day included a photographic exhibition and stage and musical performances that showcased Scottish talent.

Nanette Milne: I declare an interest as a trustee of the Aberdeen international youth festival, which has, over many years, helped to establish strong links between Aberdeen and many parts of the world, including European countries. As part of future plans to promote Scottish arts and culture throughout the European Union, will the minister ensure that the Aberdeen international youth festival is included in Government promotions as a major Scottish arts and cultural event? Will she consider visiting this year's festival, which will run from 28 July to 7 August? She would be assured of a warm welcome; I know that the Minister for Children and Early Years, who is sitting beside her, will vouch for that from last year.

Fiona Hyslop: The member might realise that that minister is being enthusiastic about the festival and his visit to it. Its coverage and the promotion of the international aspect are growing, and it is a strong advert for Aberdeen and for young talent there. Diary permitting, I would be more than happy to attend the festival and to see what we can do to help to promote and showcase great talent—particularly young talent—further afield.

Maureen Watt (North East Scotland) (SNP): I echo the points that Nanette Milne has made about the fantastic Aberdeen international youth festival. Does the minister agree that the Stonehaven fireball festival has had another highly successful year in its long history and that it is a cultural event with significant potential to attract visitors from Europe and elsewhere to Aberdeenshire during the winter months?

Fiona Hyslop: The Stonehaven fireball festival at the end of 2009 was a huge success; indeed, it has been reported that it was one of the best in a number of years. It was attended by more than 10,000 people. I should declare an interest: my father-in-law was one of the many volunteers at the festival. In fact, his responsibility was to count everybody, so I hope that the figures are accurate.

The numbers of people at the festival have certainly grown every year as it gathers more popularity. It has run for 150 years and is a massive attraction in the north-east and Aberdeenshire in particular for foreign and domestic tourists. This year's event was captured on film for the BBC programme "Coast", and it is expected to be included in the series that airs later this year.

Commonwealth Games 2014 (Culture)

7. Mr Frank McAveety (Glasgow Shettleston)

(Lab): To ask the Scottish Executive whether the Minister for Culture and External Affairs has held meetings with relevant stakeholders to discuss cultural elements to the 2014 Commonwealth games. (S3O-9007)

The Minister for Culture and External Affairs (Fiona Hyslop): The Scottish Arts Council and subsequently—depending on today's vote—creative Scotland have been mandated by the Scottish ministers to take a leadership role in the development and communication of a creative vision for cultural activity and co-ordinating relevant sectors to deliver activity in a cultural context for the Olympics in 2012 and the Glasgow Commonwealth games in 2014. I will receive regular reports on progress, and I want to engage with relevant stakeholders.

Mr McAveety: When the minister next meets the Scottish Arts Council or creative Scotland—things depend on members' wisdom at the end of the afternoon—I encourage her to stress the opportunity that 2014 presents to highlight the contribution that Glasgow and Scotland make to music globally. Will she consider pulling together the contemporary music promoters in Scotland, through the relevant agencies, to come up with a plan of action for an event that involves the wide range of music that is being created in Scotland and would be, perhaps, more alluring than the homecoming Scotland event was?

Fiona Hyslop: The suggestion of ensuring that contemporary music is part and parcel of the promotion of Scotland as part of the Commonwealth games is an excellent idea, and I am more than happy to take it forward. If the member has any particular suggestions in that regard, I will be more than happy to meet him to discuss them.

Jamie McGrigor (Highlands and Islands)

(Con): Will the minister ensure that ethnic minority stakeholders in Scotland will be encouraged to become involved in the cultural elements of the 2014 games so that we can show the world the cultural diversity of modern Scotland?

Fiona Hyslop: Yes. When we promote modern Scotland, we must ensure that we not only

celebrate our achievements and abilities in the general cultural field but showcase to the world what Scotland is by ensuring that ethnic minority groups and others are as much a part of that promotion as they are a part of Scotland's society.

Scots Language Support

8. Dave Thompson (Highlands and Islands) (SNP): To ask the Scottish Government what progress is being made with support for the Scots language. (S3O-9050)

The Minister for Culture and External Affairs (Fiona Hyslop): I am pleased with the steps that the Government has taken in support of the Scots language. Within the past year, a number of important Scots initiatives have been taken forward. We have supported the first audit of Scots language provision; we have held the first Government conference on the Scots language; we have taken over the direct funding of two Scots language groups; we have established the first Government working group on Scots, which will make its recommendations later this year; and we have commissioned, for the first time, a survey into attitudes towards the Scots language, more details of which I will provide shortly. All of those are clear and positive steps that the Scottish Government has taken to raise the profile of Scots and promote confidence in its use.

Dave Thompson: The fèisean movement has been successful in the promotion of Gaelic. Does the minister have any plans to copy that success and encourage the transmission of Scots language oral culture in the same way?

Fiona Hyslop: In recent years, I have taken great pleasure in attending fèisean workshops in Ullapool. In my previous role, I met Arthur Cormack and discussed some of the issues around the development of the movement. It is important that we promote the movement in areas that are not traditionally associated with it, such as Edinburgh, because it is about the oral tradition in many different forms.

When we see the talented young people who take part in the fèisean movement, we can see that it is a good showcase for success—in a way, the point is similar to the one that Nanette Milne made earlier. The momentum that is currently being built up around the fèisean movement gives us an opportunity to take it forward. I am interested in the progress that can be made and in any suggestions that the member might have in that regard.

Creative Scotland (2010-11 Budget)

10. James Kelly (Glasgow Rutherglen) (Lab): To ask the Scottish Executive what provision has

been made in the 2010-11 budget in relation to creative Scotland. (S3O-9002)

The Minister for Culture and External Affairs (Fiona Hyslop): Creative Scotland will inherit the existing budgets of the Scottish Arts Council and Scottish Screen. The draft budget for 2010-11 sets out total provision of £57.5 million, comprising £35.5 million core grant in aid and planned allocations for a number of initiatives that involve specific funding streams rather than core grant in aid.

James Kelly: The financial memorandum to the Public Services Reform (Scotland) Bill, which is being debated today, states that the establishment of creative Scotland will result in a headcount reduction of 30 employees, which will cost up to £1.5 million in severance payments. Can the minister indicate how many of those job losses will occur in 2010-11 and whether she thinks that making severance payments of £50,000 to employees who are losing their positions is a good use of public money?

Fiona Hyslop: With regard to its public services reform, the Scottish Government has a position of no compulsory redundancies. The unions have been supportive of that position, which—as Mr Kelly knows—is not necessarily the position that the United Kingdom Government has taken.

When we are dealing with people's jobs and lives, we have to be careful about what we do and when we do it. Certainly, it is important that there is engagement with the unions, and I know that that has taken place with regard to creative Scotland.

It is also important that the timing of any severance payments is structured in a way that suits the staffing arrangements. Those payments may fall over different financial years, which is why we must ensure that there is some range and flexibility in the financial memorandum—as the member noted—with regard to when they apply.

I reassure the member that, since taking up my post, I have been specifically concerned with the need to ensure that the staff of both organisations are treated as well and properly as possible. Only yesterday evening I had a meeting with Creative Scotland 2009 Ltd, at which I put that question. The member should be reassured that I am conscious of such responsibilities, having gone through various issues with other organisations in relation to public reform, and will take them very seriously indeed.

Public Services Reform (Scotland) Bill: Stage 1

Resumed debate.

14:55

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is continuation of the debate on motion S3M-5429, in the name of John Swinney, on the Public Services Reform (Scotland) Bill.

Ross Finnie: On a point of order, Presiding Officer. During the final speech in this morning's session of the debate, the Minister for Public Health and Sport accused me of misleading the chamber in relation to my assertions that part 2 of the bill gave powers for bodies to be abolished. The minister told members that I had misled the chamber, and that in fact those powers extended only to abolishing functions.

I seek your guidance, Presiding Officer, on whether it is in order for a minister to make such serious allegations of another member based on a selective reading of sections 10(2) and 10(3) of the bill. Section 10(3)(a), as the minister correctly said, states:

"modifying, conferring, abolishing, transferring, or providing for the delegation of any function".

However, the minister failed to go on to section 10(3)(b), which states:

"amending the constitution of, or abolishing, a person, body or office-holder listed in schedule 3".

Is that in order?

The Deputy Presiding Officer: The longer the member went on, the more I began to think that the matter was a point of interpretation and a debating point, in response to which the member has sought to give his interpretation. If that is the case, he has now done so. I was not in the chamber to hear what was said earlier this morning. However, we will consider the matter that the member has raised, and come back to him if further comment is necessary.

I call Adam Ingram to resume the debate.

14:57

The Minister for Children and Early Years (Adam Ingram): I will open this part of the debate by speaking about my main area of interest in the bill: parts 4 and 5. I will also mention our proposals for stage 2 amendments with regard to complaints handling.

The Finance Committee expressed concerns that the Government has not yet demonstrated how the new social care and health care scrutiny

bodies, along with the other scrutiny bodies, will deliver on the Crerar review principles of public focus, independence, proportionality, transparency and accountability. The details of how the new bodies will operate are of course still being worked out in consultation with the existing bodies and key stakeholders.

However, there are many matters that we are clear about now, and I am happy to set those out for the Parliament. Social care and social work improvement Scotland and HIS will provide more streamlined and better co-ordinated scrutiny of social care, social work and health care services. Outcomes for service users will be improved by the ability to take a whole-systems approach to the scrutiny of services, from planning through commissioning to the delivery of services.

In time, the new bodies will be able to provide a comprehensive picture of how the needs of people who are using services are met. I will give some examples. When a person is being cared for in a care home, SCSWIS will be able to look not just at the care that the person receives in the home, but at how that person's care needs were assessed and whether appropriate care is being provided that improves their quality of life. For example, if a SCSWIS inspection of care at home services that are delivered by different providers in a local authority area reveals significant problems and user dissatisfaction, SCSWIS will be able to look at the assessment and commissioning process to see whether weakness at that level is contributing to the problems.

The new bodies will work together to develop more integrated methodologies for inspection and more consistent standards across all services. That means that they will increasingly use common reporting practices, standards and language. They will develop integrated scrutiny programmes and conduct more thematic and joint inspections of services. That means that the two bodies will be able to work together more closely, for example in scrutinising health and social care services that are delivered together to meet individuals' needs. Mental health services are an obvious example. In turn, that will lead to better risk assessment, more targeted inspections and the elimination of duplication and overlap, and it will allow us to spend less on scrutiny and more on improving services.

Although the aim of the changes is not simply to make savings, savings are important and there will be real opportunities for the bodies to share services, including offices, with the additional benefits that that can bring to co-operative working.

We are sure that the creation of SCSWIS and HIS will, in time, allow service users, their carers and the wider public to experience improvement in

the quality of their services. That is, of course, what we aim to achieve with the proposals that we are discussing.

I will say a few words about our proposals on complaints handling.

Mary Scanlon: Will the minister take an intervention before he moves on?

Adam Ingram: Certainly.

Mary Scanlon: The Mental Welfare Commission for Scotland stated that it is concerned about health and social care services that are provided by the NHS for mental health patients who require continuing care. How will the NHS be scrutinised?

Adam Ingram: As the member knows, there is a different context, if you like, between SCSWIS and HIS. The main focus in the NHS has been on quality assurance and improvement through the provision of advice, the development of standards and peer review, to ensure the delivery of high levels of quality and care. That will, of course, continue under the new arrangements.

On complaints handling, the Crerar report and the further work by Douglas Sinclair gave us a road map to rationalise the system for dealing with complaints in the public sector. That is another area in which the service user, who should be at the heart of things, is often left bewildered by the variety of procedures and the number of bodies that administer them. We intend to lodge amendments at stage 2 that give the Scottish Public Services Ombudsman a clear remit to develop consistent, user-focused complaints procedures throughout the public sector.

We believe that it makes sense to reduce the number of bodies that oversee complaints procedures, so we propose to transfer the complaints-handling function of Waterwatch Scotland to the SPSO.

The Deputy Presiding Officer: The minister needs to wind up.

Adam Ingram: We also propose to transfer the functions of the Scottish prison complaints commissioner to the SPSO.

I finish on that point, Presiding Officer. Thank you.

The Deputy Presiding Officer: Another 17 members wish to speak, which leaves approximately 10 seconds of flexibility over the allocated time for each member, so enjoy.

15:04

Karen Whitefield (Airdrie and Shotts) (Lab): I welcome the opportunity to speak in the debate. There is no doubt that there is much to be

commended in the bill; for example, it provides opportunities to achieve better value for the taxpayer and to integrate services better. However, as a number of members have already made clear, it has a fairly fundamental problem, namely the Government's unseemly grab at unprecedented powers. I am particularly worried about that element and will address it later.

With the prospect of public finances being squeezed over the coming year, it is only right and proper that we get best value for every pound of public money that is spent. After all, our duty is to ensure that taxpayers' money is spent wisely. Although slimmed down management and reduced bureaucracy can mean more resources for front-line staff, we should be careful that in our zeal to curb public spending we do not throw the baby out with the bathwater. Not all quangos are bad and not all public bodies are superfluous. Many of the public bodies that the Government seems so keen to throw on the bonfire comprise volunteers who give up their time not for the minimal expenses, but to give something back to their communities.

If we read between the lines of the Cabinet Secretary for Finance and Sustainable Growth's letter to Andrew Welsh, bodies such as the children's panel advisory committees appear to be on the Government's hit list. I and many of my Labour colleagues would be seriously concerned about the abolition of CPACs. Surely it is inappropriate for such a retrograde step to be taken simply at the scrape of a ministerial pen rather than as a result of detailed scrutiny and debate by the Parliament, and it stands as an example of why part 2 should not be allowed to proceed.

Adam Ingram: Part 2 will be largely irrelevant in the reform of the children's hearings system. Instead, we are introducing primary legislation to reform the system, which will not, I have to say, happen in quite the manner that the member has described.

Karen Whitefield: I have listened carefully to the minister's comments, but I have also read very carefully the cabinet secretary's letter to Andrew Welsh, in which the children's hearings system is singled out. Abolishing CPACs is the only way in which the Government can get the numbers to add up and we need to ensure that such a retrograde step cannot be taken without full parliamentary consideration and scrutiny.

The imperative for such a bill should be twofold: first, it should seek to reduce public spending where manageable and without detriment to services in order to free up resources to protect front-line services; secondly, it should seek to improve services by bringing together those that should be working in partnership and breaking

down the silo mentality that can easily persist in any large organisation keen to protect its dominion. In general, therefore, I welcome the Government's move to bring together the staff and functions of the care commission and the Social Work Inspection Agency under the SCSWIS banner. It is not the best of acronyms, but the idea is good.

However, if the proposal is to work, it must be more than a simple idea or a simple coming together of organisations under a new banner. There must be proper integration of systems, procedures and information, all of which must be focused on service users. The bill must be an opportunity not just to reduce property, managerial and staffing costs, welcome as such a move might be, but to properly integrate services. Indeed, Children 1st made that clear in its evidence to the Education, Lifelong Learning and Culture Committee, and expressed concern about the amount of cohesion and integration that would be provided for in the creation of SCSWIS.

I have some sympathy with the view that, instead of establishing a cohesive scrutiny system, the bill's proposals will simply join together the existing functions of the different social care bodies without taking sufficient care to ensure complete and effective integration of their respective systems and processes, and I hope that the minister will take such concerns seriously during the passage of the bill. In light of some of the recent serious failings in child protection services, we must ensure that the proposed restructuring does not have a deleterious effect on the proper scrutiny of those services in Scotland. The consequences of such an error could be tragic and terrible.

I come to the bill's provisions for giving the Scottish Government order-making powers. The powers that are contained in sections 10 and 13 will enable ministers to make regulations that might supplement, transfer or abolish the public functions and/or create or abolish bodies that are listed in schedule 3. That is quite a mouthful, but it is also quite a bit of power. Schedule 3 contains a list of such bodies, including children's panels and children's panel advisory committees. The Government has the right to make those changes, but given its previous failed attempt to introduce a children's hearings bill, it is very important that it should not be allowed to use the proposed power without proper parliamentary scrutiny. That is why I urge members to support the Liberals' amendment, which the Labour Party will support, and to abandon part 2 of the bill.

15:10

John Scott (Ayr) (Con): I begin, as ever, by declaring an interest as a farmer and therefore

someone who could be affected by the bill. As a member of the Rural Affairs and Environment Committee, I was surprised to find how many of the bodies that are affected by the bill and included in schedule 3 specifically or loosely fall within that committee's responsibility. I estimate that 15 such bodies—ranging through SNH, the Scottish Agricultural College, Quality Meat Scotland, the Moredun Research Institute, the Macaulay Land Use Research Institute, the Scottish Crop Research Institute and several others—are contained in schedule 3 and will be affected by these wide-ranging proposals. Those bodies are, by and large, highly respected and well-run bodies and institutions that play an important part in the rural, marine and environmental life of Scotland. Of course, I would be happy to see the abolition of the Scottish agricultural wages board, which is absolutely unnecessary, but that is not germane to today's debate about stage 1 of the Public Services Reform (Scotland) Bill.

What is germane is the all-party concern about the wide-ranging powers that are proposed in part 2, and how we can move forward on that—if, indeed, we can. When a similar bill was introduced at Westminster, it was dubbed the abolition of Parliament bill, and even the Government accepts that it might just have overreached itself in Scotland too. Of course, every party supports the concept of reducing unnecessary quangos, bureaucracy and excessive costs, but that must be done in a measured way and not by adopting in an unfettered way the wide-ranging powers that are proposed in part 2.

Indeed, John Swinney's letter to Andrew Welsh of 5 January recognised that by stating his willingness to lodge amendments at stage 2

"which will provide additional procedural and statutory safeguards as well as an enhanced super-affirmative procedure to give Parliament greater opportunity for scrutinising any proposals which are brought forward."

I would therefore welcome amendments to introduce the super-affirmative procedure, as proposed by the Subordinate Legislation Committee, which would provide for a 60-day consultation period. I agree with many of the parliamentary commissioners who noted the desirability of being accountable to the Parliament rather than to ministers, and their acceptance that order-making powers could provide a way of making changes to their functions and jurisdictions without the need for primary legislation.

I accept the cabinet secretary's intention to lodge amendments at stage 2 that will seek to give the SPCB the power to initiate proposals for orders to be laid before the Parliament relating to the parliamentary bodies that are named and retained in schedule 3. However, as a former

member of the SPCB, and while I can think of no better theoretical or practical alternative—and notwithstanding the cabinet secretary's assurances of this morning—I want to be assured further that the SPCB is the most suitable or well-equipped body to take on board that additional level of policy responsibility.

David Whitton: If I recall correctly, Mr Scott is the second Tory speaker to express some concerns about part 2. Does he intend to vote for the Liberal amendment at 5 o'clock?

John Scott: For the avoidance of doubt, we do not intend to support the Liberal amendment at 5 o'clock. That does not mean that we cannot express our reservations about part 2.

The proposals to give the SPCB more powers would complicate the corporate governance structures and the powers that the body currently exercises. The proposals would add politics and policy making to what is and was intended to be a purely apolitical administrative structure and function. The proposed amendments on the scope of the order-making powers in sections 10 and 13, which would protect the independence of the judiciary, are of course to be welcomed, as is the intention to produce an amendment to section 11 to exclude in perpetuity local authorities from schedule 3.

I turn to the specifics of the decision to integrate into SNH the Deer Commission for Scotland and the Advisory Committee on Sites of Special Scientific Interest. The Rural Affairs and Environment Committee approved that decision unanimously and I wholly support it. My only caveat is that a formal evaluation process does not appear to be in place to judge the success or failure of the amalgamations. The lack of benchmarking or auditing of the proposals is an inherent weakness. I also note that the Minister for Environment has no further plans to reform public bodies that are within her area of responsibility, nor any knowledge that the Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead, intends to do so in his area of responsibility. I wonder whether that is wise given the straitened financial future that we face. That is a matter for another day, but it rather suggests a lack of ambition, notwithstanding the high regard that Scottish Conservatives have for most of the public bodies that are mentioned in schedule 3.

Although in general the Conservatives welcome the Public Services Reform (Scotland) Bill, we have grave reservations about part 2. We await with bated breath the amendments that the cabinet secretary and others propose to lodge at stage 2. Our support for the progress of the bill thereafter will be entirely dependent on our view of the suitability or otherwise of those amendments. In the meantime, we will support the bill at stage 1.

15:17

Robert Brown (Glasgow) (LD): Under other circumstances, I might well have commented on the important issues that Adam Ingram raised, but Mr Swinney might not be surprised that I want to concentrate my remarks on part 2, which relates to order-making powers that the Scottish Government wishes to bestow on itself. On that issue, Mr Swinney intervened and was intervened on at some length this morning, but I was left a little depressed by the content of the exchanges, because it was by no means clear that the Government really gets the concerns that Liberal Democrats and others have about part 2. I commend John Scott's comments on the Scottish Parliamentary Corporate Body.

The finance secretary has offered several concessions, which are not unwelcome, but you can bet your boots that, when a minister prior to a stage 1 debate offers an enhanced super-affirmative procedure to Parliament by way of reassurance, we are dealing with a Government and a minister that have got things seriously wrong.

Let us look more closely at part 2, which provides a classic textbook example of what are known as Henry VIII powers. Section 10 will enable ministers by order to do anything

"which they consider would improve the exercise of public functions".

They could abolish or amalgamate a body that carries out a function and the function itself, change that body's constitution or create a new public body. That was the point of the exchange to which Ross Finnie referred in his point of order earlier this afternoon.

Those powers do not relate only to Government quangos, although that is bad enough; they cover all the independent parliamentary commissioners that have been established by or are under the jurisdiction of the Parliament, including Audit Scotland, Scotland's Commissioner for Children and Young People and the Scottish Human Rights Commission.

John Swinney: Will the member take an intervention?

Robert Brown: I want to make a little progress.

Section 11 empowers the Scottish ministers to add to the extensive list of bodies in schedule 3, in case they have forgotten anybody. Dare I say it, the cabinet secretary appears not to have heard of the Paris principles, under which the independence of such bodies should be protected. Certainly, nothing that he has said to the Parliament today gives reassurance that he understands what those principles mean in practice.

John Swinney: Would Mr Brown care to add to his remarks the fact that I confirmed this morning that ministers do not have any powers to act in such a fashion? It is absolutely central to the bill that the power of decision making remains with the Parliament in those circumstances.

Robert Brown: I am coming on to that.

Section 13 is, if anything, even worse, because it allows Government by order to remove financial costs, administrative inconveniences or even a criminal or civil sanction, and to change a statutory order, public general act or an act of the Scottish Parliament to do so. John Swinney seems to want the royal dispensing power that was claimed by the Stuart kings and which led to their removal in 1649 and again in 1688. I wonder whether he, like Charles I and James VII, regards Parliament as an administrative inconvenience.

John Swinney: What about my intervention?

Robert Brown: I would rather not deal with such matters in the face of interjection from a sedentary position.

I commend the comments of Derek Brownlee's colleague Oliver Heald MP. Admittedly, his name is not widely known to the public; nevertheless, he led for the Tories at Westminster on the Legislative and Regulatory Reform Bill, which is not dissimilar to the Public Services Reform (Scotland) Bill. Mr Heald described the Westminster bill as "a threat to Parliament". He said that it was

"a major move ... towards government by Ministerial edict ... Parliamentary corner-cutting"

and that the winners would be

"civil servants and Ministers". —[*Official Report, House of Commons, Standing Committee A*, 28 February 2006; c 6.]

I asked myself why Mr. Brownlee's approach here is different—

Derek Brownlee: Will the member give way?

Robert Brown: I am sorry, but I cannot.

I suppose that the difference between them is that, down there, the Conservatives claim to be the principal Opposition, whereas up here the job of the Conservative Party appears to be to sustain the SNP Government.

I hope that no one on the Tory, or indeed the Government, benches would dispute that the powers in part 2 are extraordinarily wide. That is what has led to the huge concern among stakeholders and across the parliamentary committees. The powers would, for example, allow the abolition by order of both the role and the office of the Auditor General for Scotland and the Scottish Public Services Ombudsman.

Derek Brownlee: Will the member take an intervention?

Robert Brown: No, I am sorry.

Parliamentary commissioners could be transferred into quangos under ministerial direction. Despite Mr Ingram's recent exchange with members, ministers could allow the scrapping of the entire children's hearings system because children's panels are bodies listed in schedule 3 and their functions could be scrapped or changed under section 10. [*Interruption.*] I hear mutterings of "Rubbish" from ministers, but they could do all those things if they were so minded.

Mr Swinney says that having the powers is okay because ministers would still need the approval of Parliament for the orders concerned. That is true, but the orders, draft or otherwise, are not amendable by this Parliament. There is no stage 1 examination of the careful kind that is done by the committees considering the bill, and the cabinet secretary's proposition totally ignores any proper basis for when subordinate legislation procedure, enhanced or not, is appropriate and when full parliamentary scrutiny of the legislative process is appropriate. The difference is one of principle. Professor Alan Page said:

"primary legislation should be about important matters of principle, and subordinate legislation should be about picking up the detail."

Aileen McHarg developed the point as it relates to the parliamentary commissioners. She said that a statute

"is an important guarantor of public bodies' independence and enables them to resist inappropriate attempts by Government to interfere with their functions. A public body can say to Government, 'You might want us to do that, but we cannot do it, because our statute says that our functions are X, our duties are Y and our powers are Z.'"—[*Official Report, Finance Committee*, 15 September 2009; c 1492-93.]

Mr Swinney seems to think that the only principle is the need for public economy and efficiency as stated in the current bill. Important though that is, the principle is the purpose set out by the Parliament for the existence, functions and operation of the bodies in question.

The Parliament has been remarkably restrained in its dealings with this minority Government. Part 2 is not a step but a mile too far. I strongly urge the minister to think again about the matter, to recognise the reasonable limits of ministerial power and to scrap part 2. As it happens, the existing powers in the UK Deregulation and Contracting Out Act 1994 appear not to have been used by this or indeed previous Governments in any event.

15:23

Christina McKelvie (Central Scotland) (SNP):

I congratulate the Cabinet Secretary for Finance and Sustainable Growth on introducing the bill, which is much needed.

At first sight, the bill might appear drab, understated, perhaps even a teeny bit boring, but it is actually fairly exciting and sizzling with energy. *[Laughter.]* I just thought that I would cheer the place up a bit. At the heart of the bill is a bonfire of the quangos—another promise that is being kept by the Scottish Government—a proper ordering of the public landscape, a revitalisation of civic Scotland and another step in the right direction.

The bill contains provisions to allow ministers to tighten further the public landscape to make savings and efficiencies and to make the public purse work harder for the public weal. That is contained in part 2 of the bill, which we have heard a lot about today. Part 2 brings some public authorities into the legislative realm for the first time. I do not know why Mr Purvis seeks to remove part 2, and Ross Finnie's speech made that no clearer. Perhaps I can be clearer.

Statutory instruments will have to be laid before Parliament to effect any order under part 2, meaning that the Parliament will retain control. Mr Swinney made it clear today—and he has continued to make it clear—that that will remain the case. He has given assurances that amendments will be lodged at stage 2 to address the concerns that have been raised. Section 15 makes it clear that the orders that the Scottish ministers will be able to issue will be restricted to those that give direction or consent or that appoint people to serve—functions that they already have in relation to those bodies but that are not, by and large, measured in statute. The bill addresses that lack.

The bill is a wide-ranging, necessary and welcome piece of legislation that is in Scotland's best interests, and I look forward to its being passed in its entirety. I will concentrate on a couple of issues that are important to me—the social work provisions and the creative Scotland provisions. Part 4 and, to some degree, part 5 create health care improvement Scotland from NHS Quality Improvement Scotland and the care commission, and social care and social work improvement Scotland from the Social Work Inspection Agency and the functions of Her Majesty's Inspectorate of Education relating to children's services and the care commission. As we have discussed a lot today, SCSWIS is maybe not a good acronym, but it seems to be being used out there now, and it may be a problem if we replace it with something else.

SCSWIS will reduce duplication and bureaucracy in the inspection of care services. At present, there is a joint inspection process for children's services, which has been in place for a number of years. In the past few years, that has enabled there to be an holistic inspection regime for any child or young person who is accessing the services that they require, which has not only proved beneficial to the person accessing the services, but enabled any parent, carer or professional to ensure that a co-ordinated approach has been taken to a child's care package. That has ensured quality in care and delivery. The new inspection regime, which is detailed in part 4, will come into its own by placing on adult services the same responsibility for joint inspection. That means that for a parent or carer of a young person with, for instance, a learning disability who is moving from children's services to adult services, the transition will be much more seamless. That will be beneficial for everybody who is involved in that process.

During the Education, Lifelong Learning and Culture Committee's evidence taking, I received a reassurance from Government officials that there will be a highly motivated, quality trained workforce. In that context, I declare an interest, given my previous occupation as a learning development officer in social work services. The Scottish Social Services Council raised concerns about whether the new agency will be able to enforce a code of practice on employers and whether it will be able to enforce and monitor continuous professional development and minimum qualification development programmes for staff who work in care and social work services. I was pleased to hear that the Government is seeking to amend section 53 of the Regulation of Care (Scotland) Act 2001 to make it obligatory for social services workers and their employers to comply with the Scottish Social Services Council's code of practice. I know that that will be welcomed by staff, staff organisations and trade unions alike.

Mary Scanlon: The Health and Sport Committee was unable to find one patient-centred benefit in this sizzling bill. Can the member tell us what those benefits are? Does she think that the Health and Sport Committee got it wrong?

Christina McKelvie: I cannot speak for the Health and Sport Committee, but I looked at the social services aspect of the bill for the Education, Lifelong Learning and Culture Committee. The benefits that I recognise from my personal experience of working in the field are in the reduction of duplication in inspection and the seamless transition from children's services to adult services. At the moment, that is a minefield of a process for any parent or carer to go through.

The bill will also establish creative Scotland and enshrine the arm's-length principle. I asked questions of the Government officials about that, too, and was given assurances that the bill will sufficiently protect the arm's-length principle and allow ministers to be kept "well away" from how artists go about their work.

The landscape of civic Scotland will be simplified and streamlined by the bill, which will provide additional clarity and save much parliamentary time being taken up when minor amendments need to be made to the running of NDPBs. I hope that the cabinet secretary takes cognisance of the Unison briefing that members received today, especially the issues that it raises around pay bargaining. Four recommendations are made at the end of that briefing, which I hope the cabinet secretary will take note of.

The bill will burn off a few quangos and give ministers the ability to dispose of others, but it will limit ministers' powers to interfere. In particular, the bill limits the ability of ministers to take quango operations and responsibilities on themselves. The bill is good and I support it.

15:30

Pauline McNeill (Glasgow Kelvin) (Lab): For the record, I still believe that the provisions in part 3 should have formed a stand-alone bill. The establishment of creative Scotland should be the subject of a debate in its own right, because making that new and important body's creation part of a debate about reform sends out the wrong message.

While listening to this afternoon's important debate, which feels a bit surreal, I sometimes felt that I was in the wrong debate. That shows me that we should have had a separate debate. However, I acknowledge that the artists, agencies and organisations that depend on creative Scotland's establishment have been frustrated and have shown much patience in waiting for the body, so the debate is now about how we move forward. I feel for many of the artists and individuals who are waiting for the vision to happen. The situation is unnecessary and unfortunate for all those who are relying on the arts body; we must end some uncertainties forthwith.

In many ways, the legislative process is incidental to the leadership and vision that are required to make creative Scotland a success. Scottish Labour believes in the concept of creative Scotland—indeed, its establishment was our policy—but the leadership is not yet apparent and the full vision does not exist. The new Minister for Culture and External Affairs has outlined some of her big ideas for creative Scotland—for instance, she has said that links with schools are a priority.

Of course I support that, but I do not see why that has become a priority when functions and issues still need to be resolved.

Serious issues require further clarification and further scrutiny. The first is the reduction in staffing. I heard and fully support what the cabinet secretary said about protecting jobs and having no compulsory redundancies, but I also support the recommendations in the stage 1 report. Ministers need to explain why having a leaner organisation with additional functions—particularly in relation to the creative industries—will not lead to a poorer set-up than currently exists.

I am in favour of a change of skill set for the new agency, but I oppose slimming it down, with all the costs that are attached to that. Will the Minister for Culture and External Affairs clarify where the funding will come from and how redundancies and the reduction in staffing will affect the organisation? Apart from the skill set that Scottish Screen will bring to the new agency, what requirements will be set out to recruit staff who can deal with the new additional functions?

The creative industries are a key growth sector for Scotland and the arts. They can drive success for the new body and have wider economic and artistic benefits. The creative industries can contribute more to the economy, but they cannot do so without the right support. That is why it is important for the new organisation to have the right skill set.

The failure to make creative Scotland the lead body on the creative industries is a mistake. The creative industries framework agreement, which concerns how to deliver the expected outcomes for the creative industries, is a bit of a fudge. I am not convinced that it will deliver clarity for the creative industries, but I will watch that with interest.

The evidence for my view is my experience in the music industry. I have highlighted many times before the failure of our enterprise agency to have a credible music policy. Many members have agreed that music plays a vital role in the Scottish economy and has an important place in Government support. Music contributes significantly to the economy, but it has not been truly valued as it should be.

Creative Scotland opens up new possibilities for music and creative industries.

John Swinney: Pauline McNeill articulates a fair criticism of past issues, but I assure her that much ministerial time has been spent on ensuring that Scottish Enterprise and Highlands and Islands Enterprise address properly the concerns that she has expressed. I hope that what we have done will satisfy many in the creative industries that we are

seizing the economic opportunity that we accept exists in those industries.

Pauline McNeill: I agree that a great deal of time has been spent on the matter, but in my opinion—which is based on experience—we need a lead organisation. We have not really had that. That should be addressed if we truly believe that the creative industries can play the part that I certainly believe it is possible for them to play.

Some detail is required on how the new body will operate. Many who gave evidence to the Education, Lifelong Learning and Culture Committee rightly questioned how an expanded list of creative industries will be supported with the same or fewer resources. Given that the number of industries within the creative industries umbrella that are supported by the Scottish Arts Council is set to expand from the current six to 13, it is fair to ask whether there will be a reduction in support. The nervousness about that in the arts sector was drawn out by the Federation of Scottish Theatre, which made the point in evidence to the Education, Lifelong Learning and Culture Committee. That is why leadership must be provided, both by the minister in charge and by the new creative Scotland executive, so that the industries can achieve their full potential.

It is interesting that, over the Christmas period, the Minister for Culture and External Affairs talked about the priority link with schools. I have said that we will support that, although not necessarily as a priority. I point out that, when Labour came up with the idea of establishing creative Scotland as an agency, our idea was that we would introduce cultural co-ordinators, which the Scottish Government has done away with. If the culture minister believes in the need for links with schools and communities, cultural co-ordinators would provide a way of delivering that on the ground. Perhaps she will comment on that in her closing remarks.

The Deputy Presiding Officer (Trish Godman): You should finish now, Ms McNeill.

Pauline McNeill: In conclusion, it is time for action, but it is certainly time for leadership. It is time to end the uncertainty for all the artists and agencies that have waited so long for what I hope will be a successful creative Scotland.

15:36

Angela Constance (Livingston) (SNP): I will focus on the small part of the bill that will have an impact on the public audit system in Scotland, including the Auditor General for Scotland, Audit Scotland and the Scottish Commission for Public Audit, of which I am the convener.

For those who are less familiar with the work of the commission, I should explain that I and my commission colleagues—two of whom, Derek Brownlee and Robert Brown, are here today—scrutinise the budget and expenditure of Audit Scotland and provide assurances to Parliament that Audit Scotland is using its resources wisely. We are, I suppose, the folk who audit the auditors—not a job that I ever envisaged for myself, but a job that must nonetheless be done and done properly.

Over the winter of 2008, the commission undertook a short review of the corporate governance of Audit Scotland. That was prompted by a comparative review of the National Audit Office in England by Tiner, by the anticipated introduction of the Public Services Reform (Scotland) Bill and by the fact that, after the first decade of the Parliament's life, the commission felt that it was appropriate to reflect on the system of public audit in Scotland that had evolved over a number of years.

As a result of our review, the commission made a number of recommendations to the Government. I am pleased that some of them have found their way into the bill in section 98, which I believe will bolster the independence and integrity of the public audit system in Scotland. For example, the bill provides for the defence of privilege against defamation proceedings to be extended to the commission's proceedings and—perhaps more significant—to the reports of the Auditor General. It is proposed that every future Auditor General will be appointed for a single non-renewable term of eight years, which will straddle three parliamentary terms. The bill will also enable the commission to appoint three non-executive members of the five-person Audit Scotland board.

In its written evidence to the Finance Committee, the commission said that it would welcome an amendment to the bill to involve the Office of the Commissioner for Public Appointments in Scotland in the recruitment of the non-executives, subject to any cost implication being clarified. Therefore, I listened with interest to the cabinet secretary's announcement that, rather than give OCPAS a statutory role in the appointments process, the commission should instead make appointments in a way that reflects the spirit of the OCPAS code of practice. I have been advised of Mr Swinney's reasons for that, which I will discuss with my commission colleagues at an early opportunity.

Part 2 has clearly generated the most controversy and debate, both this morning and this afternoon. It is probably fair to say that, in parts, the debate has been intemperate on both sides. I do not intend to add to that.

The SCPA is included in the list of public bodies in schedule 3. As the commission has already stated its opposition to its inclusion in that list, I will take the opportunity to reiterate the nub of the evidence that the commission gave to the Finance Committee before I reflect on the cabinet secretary's comments.

The role and function of the SCPA are set out in primary legislation, and that legislative base is crucial to our independence. The commission's *raison d'être* is to provide direct assurances to Parliament that Audit Scotland—the budget of which is top sliced from the Scottish consolidated fund so that it is seen to be independent of Government—is using its resources efficiently and effectively. Consequently, the commission was of the view that it would be inappropriate for the Scottish Government to be perceived to have the potential to undermine the commission's independence by modifying its operation.

I read with interest the cabinet secretary's letter to the convener of the Finance Committee and listened to his remarks about what he considers to be procedural and statutory safeguards, namely that the Scottish Parliamentary Corporate Body—as opposed to the Scottish ministers—will hold the power to initiate orders and the enhanced super-affirmative process. As a relatively new member who is engulfed in the issues of the day for Livingston, I must confess that the workings of the corporate body are still a wee bit of a mystery to me. I have only recently got my head round the super-affirmative procedure, so I am intrigued by the Subordinate Legislation Committee's recommendations to enhance it; I am also somewhat thankful that I do not sit on that committee.

I have no doubt that, following today's debate, my colleagues on the commission will have an erudite discussion and debate about the merits of the proposed safeguards and the concern that the powers in part 2 have been drawn too widely. We will need to consider carefully how any legislative changes would impact on the workings of and the relationship between the corporate body and the commission, particularly as we hold different but complementary duties—it is a case of the whole being more than the sum of the parts.

It would be helpful if, either in the summing-up speech or in writing, the Government supplied me, as convener of the SCPA, with a clear statement of why the commission and, indeed, Audit Scotland are included in schedule 3, and an indication of whether the cabinet secretary will consider removing either or both of them from it.

15:42

Helen Eadie (Dunfermline East) (Lab): Most speakers have supported the continuing simplification of government agenda and every MSP probably agrees that our constituents clamour for simplification and the removal of unnecessary red tape, but public protection and the maintenance of quality should be at the heart of legislation that the Parliament passes. Consumer Focus has called for much better protection of the public, and that should be the mission of MSPs, too. In theory, any legislation could be on the statute book for decades, if not longer, so as we shape the bill we must think not only of the here and now, but of the future.

Most members support the move to reduce even further the number of quangos. My view is that when it comes to spending significant sums of taxpayers' money, that should be done by elected representatives rather than by quangos. There is a place for quangos as advisory bodies to ministers, but in my opinion that should be their only role.

The issue that has generated the greatest controversy in the debate so far is the proposed power that would allow ministers, through the mechanism of motions in Parliament and the super-affirmative procedure, to modify, transfer or abolish the powers of more than 100 organisations. As has been eloquently explained, principally by Jackie Baillie and Ross Finnie, ministerial order-making powers are a huge constitutional issue. The evidence that we have received from many sources raises a variety of issues relating to that, in particular the issue of independence from Government, which is fundamental for a variety of organisations.

The Scottish Information Commissioner, Kevin Dunion, told the Finance Committee that the inclusion of his office in schedule 3 was

"anomalous and beyond the scope of the Government's intent"

for part 2. The Law Society of Scotland questioned whether

"such wide-ranging powers are appropriate"

and the Mental Welfare Commission for Scotland said that the powers could fundamentally undermine its independence and effectiveness.

Professor Himsworth argued that the case for giving ministers powers to remove or reduce burdens had not been made. He stated that the potential for the use of such powers was vast and that a strong constitutional case had to be made, but that it had not been. He suggested that "removing ... burdens" echoes the language that was fashionable prior to the credit crunch, when Governments sought to lift "the burden of red tape" from commercial and other organisations. He

suggested that regulation is no longer a dirty word, not only in respect of banking—which is not the concern of the bill—but in respect of environmental protection and aspects of health and safety, which it is appropriate for Governments and Parliaments to regulate. It is unacceptable, simply in the name of improving the landscape, to identify the obligations that have been imposed by the deliberate decisions of Parliament as burdens and to remove them at the direction of ministers.

I now come to the Subordinate Legislation Committee's report. Angela Constance is probably glad that, as she said, she is not on that committee—I think that it is a form of punishment for all recalcitrant members of the Parliament to be given a sentence on that committee. Nevertheless, the Subordinate Legislation Committee's key points are important, in particular the point to which Ross Finnie referred in his point of order. The issue is whether the limits of the powers that are set out in sections 10 and 13 and the restrictions that are set out in section 12 are sufficiently precise and clearly defined, in particular whether the term "necessary protection" is sufficiently clear and precise, and also whether the powers will be open to different interpretations, which is the point that Ross Finnie made.

The Subordinate Legislation Committee asked that further consideration be given to whether certain bodies, such as local government and bodies established specifically to scrutinise Government, should be exempted from the scope of the bill—I heard the cabinet secretary say that he will take on board some of those concerns—and protected from inclusion in schedule 3 by the use of orders under section 11, and, if so, to ensure that that is clear and unambiguous.

The Subordinate Legislation Committee also has concerns about whether the procedures in relation to the powers in sections 10, 11 and 13 provide for full and adequate parliamentary scrutiny of the respective orders in all cases. Having been a member of the Parliament for 10 years, I could probably count on the fingers of one hand the number of times that the Parliament has debated an issue fully and properly under the affirmative procedure. I am therefore sceptical about the cabinet secretary's proposals, as the powers to make orders could create a huge problem not only in this session of Parliament but in future sessions. Other parliamentarians have made the important point that if a Government with a big majority came to power, it could go to town using the legislation. We must think not only about what the legislation will do in the here and now when there is a minority Government, but about what could happen when a Government has a very big majority. I am grateful for the opportunity to contribute to the debate.

15:48

Ted Brocklebank (Mid Scotland and Fife)
(Con): I agree with Pauline McNeill that the Public Services Reform (Scotland) Bill is an unwieldy vehicle to deliver what will be a once-in-a-generation reform of the body governing the arts in Scotland, but we are where we are. I will confine my remarks to part 3.

I pay tribute to a number of individuals who have worked hard to bring the concept of creative Scotland this far. Linda Fabiani is far too loyal to complain, but had some of her senior SNP colleagues been more supportive, especially in allowing her to spell out mechanisms for how the arts in Scotland might be funded, creative Scotland would have been up and running more than a year ago. I pay tribute to Linda Fabiani for her good humour, often in adversity, and for the solid foundations that she laid. Of course, I also pay tribute to Mike Russell for his role in clearing up some of the Government's confusion on these funding responsibilities.

We should also commend Mr Russell for the trust he put in interim chairman Ewan Brown, who has been a steadying hand at the tiller of what often seemed like a vessel in distress. However, Mr Russell's ego needs no massaging from me. To paraphrase Tommy Docherty's line about a rival soccer manager, he is all covered in love bites, mostly self-inflicted. I must say that the new Cabinet Secretary for Education and Lifelong Learning might live to regret his move from what I consider to be the best job in the Government.

I have handed out the bouquets; I now come to the brickbats. I had intended to concentrate on the heavy weather that the Government has made of getting a proposal that had general cross-party support on to the statute books. Confusion remains about several aspects of part 3, but perhaps that is not surprising, given that there has been precious little ministerial continuity in the creative sector. Fiona Hyslop is the 10th arts minister in Scotland in 10 years and there have been three such ministers since the SNP Government came to power.

However, if the arts portfolio under Alex Salmond is beginning to look like a game of pass the parcel, the response by Iain Gray to Fiona Hyslop's appointment, which was to say that she had been moved to a

"non-job in culture and external affairs",

was insulting to the creative sector in Scotland as a whole and to his own culture shadow, Pauline McNeill, in particular. The reason why people come to Scotland has nothing to do with the quality of its governance, far less of its politicians, and everything to do with its culture, architecture and music. The creative sector contributes nearly

£6 billion a year to our economy and employs 60,000 people. It is the strongest pillar in our most important industry, which is tourism.

At Holyrood, Patricia Ferguson, Pauline McNeill and others raised hopes that there were still members on the Labour benches whose ideas on Scottish culture stretched beyond Iain Gray's declared passions, Hibernian Football Club and martial arts but, after Iain Gray's recent put-down of the arts portfolio, should we be surprised that Scotland's creative community thinks that the Holyrood bubble is inhabited entirely by philistines? Donald Dewar, John Smith and Norman Buchan, you should be living at this hour; Labour has need of you.

Scottish Conservatives, on the other hand, have always striven to uphold a healthy creative sector in Scotland. We are determined that the new body will be the lead Government agency and will be fit for purpose in a rapidly changing artistic world. What has been important to us is that creative Scotland should be the lead organisation in promoting, funding and developing the arts in Scotland. I got that assurance from Michael Russell in his response to a question that I asked him after his statement to the Parliament in April last year. He said:

"The role that Creative Scotland will have in the process is absolutely clear: Creative Scotland is the lead organisation."—[*Official Report*, 2 April 2009; c 16433.]

Why was it not possible for Linda Fabiani to utter those six words—"Creative Scotland is the lead organisation"—before the Creative Scotland Bill collapsed in chaos some 16 months ago? I take the minister at his word—perhaps I am being disingenuous in saying that, but I hope that Pauline McNeill is proved wrong and that creative Scotland delivers the leadership that the arts in Scotland require.

The rest of what I will say about part 3 is mainly to do with tidying up. We still lack a definition in the bill of Scotland's national culture. I think that I understand what our national culture is, but I am not convinced that my vision is shared by the SNP. The bill still does not tell us what is meant by terms such as "art", "culture" and "creativity". Sure, those are only words but, ultimately, as Rod Stewart reminds us, words are all we have. Let us ensure that they are the right words.

The budget for creative Scotland is to be comparable to the combined budgets of Scottish Screen and the Scottish Arts Council, but the new body's remit will be far wider.

Despite reassurances from ministers, many people remain suspicious of the vaunted hands-off approach that is outlined in the bill, which Christina McKelvie supported. Scottish Conservatives remain to be convinced that the current wording is

sufficiently precise to ensure that the Scottish ministers can wield no influence over matters such as artistic direction.

I noted the minister's assurances on amendments that will protect the national collections. The issue was rightly raised by the Education, Lifelong Learning and Culture Committee.

It is not the job of the Government to shape the arts and culture of a nation. The Government's job is to create the climate in which our artists can produce of their best and develop their talents for the benefit of the nation and the wider community. Creative Scotland's aspirations are impressive; let us hope that the Public Services Reform (Scotland) Bill is the vehicle that finally delivers them.

15:54

Joe FitzPatrick (Dundee West) (SNP): I add my thanks to all those who attended the Finance Committee meetings as witnesses and to the committee clerks, who did an excellent job in guiding us through a pretty sizeable bill. I also thank members of other committees that assisted in the scrutiny of the bill.

It has become clear to me as a member of the Review of SPCB Supported Bodies Committee and in my role in the Finance Committee that we can improve public services in Scotland and save money while we do so. It is not about correcting mistakes from previous Administrations and putting an SNP stamp on public services; it is about how the Parliament can improve public services to the benefit of Scots throughout the country.

During the stage 1 inquiry, the Finance Committee did not agree on every facet of the proposals, but its members all shared the opinion that we have a duty to ensure that our public bodies deliver better services and get the best value for the Scottish taxpayer. That is particularly important now, with a reducing Scottish block grant meaning that we have to find new ways to make our funds go further.

The bill is very important and can have a wide-ranging impact on how public services are delivered for Scots in the 21st century. The proposals in it for the creation of new scrutiny bodies for health and for social care and social work are aimed at improving services for a range of people throughout Scotland. Those changes, as Adam Ingram outlined and Christina McKelvie mentioned, will ensure that scrutiny bodies are more focused on individual service users, resulting in better services for the most vulnerable members in our society. That is highly important.

The process of simplifying and improving public bodies has been at the heart of Scotland's SNP Government since May 2007. The number of public bodies has already been cut and the bill will reduce it further. Projects that the Government has already delivered are projected to make annual savings of £36 million and the proposals in the bill should increase annual savings to the Scottish taxpayer to more than £40 million. Crucially, the bill will also give us the tools to do more and go further. One of the key recommendations of the Finance Committee's report was that we needed to do more and to go further.

It would be remiss of me not to mention some of the areas of contention that were raised during the stage 1 inquiry in the committee. As we have heard, members of the committee and others raised concerns about the order-making powers and the possibility that public bodies that are currently accountable to the Parliament could become accountable to ministers. The past two years has shown that we must be able to respond quickly to changing circumstances and take steps to optimise public services.

Robert Brown: It would be helpful if members of the Government party were to give us some definition of the circumstances in which they think that parliamentary legislation is appropriate and those in which they think that subordinate legislation is the proper way to advance such important issues.

Joe FitzPatrick: The Cabinet Secretary for Finance and Sustainable Growth has sent a letter outlining proposals for stage 2 amendments. I suggest that members of other parties who say that they will oppose the bill might take the position of the Law Society, which wrote today to all members of the Scottish Parliament outlining its concerns about the bill but going on to say:

"The society notes that the government intends to bring forward amendments at stage 2 to deal with some of these concerns. The Society will consider those amendments carefully".

That is the correct, constructive way to move forward.

Members should agree to the general principles of the bill today, vote against the Liberal Democrat amendment and consider the Government's amendments when they are lodged. If they are not happy, members can lodge their own amendments at stage 2, but the cabinet secretary has been clear that he is prepared to listen to comments from across the parties to address the concerns not only of members but of some of the witnesses from whom the Finance Committee and other committees heard.

Members should look at the matter constructively. This is not the stage to say no; the

stage to say no is if we cannot find amendments to agree on at stage 2. I think that we can get agreement, but it appears that the Liberal Democrats may be determined simply to press the nuclear button. That is disappointing and I hope that the Labour Party resists propping it up in that.

I agree that we must have safeguards to reflect the independence of parliamentary bodies from not only this Government but future Governments. I welcome the steps that the cabinet secretary is taking to provide those safeguards.

Members should be in no doubt that the order-making powers are vital aspects of the bill that will ensure that we can act swiftly to get the best from our public services, provided that the necessary safeguards are in place. The Scottish Government is committed to making our public services simpler, better co-ordinated and more responsive—the bill will build on that. The whole Parliament must work together to ensure that, despite the current economic situation, we continue to improve our public services and support Scotland's economic recovery. I hope that the Parliament will unite today to take the bill forward, because it is important for Scotland.

16:00

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I declare my membership of the British Medical Association. I do not necessarily agree with all the views that are expressed in its briefing today, but some of it is important.

There is a core to the bill with which nobody will disagree, which is that we should always try to improve the efficient delivery of public services. However, futile soundbites about the "bonfire of the quangos" should themselves be consigned to the bonfire. Society's needs for the regulation, inspection, standard setting and accountability of public services will always be complex and will change from time to time. However, it is vital that Parliament should retain the primary role in making any significant change. The problem is not about nuclear buttons, as Mr FitzPatrick suggested, because all parties support the bill. We have major concerns about only one part of the bill.

Even with the proposed safeguard of the affirmative or super-affirmative procedure—I think that it has now got to the level of an enhanced super-affirmative system—there will still be a huge list of bodies that ministers will be allowed to abolish under part 2. If the proposal in part 2 was to give ministers powers under a form of affirmative system to make minor changes, members might support that. However, the power to abolish more than 100 bodies gives rise to considerable concern.

There is a division in the chamber between the approach taken by those of us who say that part 2 should be taken away now because it is not fit for purpose and that it should be brought back as an amendment at stage 2, when it will be scrutinised on a line-by-line basis, and the alternative approach, which the SNP apparently supports, as do the Conservatives—although their speakers in the debate do not—which is that part 2 should be left in place and that it should be up to members in the chamber to make line-by-line amendments. That is the dichotomy that faces members in the vote this afternoon.

Derek Brownlee: If I have heard the member correctly, he is now elucidating a different Labour position, which is that we are trying to achieve the same result by different means. Is it not more appropriate to do that at stage 2? Earlier Labour speakers suggested that part 2 should come out of the bill and that it should stay out.

Dr Simpson: In its current form—that is correct. However, what we are saying is that, if the Government comes back with proposals that would allow only minor changes to be made under part 2, our party would be in a position to provide some support. It is the draconian powers that change the constitutional basis that are at the core of the argument here. I am sorry that John Scott and Mary Scanlon have left the chamber. They made excellent speeches that were entirely compatible with the Labour and Liberal position today. I of course welcome the changes that the cabinet secretary indicated, but they do not go far enough; they tinker at the edges and do not alter the constitutional position.

I had intended to speak entirely about health issues in the bill, such as those to do with the Mental Welfare Commission, the Scottish health council, accountability, complaints and the confidentiality of medical records. However, I cannot possibly do justice to all that in my remaining two minutes and 45 seconds.

The Health and Sport Committee indicated its support for the Crerar principles, but it expressed disappointment about the outcome of discussions and the proposed amendments to the bill—the realignments that will occur. We think that the cultural differences in some of the bodies that are to be put together have not been fully addressed. I know that Frank Clark of the care commission is in the public gallery. The commission has expressed great willingness to work together with the bodies with which it is to be merged to try to achieve that. However, I think that the mergers are going to be quite difficult.

I am pleased that the Government has withdrawn the proposal regarding the Mental Welfare Commission, but it remains in schedule 3 as a body that can be abolished. We will certainly

propose an amendment to remove that possibility, if we cannot get rid of part 2 today. It is fundamental to patients that they are safeguarded by a truly independent organisation over which only Parliament has a measure of control.

I think that the merger of NHS Quality Improvement Scotland and the Scottish health council will bring about greater understanding and co-operation. Some of those bodies' joint reports have been helpful, but I think that the merger will improve matters. As the Health and Sport Committee suggested, it is important that the Government lodges an amendment to ensure that the Scottish health council's functions are clearly maintained and identified. They should not simply be absorbed and lost in NHS QIS.

Adam Ingram talked a little about complaints. It is clear that, in the public's perception, there are still problems with the complaints system, and it is the public who are important. It is sometimes difficult for our constituents to know to whom they can complain. We have not been ambitious enough. We need to end up with a single point of entry to which our constituents can go and then be directed to the appropriate body that deals with the matter. What is important is what is behind the single point of entry and how it is dealt with. There will be problems to do with the professional roles versus the systematic roles that are looked at by different bodies. That is an important issue.

I realise that I am out of time and that I have not covered all the issues. However, I commend Ian McKee's speech on confidentiality. There are issues to do with confidentiality. The new protocols will have to be carefully considered to ensure that trust between the doctor and the patient is maintained and that we do not infringe on that.

I commend the bill, apart from part 2.

16:06

Iain Smith (North East Fife) (LD): Richard Simpson is right about part 2. It cannot simply be amended because it contains a fundamental principle that is constitutionally damaging. Therefore, it must be removed. We may be able to come back to some aspects of it so that minor consequential issues can be tidied up without requiring primary legislation, but the problem is that it goes far too far as it stands; it goes way beyond what is acceptable to a democratic institution such as the Scottish Parliament, and so it must be removed. I will return to part 2 later.

First, I want to concentrate on creative Scotland, as other members have done. One body that is to be abolished is the Historic Environment Advisory Council for Scotland. We should always consider the historic environment when we consider matters in the chamber, and the historic

environment is that creative Scotland should have been up and running by now. Indeed, it should have been running for the best part of a year but, because of the Government's failures with the Creative Scotland Bill, it is not. This morning, Derek Brownlee suggested that those of us who voted against that bill's financial resolution were not aware of the consequences of doing so. As the person who spoke against that financial resolution in the debate in June 2008, I was fully aware of the consequences of what would happen if we voted against it. The Minister for Parliamentary Business did not seem to be aware of those consequences and seemed to be caught in the headlights. He failed to take the opportunities that he was given to withdraw the financial resolution and allow it to come back at a later date, which would have allowed the bill to proceed once we had resolved some of the financial issues.

Derek Brownlee: My recollection is that the motion on the financial resolution could not be removed in the way that the member describes. In their speeches after the confusion that arose about finances, a significant number of members who voted against the financial resolution referred to amendments that they wished to be lodged at stage 2. Surely that implies that they believed that the bill would continue.

Iain Smith: Mr Brownlee has a selective memory. I spoke against the financial resolution and members voted against it because of the Government's failure to clarify the financial position in the stage 1 debate. The Government was given opportunities. It could have withdrawn the financial resolution before the vote; a member who moves a vote can always withdraw the financial resolution and bring it back. There was up to six months to bring back a financial resolution. I asked the Minister for Culture and External Affairs several times to have a cross-party meeting at which to discuss the best way forward and to bring back the Creative Scotland Bill as a stand-alone bill at the end of the six-month period, as Pauline McNeill suggested. That would have been in January last year.

Instead, we were told that the fastest way of delivering creative Scotland would be to peg it on to the Public Services Reform (Scotland) Bill, which was due to be introduced in February last year but was not introduced until May, only reached stage 1 in December and, due to the Government's intransigence on part 2—its refusal to accept that it might have got part 2 wrong—might end up being thrown out. It is important that we recognise that historic context. Creative Scotland is important, and the situation needs to be resolved.

Some issues remain to be sorted out in relation to creative Scotland, as was highlighted in the

Education, Lifelong Learning and Culture Committee's report. Some of the funding issues are still not as clear as they might be. Some of the questions about what is the lead body for the creative industry remain to be answered—although the Government has said that creative Scotland will be responsible for leading the co-ordination, it is not clear what body is to be the lead body. There are serious issues about finance, including questions about new money. When she appeared before the Education, Lifelong Learning and Culture Committee, the minister said that there would be

“access to new money in this arrangement that does not exist within the existing organisations as it involves enterprise resources from Scottish Enterprise, Highlands and Islands Enterprise, local authority business gateways and so on.”—[*Official Report, Education, Lifelong Learning and Culture Committee*, 23 September 2009; c 2735.]

However, that is not new money; it is money that is there already in those bodies. The issue about the gateways for creative industries is not helped by the issues that have been raised in that regard. I acknowledge the work that Michael Russell in particular did to try to resolve some of those issues, but I do not think that we are there yet.

I am still concerned about some of the issues to do with directions and guidance. Although the Government has assured us that it does not have the ability to give directions on issues to do with the general functions of creative Scotland, it has the power to give guidance on that, which gives it a lot of power to direct what creative Scotland does.

There are other issues of confusion. For example, creative Scotland may provide Scottish ministers with such other advice and information as it considers appropriate, but it can do that only under the directions that are given by the Government or in a manner that the Government may determine, which means that it can give advice only when the Government wants it to. That is hardly very helpful.

Many issues remain to be clarified at stage 2, but we must, separately, consider the position with regard to part 2. It would be a serious error to continue with that part of the bill. It gives ministers unprecedented powers to abolish public functions without proper parliamentary scrutiny. There is no question but that primary legislation receives more scrutiny than secondary legislation—that is the way in which the system is designed—but, more important, as Robert Brown and others have pointed out, primary legislation can be amended but secondary legislation cannot; it can only be approved or rejected. That means that Parliament does not have the opportunity to amend the constitution of a body, the membership of a body or the functions that are being delegated to it through secondary legislation.

The Minister for Culture and External Affairs (Fiona Hyslop): Will the member give way?

Iain Smith: I am sorry, but the Presiding Officer is indicating that I must come to a conclusion.

Many important bodies will be subject to the powers in part 2. Scottish Water could be abolished by the method that is set out in the bill, and who knows what could be done with its functions. Perhaps they could be given to another body, which could go on to privatise them. VisitScotland, Historic Scotland and other important bodies such as Scottish Enterprise, Highlands and Islands Enterprise, the Scottish Environment Protection Agency and Scottish Natural Heritage could be abolished without primary legislation coming before the Parliament. That is wrong and it cannot be allowed to happen. I urge members to vote for the Liberal Democrat amendment tonight.

16:13

Maureen Watt (North East Scotland) (SNP): Towards the end of debates, members often say that it has been a wide-ranging and interesting debate. Today's debate must be one of the most wide-ranging there has been, given that so many committees have been involved in scrutiny of the Public Services Reform (Scotland) Bill.

The Rural Affairs and Environment Committee was a secondary committee to scrutinise provisions that fall within its remit; its focus was on the transfer to SNH of the functions of the Deer Commission for Scotland in section 1, and of the functions of the Advisory Committee on Sites of Special Scientific Interest in section 2. The committee would like to thank all those who provided evidence. It is fair to say that there was broad agreement in the committee that there would be few difficulties in those mergers proceeding, but it is important to highlight some of the concerns of those who gave written and oral evidence.

ACSSSI seems to have been a classic example of the growth of the quango sector, in that it is a body that was set up to advise SNH, which is, in turn, an adviser to the Government on natural heritage matters. The Scottish Rural Property and Business Association and the Confederation of Forest Industries (UK) Ltd, which represents forestry interests, expressed concerns about ACSSSI's demise, but others recognised that independent advice could be accessed elsewhere—from universities, for example. The committee was reassured by the Minister for Environment that she would keep a watching brief on the issue.

I will turn to the proposal to transfer the functions of the Deer Commission for Scotland. In June

2007, Mike Russell, the previous Minister for Environment, tasked Professor Neil Kay with examining the current structures of environment and rural agencies. Professor Kay concluded that

"integrating DCS within SNH is likely to be an issue which will be considered due to the logical fit between the two bodies in terms of their competences and capabilities."

In their evidence, the majority of key stakeholders accepted the Government's objective of simplifying the landscape, and many supported the principle of decluttering. However, concerns were expressed about the potential loss of the expertise in the Deer Commission for Scotland, especially among its board members who, it seems, have had a more hands-on role than appointees to some other boards. The committee noted the importance of effective deer management and its important contribution to the Scottish economy in terms of jobs, tourism and culture.

I believe that much of the concern stems from the long-term mutual distrust between SNH and the Deer Commission for Scotland. However, that has lessened in recent years and, following the evidence from SNH and the failure of the Association of Deer Management Groups to come up with any concrete evidence of obstruction, together with my subsequent conversation with Andrew Thin, the chair of SNH, I am satisfied that SNH will do everything to ensure that the expertise of DCS employees will be fully utilised, and that expertise from that sector will join the SNH board in the near future.

On the wider provisions of the bill, the Rural Affairs and Environment Committee was mentioned a number of times this morning in relation to delegated powers. David Whitton, who is not currently in the chamber—

David Whitton: Yes he is.

Maureen Watt: I beg Mr Whitton's pardon. He is sitting on the wrong benches, but he is indeed here. I apologise.

David Whitton gave the impression that the whole of my committee had concerns. The committee expressed those concerns by a majority of one, rather than—as was implied—by the whole committee doing so. Almost all the organisations that gave evidence were content that the Government is trying to curtail the quango state. The conversion to that view by Tom McCabe and others is astonishing, given that they are past masters in allowing the quango state to mushroom during the eight years of Labour-Lib Dem rule.

I find it astonishing that Labour and the Lib Dems tonight want to scupper the bill at this stage. I ask, as others have, whether they have a death wish for the creative sector in Scotland.

Iain Smith: I make it clear that we are proposing a reasoned amendment today, not to scupper the bill but to allow it to proceed in a sensible manner while removing the part that is of concern to what appears to be the majority of members in the chamber.

Maureen Watt: To take out a major section of the bill at this stage, rather than let it proceed as it is and amending it, seems to me to be crazy. Many people outwith the chamber see the unnecessary duplication and bureaucracy that hampers effective delivery to our citizens and to employees who are on the front line.

As Joe FitzPatrick said, given the savage cuts that are coming down the line from Westminster, to give appropriate powers to ministers without undermining democracy seems to be a prudent step that will ring with the electorate.

16:19

Karen Gillon (Clydesdale) (Lab): I draw members' attention to my recorded declaration of interests.

The debate has been long but worthwhile, and I am sure that both the Finance Committee and the Government will take a great deal from it to help with their stage 2 considerations and ensure that the bill is strengthened during that process.

Public services are at the very heart of our communities and many people rely on them daily. I support our public services, but I understand that reform is healthy and will be the means by which we can protect public services long into the future. I record my thanks and appreciation to the staff who deliver those services day in, day out: they do a great job and the services would not be what they are without our dedicated workforce.

Many of those staff will be affected by the bill, particularly those who work in non-departmental public bodies. One area in which the bill could do more is negotiation of pay and conditions of staff who are employed by NDPBs. The current process requires that each individual NDPB negotiate, which is time consuming and expensive. There must be a better and more streamlined approach. Of course, the negotiating framework should not be included in the bill but, as Unison suggests, the bill could set out an enabling framework. That idea is worthy of further consideration, so I hope that the Government will consider it before stage 2 and lodge amendments.

As others have done, I will say something about the order-making powers in part 2. As a former member of the then Procedures Committee, I am well aware of the need to work hard to maintain the balance between the Parliament and the Executive. There are always tensions, pressures

and things that people want to be done more quickly, but those cannot be allowed to override or sacrifice proper parliamentary scrutiny. I am now in my third session as a member of Parliament and I have seen changes to various public bodies and the creation of others.

While my party was in Government in session 1, it proposed the abolition of the Ancient Monuments Board for Scotland and the Historic Buildings Council for Scotland and the transfer of their functions to Historic Scotland. On first reading, that proposal did not seem controversial but, as we took evidence, it became clear that the time was not right for making that change. Instead, through negotiation and amendment, a new body was formed with the right powers and responsibilities. In the committee's deliberations, Mike Russell, who was then, like me, a humble back bencher, said:

"the matter has shown the committee system at its best. We have gone from a deeply flawed plan, which was vigorously opposed by key individuals and did not stand scrutiny by the committee, to a sensible plan that still reduces the number of quangos, but also produces more robust and sensible solutions. It also closely examines the performance of a body that has not been and clearly is not up to par. That reflects credit on all those involved".— [Official Report, Education, Culture and Sport Committee, 17 December 2002; c 3334.]

If the bill had been in place then, that positive committee-led solution would not have been achieved, because an amendment to an affirmative order is not possible. That solution could be achieved only through amendment of primary legislation. In that example, Parliament was seen to do its work.

In session 1, we were also responsible for the creation of Scotland's Commissioner for Children and Young People. That was achieved through a committee-initiated and committee-led bill, not through Government legislation. It would be wrong to remove that approach and to place the power to make changes with the SPCB. Angela Constance said that, as a new member, she has not got to grips with the SPCB. I have been here for 10 years and I still do not know exactly what the SPCB does, but I know that it does it behind closed doors and in private. That is not the right way to make changes to important matters such as the role of commissioners who have been established by Parliament.

Fiona Hyslop: Does Karen Gillon agree with the Government that changes to commissioners' functions should be initiated only by Parliament? If so, Parliament has a responsibility to find a way in which to make such changes. That can be done by order if the change is relatively minor, as Kevin Dunion suggested in evidence, but if the change is major, it could and should, as Karen Gillon said,

be done through primary legislation. Does she agree with that position?

Karen Gillon: I do indeed, but that is not what the bill says. If the bill said that, we would be happy to support it. However, the bill would allow the Government to abolish commissioners and to change things that Parliament has set up.

The right way to do anything that relates to commissioners is through a parliamentary committee that is open to the public, open to evidence and open to scrutiny. Major changes of the sort that are potentially covered under the bill should be made through primary legislation. If the minister or the Government wanted to lodge amendments at stage 2 that would limit their functions in that area to minor matters of administration, I would have nothing against that, but I have great difficulty signing up to an order-making power that will give the Government of the day, whatever it may be, the power to abolish an organisation.

The SNP manifesto contained a commitment to amalgamate SNH and SEPA. Of course, such a proposal—which at the moment would require primary legislation—has never come before Parliament because it would never find support. Under the bill, however, the proposal could be put through in an affirmative resolution that could not be amended and would not be subject to proper scrutiny—

Fiona Hyslop: Will the member give way?

The Presiding Officer (Alex Fergusson): The member has only 10 seconds left.

Karen Gillon: If there is nothing behind this order-making power, why is the Government zealously clinging to the proposal? If there is nothing that the Government wants to do that it cannot put in the bill, what is the proposal really about? Is it not about trying to do things by the back door, instead of through full public and parliamentary—

The Presiding Officer: You must finish, Ms Gillon. I am sorry to hurry everyone, but there is simply no time available.

16:25

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I must apologise to members whose speeches I had to miss. A very large textile company in my constituency went into administration today so, inevitably, I had to leave the chamber for part of the debate.

The bill that we are scrutinising was delayed by the Government, but it has tried to justify the insufficient time that was given to consulting on the bill's measures by saying that it had to move

quickly to introduce them. Its position is not consistent. If the government had consulted on the bill—the fact is that it consulted on no part of it—many of the concerns that have been raised today would have been brought to its attention.

The Liberal Democrats agree with the Government that we should secure best value for the public purse, especially in the current difficult economic circumstances, but the measures in part 2 are disproportionate and no justification has been offered for why they have been included, apart from references to the Government's overall agenda to be able to move quickly to streamline the public sector landscape. In that light, I believe that we are justified in looking at the Government's record over the past three years.

This morning, the cabinet secretary said that the number of public bodies is to be reduced by 25 per cent. On the face of it, that seems to be a fairly positive move that is consistent with the thrust of Tom McCabe's very good speech. However, if we consider the details, the reality begins to emerge. The 25 per cent, for instance, includes the merging of the various children's panel advisory committees into a national body. Such a reduction might or might not be a good thing—I believe that such centralisation is problematic—but it is not equivalent to a 25 per cent reduction in the cost of bureaucracy to Scotland's public purse or in headcount.

Moreover, the Government's financial memorandum to the bill estimates that it will make £3 million in savings, although we should put that in context by remembering that the entire Scottish budget is £30 billion. However, in our scrutiny of the memorandum, we learned that that estimate was based on the transfer of staff from creative Scotland, which is within the bill's remit, to other parts of the Scottish public sector that are outside that remit. The Government might well estimate that the bill will save £3 million, but it has said nothing about the net saving to the public purse; after all, it has also said that the bill will not result in any redundancies. As a result, we do not even know whether the £3 million is an accurate figure. Even if it is, it is outshone by the nearly £30 million in administrative and set-up costs for two new bodies that the Government established in the same period: Skills Development Scotland and the Scottish Futures Trust.

When we consider part 2, which has caused the most controversy and is the reason why we have lodged our reasoned amendment, we should also look at the Government's record. This bill could in some way affect the legislation relating to the children's hearings system and creative Scotland. Earlier, the Minister for Children and Young People said that the measures in the proposed children's hearings bill, which the Government

withdrew in order to secure wider public and civic participation and more cross-party support, would mean that the powers in this bill, with which ministers could make statutory instruments that would abolish children's hearings, would not be necessary.

We have also debated the Creative Scotland Bill. We were told by the then minister that, although the Government did not need to use primary legislation to create creative Scotland, it had chosen to do so because that provided the best route for full parliamentary scrutiny. Now we are being told that the current bill is required for order-making powers to abolish or transfer the functions of creative Scotland because that does not need full parliamentary scrutiny. There is no consistency in the Government's approach.

The debate was not helped by the Minister for Public Health and Sport accusing Ross Finnie of misleading Parliament when he pointed out that the order-making powers in the bill will confer powers to introduce statutory instruments that can abolish bodies. The minister said that the bill confers powers to abolish the functions of bodies, but that is not the case. Indeed, it was the minister herself who misled Parliament because section 10(3)(b) of the bill clearly mentions

"amending the constitution of, or abolishing, a person, body".

Section 13 mentions that by removing "an administrative inconvenience", a body or office can be created or abolished.

Fiona Hyslop: An order under section 10 can be used only to improve the exercise of public functions, and they would not be improved by abolishing a body unless it no longer had a function to perform. Members must consider the whole context of the bill. Jeremy Purvis is over-producing and accusing the minister unfairly.

The Presiding Officer: You must close in answering that point, Mr Purvis.

Jeremy Purvis: That is not the case, nor was it said by any minister during any of the scrutiny of the bill. Section 13 is even clearer about administrative inconvenience.

The Presiding Officer: You must close please.

Jeremy Purvis: The powers are disproportionate and should be deleted from the bill, which is why we will press our amendment to allow Parliament to express that view.

16:32

Gavin Brown (Lothians) (Con): Before going into the bill in detail, I must pick up on the Labour Party's narrative—as exemplified by David Whitton and Richard Simpson—that there is a Tory party

split. What a day to choose to use that narrative. I do not know whether any of them have seen *The Scotsman*, *The Herald*, *The Times*, *The Daily Telegraph*, the *Daily Mail* or any newspaper at all today, but there is only one party in this country that is split inside and out, and top to bottom, and it is the Labour Party.

Let us look at the general principles of the bill. The Scottish Conservatives want to modernise and streamline the structures of our public sector. We want them to be simpler, and we want to reduce duplication and cost. Such reform is critical for us to protect front-line services as we come up against tougher budgets. When one looks at the overarching purpose of the bill, it is legitimate to question whether it will achieve that purpose in full. It will go some way towards achieving it, but legitimate questions can be asked about the degree to which it will really do so. Does it offer a meaningful reform of public services, or can more be done between now and stages 2 and 3?

The Conservative view is that the bill does not offer as strong a change or reform as it could. If I am correct in my reading of the situation, the Finance Committee took the same view—that the bill does not go far enough. It seeks to reduce the number of quangos by eight but, as the SCVO said, it does not do

"what it says on the tin".—[*Official Report, Finance Committee*, 29 September 2009; c 1562.]

I therefore ask whether, in closing, the minister will propose ways of going faster and further on public sector reform.

It has been said that the bill is not a cost-saving bill, but why is it not a cost-saving bill? Tom McCabe outlined a lot of the challenges that we will face during the next four or five years. Can something more be done to make the saving more than a mere £3.3 million over six years?

The Chartered Institute of Public Finance and Accountancy suggested that that saving is merely at the margins and made the valid point that most of the savings will happen after the costs have been incurred. There is a fair question about whether the savings will happen at all. I sat on the Finance Committee as a substitute for Derek Brownlee for one of the meetings on the bill. When I looked through the questions, I saw that there was a higher and a lower estimate of what the cost savings might be, but there was also a best estimate. In some cases, although not all, the best estimate was simply the mid-figure between the top and bottom figures. Is there a way in which we can save more money in the public services through the financial provisions?

The most contentious—or biggest—point of the day the order-making powers in part 2. There is an important point of principle: we need to ask

whether the Government requires such powers and whether it is practical or desirable to have a more streamlined process through which Government can react. We must consider whether primary legislation is sometimes unwieldy and time consuming and is not always the best use of time for making particular changes. The Conservatives think that there is a need and a call for such a process, but I want to be clear and tell members why the Conservative position has been consistent. We have made it absolutely clear that, if part 2 is unamended, we will not vote for its provisions at stages 2 or 3. However, our view is that, at stage 1, we can vote in favour of the bill without voting for the Liberal Democrat amendment, because if we have sufficient safeguards and if sufficient amendments are made in relation to schedule 3, we could support part 2.

The Liberal Democrat and Labour position seems to be that we need to scrap part 2 in its entirety. Some powerful speeches were made on that, particularly by Robert Brown and Ross Finnie. However, the Conservatives do not believe that we need to scrap part 2 in its entirety to achieve something workable.

John Swinney: In articulating that point of view, does Mr Brown accept—as I have confirmed in a letter to Mr Welsh—that the Government has expressed its willingness to engage constructively with the parliamentary committees to find approaches to the part 2 powers that would command broader support in Parliament?

Gavin Brown: I acknowledge Mr Swinney's letter to the Finance Committee of, I think, 5 January, which was passed to other members. The letter refers specifically to a potential safeguard. We will consider the amendment that is lodged and review it accordingly to find out whether it will introduce safeguards that will be sufficient to satisfy our demands.

Mr Swinney's letter also refers to the schedule 3 list and mentions a proposed solution on that issue. Again, we will look at the detail of the amendment when it is lodged to find out whether it is workable. Derek Brownlee pointed out one potential flaw in that solution, which is that if the Scottish Parliamentary Corporate Body were to be responsible for initiating legislation, that might hamper Audit Scotland's independence, because Audit Scotland is responsible for auditing the corporate body's accounts. There are potential flaws in the proposal.

16:38

Michael McMahon (Hamilton North and Bellshill) (Lab): Maureen Watt began by pointing out that members often say that the discussion has been wide ranging and interesting. That

probably applies to today's debate. It has been useful in giving us the opportunity to establish further evidence—if any was really needed—that the SNP Administration far too often confuses slogans with solutions. The finance secretary has tried to convince us that he believes in public sector reform by calling the bill the Public Services Reform (Scotland) Bill, but simply calling it that does not mean that it will achieve that. As many members have pointed out, especially Tom McCabe in a very effective speech this morning, there is little evidence that, beyond a numerical reduction in public bodies, there is any vision of reform or indication of the type of improvement that is being pursued through the bill.

We debate the bill against the background of sharply rising public expectations of our public services. People demand more than the basics and they are right to do so. As Andrew Welsh said this morning, and as the SCVO pointed out in its briefing paper for the debate, the key to reform is redesigning the system round the user. We must ensure that there is scope for public bodies to change and develop. Monolithic structures will not do, and we cannot engineer change and improvement through governmental edict alone. However, I cannot agree with the view that was expressed in the debate this morning that we need to cut through decades of incompetence. It is simply not the case that our public services are or have been inherently weak or substandard.

We need change, but any changes that we make must enhance what we have, and they should not be an end in themselves. I am happy to reiterate that Labour is in favour of streamlining the number of quangos in Scotland and of reforming the way in which services are delivered. We endorse the intention to create social care and social work improvement Scotland—although “SCSWIS” sounds more like a communicable disease than a scrutiny body—and creative Scotland. We want to certify that the changes will be made in a manner that improves the delivery of public services to the public. Having listened to the concerns that Malcolm Chisholm and Mary Scanlon raised this morning and which John Scott mentioned this afternoon about some of the proposals for change in part 5, it is hard to be confident that the bill as introduced can achieve that aim.

Regrettably, any good objectives are outweighed by the overall approach inherent in the bill, which indicates that the SNP is simply taking a crude arithmetical approach that will make the bill a lost opportunity for the reform of public services. Previously, SNP MSPs regularly railed against centralisation and Government dominance, yet, judging by the content of their speeches today, it is clear that they are now prepared to give their Government centralising powers to take actions

that they have long argued against. When in opposition, the SNP never fails to criticise anyone who dares to suggest that ministers should take such powers, but SNP members have been suffering from collective amnesia in the chamber today, conveniently forgetting all the contradictory arguments that they made previously on the subject of the primacy of the Parliament over the Executive. Such acquiescence is not healthy, as a Parliament of sheep would undoubtedly lead to the creation of a Government of wolves.

Unlike SNP members, we are not fooled by Mr Swinney's warm words about his intentions to amend the bill because, ultimately, he still insists that the Scottish Government wants those unacceptable powers. In the debate, the cabinet secretary has sought to follow up the letter that he sent to the Finance Committee and to allay fears over those centralising powers. He says that he will lodge amendments that will require the proposals to be subject to an enhanced form of super-affirmative procedure. Unlike some members, we will not be fobbed off with extra protections. If the Government drops its power-grabbing proposals, we will not need those safeguards.

John Swinney: Will Mr McMahon reflect on two points that I made earlier? The first was that Parliament would remain the decision maker in the case of all the proposed changes; the Government would not be in a position to effect those changes without the agreement of Parliament.

Members: They cannot be amended.

The Presiding Officer: Order.

John Swinney: Secondly, as part of the process that we are putting in place, the bill follows the same structure and concept inherent in the Local Government in Scotland Act 2003, of which Mr McMahon was a supporter.

Michael McMahon: I disagree with the first point that the cabinet secretary makes. It is clear that such proposals, as he intends them, cannot be amended by the Parliament when they are brought before it. That is a particular problem.

I will address the cabinet secretary's second point later in my speech.

Margo MacDonald (Lothians) (Ind): If a proposal made by any future Government was so abhorrent to Parliament, do we not have a remedy, in that we can have a vote of no confidence in the Government?

Dr Simpson: That is the nuclear option.

Michael McMahon: Exactly. We spoke about nuclear options earlier this afternoon. This is a democratic process—a debate on the general principles of a bill. There is one aspect of part 2 of

the bill that, as a general principle, we cannot support. We are asking the Government to take the provisions away, drop them from the bill as it stands and bring back something that the Parliament can support. That is the democratic process, and it does not require votes of no confidence or nuclear options—it requires the Government to listen to the Parliament.

We are concerned that the Scottish Government did not carry out a dedicated public consultation on the bill. Instead, it chose to rely on previous consultations and published reports. That was a big mistake, as was highlighted by the concerns that were raised by many of those who gave evidence on the bill. It is yet another example of the changed attitude of SNP members. We repeatedly heard them in opposition extol the need for proper and effective consultation, yet now that they are in government, they do all that they can to avoid scrutiny and ignore sound opinion against their proposals from bodies such as the Law Society of Scotland. They are the epitome of the poacher turned gamekeeper.

As with far too many of the Government's bills, there are also concerns over the financial memorandum. The financial memorandum states that net savings from the bill as a whole over the period 2008 to 2014 will equate to more than £3 million. However, the Finance Committee has pointed out that the largest element of the savings involved in the bill will come from the reduction in the number of staff at creative Scotland and restructuring or streamlining in relation to social care and social work improvement Scotland. As the intention is for the staff to be redeployed within the Scottish Government, it is questionable whether those measures will result in a saving to the public purse.

As I said, Labour's biggest concern relates to sections 10 and 13, which will allow ministers to make provisions to improve the exercise of the public functions, including modifying, conferring, abolishing, transferring or delegating any function. As has been pointed out, contrary to what Shona Robison claimed earlier, section 13 allows ministers to make provision to reduce or remove burdens, including the abolition of a public body. That cannot be acceptable in principle.

According to a range of evidence that the Finance Committee heard, the proposed order-making powers are unprecedented. Professor Page of the University of Dundee stated that

"primary legislation should be about important matters of principle, and subordinate legislation should be about picking up the detail. The concern about part 2 of the bill is that it ignores that dividing line".—[*Official Report, Finance Committee*, 15 September 2009; c1492.]

Let us be in no doubt—with those powers, the Government could abolish or merge bodies at will.

John Swinney argues that there is a precedent in section 57 of the Local Government in Scotland Act 2003. However, as the Finance Committee noted, that act was not mentioned as a precedent for the power in section 10 either in the accompanying documents or in the evidence that was given by the bill team.

John Swinney: I think that I clarified the point in correspondence with the Finance Committee. The Government cited the 2003 act as an example because, in the evidence that was given to the committees, there was commentary about the lack of a precedent. The Government subsequently provided information on a precedent. I would have thought that that would be viewed as being helpful to the parliamentary committees in their scrutiny of the bill.

Michael McMahon: But it was not cited in the first place. There are also key differences between the powers in the 2003 act and the wide-ranging and extensive powers that are listed in sections 10 and 13.

Robert Brown earlier talked about Henry IV powers—sorry, Henry VIII powers.

Andy Kerr (East Kilbride) (Lab): Once more unto the breach!

Michael McMahon: It could have been Henry VIII or Bonnie Prince Charlie—it does not really matter. The principle is the same. When Henry VIII powers were discussed in the House of Commons, Jack Straw stated:

“Parliament has long—and rightly—been hostile to the principle of Henry VIII powers”.—[*Official Report, House of Commons*, 8 Dec 2009; Vol 502, c 272W.]

The Scottish Parliament should make it clear today that it shares Westminster's hostility.

It is considered a truism by some that the Government that governs best governs least. Unfortunately, the bill indicates that the Scottish Government seems bent on proving that the Government that governs least governs worst. We have no intention of allowing the Government to govern badly, so we will support the Liberal Democrat amendment. We will not support bad legislation, and we want to make it clear that the bill needs much reworking to make it acceptable.

16:49

The Minister for Culture and External Affairs (Fiona Hyslop): I thank colleagues for their comments on the general principles of the bill as well as for raising specific issues both here and in the numerous committees that scrutinised the bill. Whatever the controversy that surrounds part 2, the debate has demonstrated the strength of feeling among members of the need for reform of our public services. That is what we must focus

on. We should focus on improvements to public service delivery, not protection of the institutions that provide those services.

The question must be asked why so little progress has been made on public sector reform in previous years under devolution. The default position has too often been to address issues by establishing new bodies, which have frequently duplicated the functions of existing bodies. All parties in the Parliament have been guilty of calling for such bodies. Once established, bodies tend to expand and all too frequently end up suffering from a form of institutional inertia. The view is that they have always been there, so they should always stay there. We now need to find ways of cutting through that institutional undergrowth and genuinely simplifying and streamlining the delivery of public services, because that matters to the people of Scotland. That aim lies and has always lain behind the order-making powers in part 2, to which I will return.

First, I will focus on the important issue of creative Scotland. I am pleased to say that the committees' reports broadly supported part 3, which is on creative Scotland. We are addressing the few concerns that the committees expressed—I refer members to the Government's response on those issues. In the debate, several members have agreed with the committees that avoiding further delays and uncertainty about creative Scotland's establishment is vital. Members must reflect on that serious point at decision time.

When I met Councillor Harry McGuigan of COSLA yesterday, we discussed our mutual clear understanding of the tremendous potential of a new relationship between the three partners—local government, creative Scotland and the Scottish Government. If Parliament agrees that the new body should come into being, it will inherit a good base on which to build effective working practices with a variety of partners. We recognise the importance of ensuring that the relationship between the partners is as strong and transparent as possible, to engage with sectors and stakeholders and to nurture art and creativity in communities throughout Scotland.

As a single national body, creative Scotland will be more streamlined and more effective in delivering its new, wider remit, which the bill sets out clearly. Pauline McNeill is right to identify issues with structures and costs. Creative Scotland will release resources by removing duplication in back-office functions such as human resources, finance and facilities management, which will allow resources to be put towards supporting artists.

Creative Scotland has been identified as a dynamic and innovative development body that

will provide the leadership for arts and culture in Scotland that Ted Brocklebank and Pauline McNeill talked about.

Pauline McNeill: Will the minister address my point that a new skill set might be required to deal with the new functions in relation to the creative industries? Will the scope for dealing with those functions exist? Will she direct creative Scotland to ensure that those skills are in place?

Fiona Hyslop: There is obviously tension about any direction. I warmly thank Ewan Brown and Creative Scotland 2009 for providing the foundations to ensure that the new body is more than the sum of its parts and has a new synergy and skill set to do exactly what Pauline McNeill describes. That organisation is ensuring that we have a body that is fit for purpose in the 21st century to meet the changing arts and cultural demands of the 21st century.

Ted Brocklebank sought reassurance about the Government's role. The role of Governments is to create the conditions for success and not to influence the direction or content of that success. Creative Scotland will be more flexible and will be able to respond and adapt to the cultural practice of the 21st century. That is a skill-set requirement, to which Pauline McNeill has referred.

Creative Scotland will help artists and creative practitioners of all kinds to make the most of our contemporary arts and culture and our vibrant traditional inheritance. It is important that we establish the body as soon as possible with a statutory basis and with democratic endorsement, to give the community involved the support that it deserves. Even in the heated debate that we have had about part 2, we should not forget how important the bill is.

I return to part 2. I agree with Derek Brownlee that we all need to reflect on the points that have been made today and to give Parliament the opportunity at stage 2 to consider exactly what changes need to be made as a result.

Robert Brown: I reiterate my comment about the point at which things are done by primary legislation and the point at which things are done by subordinate legislation. On what principle is the Government operating?

Fiona Hyslop: I will develop that issue and address exactly the point that Robert Brown made in his speech.

Let us be clear: the powers in part 2, which are subject to appropriate safeguards, have a crucial part to play in driving forward the public services reform agenda on which we all agree. I hope that the powers will command members' support. If we do not use such powers, we will fall back to the

previous inertia under devolution, in which no action was taken.

I will set out exactly what the powers and safeguards are, because they are the key to today's debate. The power in section 10 allows ministers to make proposals to remove the exercise of public functions—a point that Ross Finnie made—having regard to efficiency, effectiveness and economy. The section does not—this point is absolutely central—provide a free-standing power to modify, transfer or abolish public functions at large, still less to abolish public bodies themselves.

Similarly, the power in section 13 allows ministers only to remove or reduce burdens resulting from any legislation. Robert Brown asked the central question: what are the principles that will determine whether such matters should be done by order or by primary legislation?

Iain Smith *rose—*

Ross Finnie *rose—*

Fiona Hyslop: I want to develop this point, as it is very important.

The powers are also subject to stringent statutory and procedural safeguards. In any such order, the effect of the provision must be proportionate to the policy objective and must not remove any necessary protection in existing legislation. Any new or modified functions must be broadly consistent with the original objects or purposes of the body in question. That means that Scottish Water could not be dealt with by such an order in the way that Iain Smith suggested nor could SEPA and SNH be dealt with by such an order in the way that others suggested—

The Presiding Officer: Order. One moment, minister. If members wish to have conversations, they should have them outwith this chamber. The only person who should be speaking is the minister.

Fiona Hyslop: As I have said, anything outwith those safeguards would need to be dealt with in primary legislation. In my view, that sets out the principle that Robert Brown called for in his question.

Karen Gillon *rose—*

Fiona Hyslop: I am coming on to the points that Karen Gillon made, if she will let me address them.

As was pointed out in John Swinney's letter, which Karen Gillon should have read, any proposed change to any of the bodies, such as the commissioners, that have been established by the Parliament would need to be initiated by the Parliament and requested by the corporate body, with the consent of the Parliament. Whether such

changes should be developed by order, with content initiated by a committee, is a reasonable question, but anything that the Parliament itself wants to initiate without using an order could clearly be done using primary legislation.

However, I remind everyone about the time that it takes to introduce primary legislation—this point was highlighted by Patrick Harvie—which is where the order-making power will make a difference. Following consideration by many members, I was requested to fast-track the joint inspection provisions for child protection because of the importance of having such measures on the stocks. It took six months for the proposed Government legislation to be introduced using Government time and with co-operation from Opposition parties—never mind how long it would take to fight to introduce a committee bill that would need committee time. That is the sort of difference that the powers in the bill could make. I hope that that addresses Karen Gillon's point.

Karen Gillon: If Scottish Water, SEPA and SNH cannot be affected by such an order, why are they included on the list in schedule 3?

Fiona Hyslop: The point is that the powers under part 2 will allow us to deal with minor issues that can make a difference. They will ensure that minor changes that are required can be made. A number of bodies have recognised that such a power would indeed be very useful.

Ross Finnie: Will the minister give way?

Fiona Hyslop: Sorry, but I need to move on, as I am very tight for time.

It is also worth pointing out that a number of public bodies, parliamentary commissioners and ombudsmen have recognised that the order-making powers, with appropriate safeguards, could provide a useful mechanism for making sensible changes to their duties, functions and jurisdictions. I refer to Kevin Dunion's evidence to the Finance Committee; indeed, I note that the Scottish Public Services Ombudsman pointed out:

"Although we can look to Parliament to safeguard the independence of the offices, we need to have a good look at how we bring about change if we do not have powers such as order-making powers on the agenda."—[*Official Report, Finance Committee*, 29 September 2009; c 1568.]

We will be able to do that only if we have the opportunity to consider the bill further at stage 2.

Clearly, it is right that any order-making powers should be narrowly focused and accompanied by safeguards. We have proposed additional safeguards, as set out in John Swinney's letter to the convener of the Finance Committee. We have also made it clear that we are fully prepared to consider any further proposals for amendments to

the scope of the accompanying safeguards at stage 2.

The order-making powers will provide the scope and flexibility for the Parliament to make further adjustments where necessary. What we are proposing is a parliamentary process, not some form of ministerial diktat. The Parliament's committees have shown themselves to be perfectly willing to reject orders made by ministers, such as the Justice of the Peace Courts (Sheriffdom of South Strathclyde, Dumfries and Galloway) Order 2009. There is nothing unconstitutional or improper in what is proposed in the bill. Such scrutiny will be available; the issue is about the pace of change.

Jeremy Purvis: Will the minister give way?

Fiona Hyslop: I am in my closing minute.

I have already referred to the inertia that we have seen in the past 10 years. As Tom McCabe said, we need to address how we can improve the pace of change. Let us not be in a position where Parliament repeatedly calls for public services reforms, complains about having too many quangos and then moves to restrict and limit the Government's ability to deliver those changes. Yes, there must be democratic accountability and public scrutiny, but the Government has responded positively and constructively to address that. We would like to have the opportunity to move our amendments at stage 2.

I urge Parliament to agree to the general principles of the Public Services Reform (Scotland) Bill.

The Presiding Officer: Before we move to the next item of business, there are two things that I wish to say. There are at least four members in the chamber who took part in the debate but who were absent for virtually all the winding-up speeches, and many others came in very late. That is not only against the code of conduct, but a discourtesy to Parliament. I beseech all members to try to obey that part of the code of conduct in future.

In relation to the point of order that Nicol Stephen made yesterday, following the points that Iain Smith made, I received a letter from the Minister for Parliamentary Business just before I came into the chair, which states that the arrangements that were agreed with business managers did not go to plan, for which

"I wish to apologise on behalf of the Scottish Government and assure you that no discourtesy to the Parliament was intended."

That is an apology. I accept it and consider the matter to be closed.

Public Services Reform (Scotland) Bill: Financial Resolution

17:00

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-5150, in the name of John Swinney, on the financial resolution to the Public Services Reform (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Public Services Reform (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in paragraph 3(b)(ii) or (iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.—[*Fiona Hyslop.*]

Decision Time

17:01

The Presiding Officer (Alex Fergusson): There are three questions to be put as a result of today's business. The first is, that amendment S3M-5429.1, in the name of Jeremy Purvis, which seeks to amend motion S3M-5429, in the name of John Swinney, on the Public Services Reform (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)

Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 58, Against 62, Abstentions 0.

Amendment disagreed to.

The Presiding Officer: The next question is, that motion S3M-5429, in the name of John Swinney, on the Public Services Reform (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)

Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peattie, Cathy (Falkirk East) (Lab)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Hume, Jim (South of Scotland) (LD)
 MacDonald, Margo (Lothians) (Ind)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

The Presiding Officer: The result of the division is: For 104, Against 16, Abstentions 0.

Motion agreed to,

That the Parliament agrees to the general principles of the Public Services Reform (Scotland) Bill.

The Presiding Officer: The third question is, that motion S3M-5150, in the name of John Swinney, on the financial resolution to the Public Services Reform (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Public Services Reform (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in paragraph 3(b)(ii) or (iii) of Rule 9.12 of the Parliament's Standing Orders arising in consequence of the Act.

Asbestos-related Diseases

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S3M-5391, in the name of John Park, on Scotland's role in national research into asbestos-related diseases. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the publication of the *National Centre for Asbestos-Related Diseases (NCARD): A Strategy Document* on 30 November 2009 by the NCARD Development Group; considers that this important document is significant for the future of research into asbestos-related illnesses and the treatment of such conditions; believes that Scottish involvement in the development of asbestos research in the United Kingdom would be beneficial; notes with deep concern that, according to the Health and Safety Executive, exposure to asbestos is the biggest single cause of work-related deaths and that the number of people dying of an asbestos-related disease is rising and is yet to peak; further notes that NHS Fife has reported that 239 people from Fife have been diagnosed with asbestos-related illnesses in the last five years; is reminded that asbestos-related disease is by no means a problem of the past; recognises the important work of support organisations across Scotland, and sends a message to victims and their families in Scotland that MSPs will continue to work to improve awareness, research and treatment of asbestos-related diseases.

17:04

John Park (Mid Scotland and Fife) (Lab): I appreciate the opportunity to open the debate, particularly as it is on an issue that I know many MSPs have taken a great interest in since the Parliament first met in 1999. We can all be very proud of our record of dealing with asbestos issues; it is an area of work that has shown the Parliament at its best, particularly in recent years. We have worked on a cross-party basis to pass important pieces of legislation that have made and will continue to make a difference to people with asbestos-related illnesses and their families.

Individual members have introduced proposals for bills to address loopholes in the law with regard to asbestos damages. Des McNulty introduced the Rights of Relatives to Damages (Mesothelioma) (Scotland) Bill, which was passed in 2007. I was pleased to work alongside him on the bill when I worked for the Scottish Trades Union Congress. Similarly, Stuart McMillan proposed a damages bill in this session of the Parliament. It, too, had significant cross-party support. People across the political spectrum and the wider public continue to campaign for an outcome at United Kingdom level similar to that which we have achieved here in Scotland—I hope that that campaign is successful.

The Administrations at the time have recognised the importance of the proposed legislation and

ensured that the resources of the Scottish Government have eased the passage of bills through the Parliament. The proposals were successful not only because MSPs were prepared to work together on a cross-party basis but because of the campaigns outside the Parliament, which were driven by the asbestos groups, trade unions, those suffering from asbestos-related illness and their families, and the legal professionals working on their behalf. Our work on asbestos in this Parliament shows that we can act positively on an issue that is relevant and concerns thousands of Scots.

In recognising our proud record of dealing with the damages aspect of asbestos-related illnesses, the Scottish Parliament must also recognise that there is still a desperate need for research into the causes and treatment of those illnesses. At present, the majority of patients do not receive any form of active anti-cancer treatment after their diagnoses. Without such treatment the outlook is extremely negative for someone diagnosed with mesothelioma, which is one of the most common asbestos-related illnesses. Current average survival is less than nine months across the United Kingdom—that figure includes patients who undergo the most aggressive treatment. A number of treatments, including chemotherapy and radiotherapy, can help in a small way with quality of life and can sometimes lead to a modest increase in the length of life, but all too often it is too late.

Like most people who have lived their lives in and around our former industrial communities, I have former colleagues and friends who have suffered in some way from an asbestos-related illness. My motion, which I am pleased a number of members have signed, refers to the figures for NHS Fife, which reveal that 239 people have been diagnosed with asbestos-related illnesses in the past five years. That means that 239 families have been affected. It is important that we address the issue.

Another former Rosyth dockyard employee, Alex Falconer, a former member of the European Parliament who has also done an awful lot of work on the matter, has encouraged Helen Eadie and me to research the issue and look into the details behind the figures. Gathering that information and meeting people has been a sobering experience. When I began to look into the issue to find international and UK comparisons, I came across the work that was being carried out by John Edwards, who chairs the development group of the national centre for asbestos-related diseases, and Michael Clapham MP.

The strategy document makes for very interesting reading and I think that there is little to disagree with in it. It suggests that the national

centre for asbestos-related diseases could be a collaborative organisation of research groups—a virtual centre rather than a team based at a particular research location—that provides an umbrella under which a national research strategy can be co-ordinated and delivered.

It would aim to prevent duplication of functions in connection with research, thereby offering better value for money than would be achieved by disparate projects. It would also be ideally placed to promote and facilitate research and trials, nationally and internationally. The proposed centre would consist of a director, an operations manager, a strategy board and a scientific advisory committee. I encourage members who have not yet read the strategy document to have a look at it, even if they just read the executive summary. Members will see that it is a serious piece of work on a serious proposal, which contains a number of good suggestions.

Asbestos remains a serious issue. The Health and Safety Executive says that exposure to asbestos is the biggest single cause of workplace deaths. Some 20 tradespeople die every week in the United Kingdom from asbestos-related diseases. I welcome the HSE's recent campaign to highlight the dangers of working with asbestos. In my constituency work, I meet people who tell me that they have come across asbestos in their homes and workers who tell me that they have come across it in their day-to-day work—even now. As most members know, the number of asbestos-related deaths has yet to reach its peak.

I want to ensure that the issue is taken forward on a constructive, cross-party and cross-border basis. That is why I appreciate the opportunity to raise the issue in the Parliament. I look forward to hearing what the minister will say in her response to the debate.

I hope to meet Michael Clapham MP soon, to discuss the proposals in more detail. I would be more than happy to provide the Government's health department and relevant ministers with an update on the work that he and John Edwards are doing. John Edwards, who chairs the national centre for asbestos-related diseases development group, has been in touch with the Cabinet Secretary for Health and Wellbeing. It is clear that the people who are developing the concept are willing to engage positively with the Scottish Government.

The national centre for asbestos-related diseases is still at proposal stage. It would benefit Scotland and it would benefit from Scottish expertise and experience. If the Scottish Parliament and the Scottish Government support the proposal, the centre will have a greater chance of moving from proposal stage to reality.

Ultimately, better research into asbestos-related diseases could provide hope where there is currently no hope. Research could provide hope to the many thousands of people who have been exposed to asbestos but have yet to suffer the consequences. I look forward to hearing from the minister.

17:12

Mary Scanlon (Highlands and Islands) (Con):

I congratulate John Park on securing tonight's debate.

When one starts to research a subject it is always helpful to discover that a little more research has been done since the previous occasion on which we considered the topic.

Asbestos-related diseases have been the subject of several debates since the Parliament's inception, and rightly so. In 1999, when the Scottish Parliament met for the first time, there was a major development. That was the year when the importation and use of asbestos was banned in the UK, even though the dangers had been highlighted to the Westminster Parliament 100 years earlier, in 1898. It is unfortunate that not every country bans the use of asbestos. In 2007, more than 300,000 tonnes were imported into India. Throughout Asia, usage continues to rise.

Asbestos-related deaths are still rising and have not yet peaked. According to the national centre for asbestos-related diseases strategy document, on which John Park's motion centres,

"A peak incidence of 2500 deaths per year from mesothelioma is expected in about 2015 ... At least 70,000 people already exposed to asbestos in the UK will die from mesothelioma".

That is alarming.

I was interested to read paragraph 3.3, which says:

"Pleural plaques ... may become hard and calcified ... They are an indication of exposure to asbestos but evidence is lacking that the presence of pleural plaques increases the risk of malignancy over and above the existing risk as a result of that exposure."

That has been the subject of debate here and in other Parliaments, but I will move on to an issue that John Park raised: the use of asbestos not only in domestic properties but in schools and public buildings. Such use has already been highlighted in region that I represent, the Highlands.

The *Highland News* has been particularly vigorous in investigating Highland Council and questioned how many schools have been surveyed for risk from asbestos. There have been high-profile examples of asbestos in schools in Highland. Last year, contractors working on the roof at Nairn academy dislodged asbestos flakes,

and there were fears in the school back in 2007 when teachers were told to stop using drawing pins in walls for fear of disrupting asbestos. We still have real problems—the structure of Wick high school has been discussed several times in this Parliament and worries about asbestos in Kingussie high school remain.

The local authority's reluctance to carry out surveys of its schools leads to concerns for parents, children and teachers. As one of the leading campaigners on the subject, Michael Lees, said,

"Without knowing what asbestos is there, a school cannot manage their asbestos."

The situation with Highland Council got so bad that, in May last year, the Health and Safety Executive placed an order on the council to improve its record keeping to reduce the health risks and to do so within a year.

For all those reasons, I welcome the debate. However, because of the nature of asbestos, it can be decades before exposure issues are discovered, by which time disease has already taken control and the prognosis can be serious for many.

Legislation on asbestos is a reserved matter and all parts of the UK live with the same fears about exposure to the substance. The strategy document recognises that asbestos-related diseases are among the most under-researched diseases, although the consequences now and in decades to come are immense. If the proposals in the document can improve research, we welcome them warmly, given that it took a century from the first health warnings on asbestos to the banning of the substance.

17:17

Des McNulty (Clydebank and Milngavie) (Lab): Like Mary Scanlon, I congratulate John Park on securing a debate on asbestos-related diseases. I wish to reflect not only on what he said, but on the Parliament's record on asbestos issues, which is positive. On asbestos issues, we are at the leading edge of legislators in the world.

As John Park did, I highlight the work that Michael Clapham has done at Westminster. He has been fighting the good fight on asbestos for 20 years to my knowledge, and has been a doughty fighter on behalf of sufferers of asbestos-related diseases.

A series of surgeons, including John Edwards, have specialised in the care of asbestos patients. They have done sterling work in highlighting the circumstances and causes of the diseases, as well as possible treatments, and they have done that while recognising that treatments for asbestos-

related cancers do not provide large profits for pharmaceutical companies. Not a lot of money is to be made from creating new drugs to help treat asbestos-related diseases or developing new procedures for treating mesothelioma. There is no cure for mesothelioma; treatment just slows down the progression of the disease. Nonetheless, I feel strongly that we need research and we need expert people to improve treatments for sufferers of mesothelioma and other asbestos-related diseases. Expertise is central to doing what we need to do—ease the circumstances that people face following the diagnosis of such diseases.

The point has been made that the asbestos epidemic is not yet at its peak. Increased numbers of mesothelioma and other asbestos-related disease cases will be reported until 2015. Then, of course, there will be the long tailing-off of people who are diagnosed with those diseases. Almost all of them now have the fatal fibre in their body that will kill them. It is gradually working away in their lungs or other parts of their body to create the different forms of disease. In the case of mesothelioma, that will result in an agonising death. It must be terrible for someone to walk round with a death sentence in their body. With most cancers, people maybe get a year or two between the first signs and it becoming serious, but in the case of mesothelioma, the foreign fibre is often in the person's body for 20, 30 or even 40 years before there are signs of disease.

How much better it would be for individuals if we could identify those who have the fatal fibre in their body and provide early diagnosis, so that as soon as they showed the first signs of disease we could give them appropriate treatment. That might not save them, but it might ease the process of the onset of the disease and how it is handled.

Mary Scanlon: Does the member share my concern that, unless people know that they have been exposed to asbestos—for example, in public buildings or schools—they will never dream of being tested for it and will not get early diagnosis?

Des McNulty: That is right. Pleural plaques are a predictor of disease, but it is not certain that the outcome will be mesothelioma. That is why the work that we have done in the Parliament on pleural plaques is particularly important.

I know that the Minister for Public Health and Sport is sympathetic to the issue of treatment for mesothelioma sufferers. One of her first meetings as minister was with me and asbestos campaigners. We were arguing for the only mesothelioma treatment that was then available to continue to be allowed by the Scottish Medicines Consortium. That was a step forward in Scotland, which was then taken elsewhere. I would like to see the same kind of commitment to participation in the development group. Is it not ironic that the

Golden Jubilee hospital, which is the centre for heart and lung treatment in the west of Scotland, is on the site of the former asbestos works in Clydebank? How good it would be if the source of the problem was also where the cure was found.

17:23

Jim Tolson (Dunfermline West) (LD): I congratulate John Park on securing this members' business debate. He made a very good speech, which outlined not only the work that he has done to get to this stage but, more important, the work that he is willing to do to take this important issue forward. I wish him well in that endeavour.

As members will be aware, asbestos-related diseases are not only a problem of the past; they are an issue now and for the future. Figures from the HSE demonstrate the scale of the problem throughout Britain. More than 35,000 people died from the asbestos-related cancer mesothelioma between 1997 and 2007. To put that figure in context, it is equivalent to more than half the population of Dunfermline. The number of people dying from the disease is increasing. The latest annual figures show that 2,156 people died from the disease in 2007 alone, which is up 5 per cent on the previous year. Those figures are shocking, to say the least.

John Park's motion states:

"NHS Fife has reported that 239 people from Fife have been diagnosed with asbestos-related illnesses in the last five years".

I am sure that other members will have figures from their own health boards that show the current levels of concern.

Recent figures show that around a quarter of the 4,000 or so people who die from asbestos-related diseases each year in Britain are tradesmen such as joiners, electricians and plumbers—about 20 lose their lives each week. However, for those who have lived with someone who was exposed to asbestos there is also an increased risk of contracting asbestos-related diseases, usually through contact with their work clothes. The figures prove that the number of people who are dying of asbestos-related diseases is rising. That is a sad legacy of workplace and home practices.

Like John Park, I served an apprenticeship in Rosyth dockyard, and I continued to work there for many years on ships and submarines. I am not sure whether John Park was exposed to asbestos during his time there, but I was unfortunate enough to be in a ship's compartment at Rosyth when another worker removed lagging from pipework that was thought to contain asbestos. As a precaution, the compartment was evacuated and isolated until the presence of asbestos could be clarified. Unfortunately, asbestos was present in

the lagging and all employees who were in the compartment during the incident were placed on the asbestos register. Such incidents have occurred a few times; fortunately, strict evacuation and isolation procedures should have minimised any risk of infection.

Most of us know someone—a friend, relative or colleague—who has developed an asbestos-related illness. That is quite a sobering thought for them, their families and me.

17:26

Bill Kidd (Glasgow) (SNP): I congratulate John Park on securing this important debate on an innovative and imaginative approach to dealing with the scourge of asbestos-related diseases. We all know about his consistently hard work on employees' rights—the motion is another example of that work.

It has been mentioned that Parliament has a proud record of standing by victims of pleural plaques, asbestosis and mesothelioma. That was recognised in October last year by the award of honorary membership of Clydeside Action on Asbestos to a number of MSPs from across the parties. Des McNulty was one recipient of that award. My colleague Stuart McMillan, who unfortunately could not stay on tonight, and Gil Paterson also received it, and they have asked me to mention their support for the aims of the NCARD strategy document.

Members know that asbestos-related diseases are a scourge in our society as a result of previous industrial experience, but they are also on-going pestilences. Asbestos is still to be found in a myriad of places, from ships and mechanical equipment to houses, factories, hospitals and schools. What should we do about that? It is, of course, important that we ensure that people who exhibit the effects of asbestos exposure are given the legal support to claim insurance rights. We in Parliament ensured that last year in relation to pleural plaques.

It is also important that medical staff are afforded appropriate training so that they can recognise the symptoms of asbestos-related diseases and refer patients to the most effective treatment centres. However, to ensure that we are doing our best for fellow citizens who have contributed much to the industrial development and intrinsic wealth of our society, we should take advantage of all the potential areas of collaboration that are now available and which the introduction of NCARD looks to develop.

It is important that Scotland, which has been disproportionately affected by asbestos-related diseases as a result of our industrial heritage, should be at the forefront of developments to

identify, to treat and, I hope, eventually to eradicate such diseases from society. The sharing of top-level research in Scotland, the UK and throughout the world is the way forward in dealing with such diseases, which are, sadly, far from reaching their peak. Cases of asbestos-related diseases will continue to grow for at least the next decade.

A mesothelioma registry to track processes and outcomes and a mesothelioma biobank that supports the development of live cell-line collection with pre-diagnosis, pre-treatment, post-treatment and all-important follow-up are the way forward, and NCARD would bring that. Those things should be open to all NCARD researchers so that collaboration would be as wide-reaching as possible. That would be an invaluable tool in tackling these terrible illnesses. I hope that the Scottish Government can evaluate the benefits of such a strategy and see where we might be able to contribute best to the establishment of NCARD, as proposed in the strategy document.

17:30

Dr Richard Simpson (Mid Scotland and Fife)
(Lab): I join others in congratulating John Park on his continued actions on behalf of workers and workers rights, and I welcome the publication of the "National Centre for Asbestos-related Diseases: A Strategy Document", which makes the case for a virtual centre for research into asbestos-related diseases that would bring together the best research groups in the United Kingdom in a constructive and efficient manner.

As other members have said, asbestos is certainly not a problem of the past, and will not be for some time. Mesothelioma, lung cancer, asbestosis, pleural plaques and diffuse pleural thickening will, because of people's inhalation of asbestos fibres, be with us for a considerable time. The problem will remain one of the most serious occupational health problems in Scotland for some time to come.

As Mary Scanlon said, although asbestos has been banned here for some time, many countries still use and trade asbestos. It is worth re-emphasising the point that people need to be aware that the fact that they have been exposed allows them to have regular screening.

Between 1981 and 2005, 2,617 Scottish men died from mesothelioma and, across Britain, about 20 tradesmen die from asbestos-related diseases every week, and the number is still increasing. Estimates vary, but about 70,000 people who have already been exposed to asbestos may well die from mesothelioma in the future. The problem is disproportionate in Scotland because of our background in heavy industry; hence, the debate

today and the repetition of our call for our Government to support this area of work.

During my period as a minister, I was involved, at the behest of Des McNulty, in encouraging the judiciary to make more rapid progress in cases that were coming forward under Lord Mackay. I know that Des McNulty has been engaged in this work and has been fighting for people with asbestos-related problems for a long time. It is, therefore, only right that he should have had his work, along with that of others, acknowledged by the asbestos groups.

As other members have said, the problem is that the full condition is not curable. The plaques might not lead to the full condition, but there is an expectation that they will. Of course, the stress of living with the plaques, in the knowledge that they might well lead to the full-blown condition and, therefore, to a premature end to life, makes things extremely difficult for people.

Anti-cancer management is important and, in this session, the Government has taken action to allow treatment to continue with new drugs. Of course, those drugs can only prolong life: they cannot provide a cure.

The proposal that the national centre should be a virtual one is important. If we can get the Government to get behind that proposal, that would be valuable.

It might be possible to recoup the costs of the centre from the insurance companies. I understand that they are under pressure and are trying to avoid paying costs in respect of the conditions. Nevertheless, it should be possible to impose the costs on them, because the condition is man-made, so we as a society and the insurers have considerable responsibility for it.

17:34

The Minister for Public Health and Sport (Shona Robison): I thank John Park for raising this important issue and acknowledge his long-standing interest in it, as well as that of many members who are in the chamber this evening.

The Scottish Government welcomes last November's publication from the national centre for asbestos-related disease development group. Such publications help us to focus on what is important and what further action the Scottish Government can take to help those who suffer from asbestos-related conditions. It is deeply concerning that the latest information from the Health and Safety Executive shows that the total number of mesothelioma deaths in Scotland in the 24-year period to 2005 was 2,995. We also know that because of the latency time—up to 40 years or more—for asbestos-related diseases to

present, that number will unfortunately continue to rise, with a predicted peak in 2016. That is a shocking and appalling toll of death in Scotland, and each of those deaths represents terrible suffering.

The Scottish Government is committed to supporting those who are affected by asbestos exposure, and I will outline some of the work that we are doing—including on compensation and legislation—to help people who are suffering from asbestos-related diseases. I emphasise our commitment to supporting research into asbestos-related diseases, to further improve treatment for people with such conditions. I reassure members that we are working with the HSE to raise awareness of the risks of asbestos exposure as part of our wider cancer prevention work.

The effects of asbestos are an appalling legacy of Scotland's industrial past, and of the negligence of some employers. Financial compensation cannot erase the physical and emotional consequences of asbestos exposure, but it can offer some practical assistance to make daily life a little easier for the individuals and families who are affected.

As we have heard, a great deal of good work has already been done to ensure that there are appropriate rights to compensation for individuals and families who have been affected by negligent asbestos exposure. I am pleased to remind members that the Scottish Parliament passed two groundbreaking pieces of legislation on asbestos-related damages claims. However, the Damages (Asbestos-related Conditions) Act 2009 is currently subject to a judicial review, which has been brought about by a number of insurance companies that are seeking to challenge the will of the Scottish Parliament. The 2009 act received overwhelming support in the Parliament, and the Scottish Government believes that it is right both in principle and in law.

Thanks to the Rights of Relatives to Damages (Mesothelioma) Act 2007, which was passed with all-party support, mesothelioma sufferers who were negligently exposed to asbestos no longer face the dilemma of whether to claim in life in order to improve the quality of what life is left to them or to let their family claim after their death.

The on-going judicial review notwithstanding, both those pieces of legislation showed the Scottish Parliament working at its best, with the vast majority of MSPs working together to help those who contributed to this nation's wealth in the past and are now vulnerable.

Much of the work to help those who are entitled to compensation is facilitated by support organisations and I, on behalf of the Scottish Government, acknowledge the important

contribution that groups such as Clydeside Action on Asbestos, Clydebank Asbestos Group and Asbestos Action (Tayside) have made. Those groups have quite rightly been praised this evening, and they warrant our thanks as they work tirelessly to help those who are affected by these devastating diseases.

I turn to the work that we are doing to support research into asbestos-related diseases. I remind colleagues that the chief scientist office in the Scottish Government health directorates has responsibility for encouraging and supporting research into health and health care needs in Scotland. I am sure that many members will be aware that the CSO responds primarily to requests for funding research proposals that are initiated by the research community in Scotland, and that role is well known and advertised throughout the health care and academic community.

At present, there appears to be limited clinical interest in or discussion of establishing in Scotland a national centre for asbestos-related disease. However, we are aware of the proposal by John Edwards of the NCARD development group to the UK Government, along with a funding bid of around £5 million.

The UK Government has as yet made no decision about funding the centre, but our officials will continue to liaise with colleagues in the Department of Health as they consider the matter further. If the Department of Health makes the decision to provide core funding for the centre, the Scottish Government will carefully consider how we can best support and benefit from the resulting research and activity. I hope that that reassures members that the Scottish Government is in communication with the Department of Health on these issues.

The chief scientist office is currently funding three research projects into lung cancer at a cost of £630,000, which in turn may lead to further understanding of the condition, including its association with mesothelioma and other asbestos-related diseases. That point was well made by Des McNulty.

We are also working jointly with the Medical Research Council, Macmillan Cancer Support, Cancer Research UK, the Department of Health in England, the Economic and Social Research Council and the Health and Social Care Research and Development Office in Northern Ireland to support an initiative on supportive and palliative care for lung cancer. That initiative has supported nine grants that total £2.25 million over three years, one of which is on the management of mesothelioma-related pain.

Lastly, I turn to prevention and our work with the Health and Safety Executive. The regulation of

health and safety may be reserved to the UK Government, but I hope that everyone who is here recognises that the Government works closely with others, including the HSE, to promote the health and safety of our people. In 2008, we worked with the HSE to inform all schools about the risk from asbestos. Our Scottish centre for healthy working lives provides guidance to businesses to prevent exposure to asbestos, including by promoting the HSE's hidden killer campaign.

I am extremely pleased that much has already been done in the past 40 years to control the risks from asbestos. The use, supply and importation of asbestos and asbestos products have been banned, with only extremely limited exceptions, and any significant work with asbestos requires a licence that provides strict conditions to ensure the health of workers and members of the public.

I hope that the work that I have outlined and our willingness to work with the UK Government around the research bid will reassure members that we take supporting people with asbestos-related disease very seriously indeed. We believe that the issue has united the Parliament and that it will continue to do so as we take the matter forward. It has been a pleasure to respond to this evening's debate.

Meeting closed at 17:41.

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