The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 28 April 2010

Session 3

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Scottish Parliament

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[The Presiding Officer *opened the meeting at 14:00*]

Time for Reflection

The Presiding Officer (Alex Fergusson): Good afternoon. The first item of business, as always, is time for reflection. Our time for reflection leader today is Mrs Barbara Urquhart DCS, who is president of the diaconate council of the Church of Scotland and chair of the Scottish Churches Disability Agenda Group.

Mrs Barbara Urquhart DCS (Diaconate Council of the Church of Scotland and Scottish Churches Disability Agenda Group): I will begin with some words of Jesus. He said:

"Let me tell you why you are here. You are here to be light, bringing out the God-colours in the world. So let your light shine."

I was nine when the accident happened, and everything that took place that day seemed to do so at an alarming rate. I was taken to the doctor's, from there to the accident and emergency department at the hospital and from there to the hospital theatre. Doctors and nurses moved swiftly around me and no one had time to speak to me other than to ask my name. My eye was sore, but what was bothering me more than that was, "Where's my mum? Who are these people? What are they going to do to me?"

I woke up in my hospital bed with both eyes bandaged. Physically and, with hindsight, mentally I was in deep darkness. Jesus said, "Let your light shine." How much I needed to be aware of Jesus's light shining in my darkness at that time, and shine it certainly did in the love, cheerfulness, support, encouragement and kindness of other patients, nurses, family and friends. Jesus's light shone brightly and continued to do so. It will continue to do so if you let your light shine.

I suggest to you that you, too, have experienced darkness in your life, perhaps following the death of someone close to you. Perhaps your darkness is loneliness, ill health or a broken relationship. We do not always know when someone is going through a period of darkness in their lives—it is not always obvious—so it is important for us to let our light shine at all times. Allow the experiences that you have had to make you better people, not bitter people; use them to support and encourage others through their darkness and to assure them that there is a light at the end of the tunnel. Let your light shine.

"Not merely in the words you say, not only in your deeds confessed;
But in the most unconscious way is Christ expressed.
Is it a calm and peaceful smile, a holy light upon your brow?
Oh no, I felt His presence while you laughed just now.
For me twas not the truth you taught, to you so clear to me so dim.
But when you came to me you brought a sense of Him.
And from your eyes He beckons me, and from your heart His love is shed;
Till I lose sight of you and see the Christ instead."

Amen.

Business Motion

14:05

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-6213, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, which sets out a timetable for the stage 3 consideration of the Interpretation and Legislative Reform (Scotland) Bill.

Motion moved,

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

Groups 1 to 3: 25 minutes

Groups 4 to 7: 45 minutes.—[*Bruce Crawford*.]

Motion agreed to.

Interpretation and Legislative Reform (Scotland) Bill: Stage 3

14:06

The Presiding Officer (Alex Fergusson): In dealing with the next item of business, members should have the bill as amended at stage 2, which is SP bill 27A; the marshalled list, which is SP bill 27A-ML; and the groupings, which I, as Presiding Officer, have agreed.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for that division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after any debate. All other divisions will be 30 seconds.

Section 26—Service of documents

The Presiding Officer: We come to group 1. Amendment 1, in the name of the minister, is the only amendment in the group.

The Minister for Parliamentary Business (Bruce Crawford): Amendment 1 limits the presumption that documents that have been sent by post are delivered within 48 hours of being sent to documents that are sent to a United Kingdom address. Section 26 currently provides that documents that are sent by post are assumed to be delivered within 48 hours of being sent. That presumption would apply as the default position to documents that were sent to any address, whether in the United Kingdom or otherwise.

After further consideration, the Government believes that the presumption may be unrealistic for addresses outside the United Kingdom. The efficiency of postal services in countries in which documents might be served has to be taken into account. If provision is needed in respect of the presumed delivery of documents that are served outside the United Kingdom, it will be more appropriate to address that in the particular bill or Scottish statutory instrument. Consideration could then be given, in the context of the particular policy area, to the countries in which it is expected that documents will be served, and to the types of documents that will be served. That will ensure that a reasonable period is set for the presumption of delivery that is tailored to the legislation in question, thereby properly implementing the policy underpinning the provisions.

The Government believes that that is necessary because of the range of matters for which the provision would have to provide rules. For example, different provisions might be appropriate for notices or service of legal documents under

contract law or in relation to family matters. That is why we propose to limit the current provisions to the United Kingdom.

I move amendment 1.

Amendment 1 agreed to.

Section 27—Definition of "Scottish statutory instrument"

The Presiding Officer: We come to group 2. Amendment 2, in the name of the minister, is grouped with amendments 3 to 5 and 8.

Bruce Crawford: The amendments make technical adjustments to the definition of statutory instrument. They deal with two main areas.

Amendments 3 and 5 deal with the rules of court, and are intended to simplify the route to classifying as SSIs acts of adjournal and acts of sederunt, which are types of instrument that are used to make court rules.

In its stage 1 report, the Subordinate Legislation Committee asked the Government about the classification of court rules as Scottish statutory instruments. At the moment, the bill provides for them to be SSIs, but to work that out, we would need to look to the parent act—the Law Reform (Miscellaneous Provisions) (Scotland) Act 1966—and section 27 of and schedule 2 to the bill, which is unhelpfully convoluted. Amendment 3 simplifies the position by providing for every act of adjournal and act of sederunt to be an SSI. We have consulted the Lord President of the Court of Session on the changes and he supports them.

Section 27 currently provides that all orders, rules and regulations and all orders in council are to be SSIs automatically. In some cases, the legislature has provided—and, in future, this Parliament may wish to provide—an exception to the default rule. The bill already allows for that in relation to orders, rules and regulations by providing that they are not to be SSIs if the legislature makes provision to that effect. No such exception is currently made for orders in council. Amendments 4 and 8 will extend the exception to cover orders in council, acts of adjournal and acts of sederunt.

I move amendment 2.

Amendment 2 agreed to.

Amendments 3 to 5 moved—[Bruce Crawford]—and agreed to.

Section 28—Instruments subject to the negative procedure

The Presiding Officer: We move to group 3. I call amendment 22, in the name of Helen Eadie. I was going to call Helen Eadie to move amendment 22—[*Interruption*.] Ms Eadie, you are late for this group of amendments, which is not helpful. You are due to speak.

I repeat: I call Helen Eadie to move amendment 22 and to speak to the other amendment in the group.

Helen Eadie (Dunfermline East) (Lab): My apologies to the chamber.

The purpose of the amendments is to provide a procedure that enhances the opportunity for parliamentary scrutiny of SSIs that are subject to negative procedure while meeting the concerns of the Government that the procedure does not impede the effective and efficient delivery of Government business.

Amendment 22 would increase from 28 to 40 days the minimum period before such an instrument could come into force after being laid before the Parliament. Its effect is to ensure that the Parliament has an opportunity to annul the instrument before it comes into force. Amendment 24 is intended to meet the Government's objection that that system would be impracticable, particularly during the summer recess, because it would mean that such instruments could not come into force, without breaching that rule, not just for the additional period of 12 days—that is, 28 days plus 12—but for the additional period of 76 days.

Amendment 24 is intended to address that objection by providing that, in calculating the 40-day period for this purpose, no account is to be taken of any period during which the Parliament is in recess for more than 16 days, and not just the four days that are currently provided for. The amendment would mean that, unlike in the present position, the 40-day period before an SSI can come into force would not stop running during the shorter recesses in February, at Easter, in October and, depending on the length of the holiday, at Christmas. As I pointed out at stage 2, that would mean that an SSI could come into force earlier than it could under the terms of the bill. However, the period would stop running after the 16th day during the summer recess. In effect, that would mean that the period of 40 days during the summer recess would be calculated in such a way as to achieve precisely the same result as would be achieved in calculating the period of 28 days under the terms of the bill.

In my opinion, the minister has not considered the combined effect of the amendments and has treated them as stand-alone. The minister also seems to have failed to realise that, in the case of the summer recess, amendment 24 would have precisely the same effect as his proposal to have a 28-day laying period. In the case of the shorter recesses, it would be more beneficial to the Government's position because, as I stated at

stage 2, SSIs could be brought into force slightly earlier than under his proposals in the bill.

14:15

The only other argument is that it might be confusing to calculate the 40-day periods differently for different purposes. However, the key point is that this is being done for different purposes—one to calculate the period for annulment and the other to calculate the period before the instrument can come into force. As such, I question whether it is really as confusing as has been said.

It is necessary to take into account the reason for the difference: it is simply to accommodate the minister's concern that, particularly over the summer recess, it would be impracticable for both periods to be the same. The amendments seek to minimise those concerns by devising a way of ensuring that, at least over the summer recess, the practical effect is the same as the minister's proposal for 28 days. In an ideal world, the way of calculating the 40-day periods for both purposes would be the same.

The minister also stated at stage 2 that any move to a 40-day period would result in the constitutional irony of affirmative instruments progressing through Parliament more quickly than negative instruments. He said that members should view that with concern. However, the hard reality is that that could also be the case under the bill, because there are no time periods for affirmative instruments

It seems to me that what is fundamentally wrong with the minister's arguments is that he has simply misunderstood the combined effect of the amendments. He has treated what is now amendment 22 on its own and made the same arguments against extending the laying period to 40 days as he used at stage 2, without realising that amendment 22 has to be read with amendment 24. He has also failed to realise that the effect of amendment 24 in the case of the summer recess would be precisely the same as his proposal to have a 28-day laying period. In the case of the short recesses, that would be more beneficial to the Government's position because, as stated at stage 2, SSIs could be brought into force slightly earlier than under his proposals in the bill.

At stage 2, Dr Ian McKee stated that the Subordinate Legislation Committee, in its 12th report in 2008, came to the unanimous view that to extend from 21 to 28 days would be unworkable. That view was arrived at before the committee started its scrutiny of the bill, so I counter that argument by saying that the committee heard from witnesses, when we took evidence at stage 1, that the proposal would be workable.

The minister also said at stage 2 that the concept of subordinate legislation arose initially from a recognition of the need to allocate valuable parliamentary time to allow the Parliament proper control over how it focuses its scrutiny. He said that the amendments would cut across that approach without giving the Parliament or the Government proper opportunity to consider the consequences. This point is not understood: Parliament delegates its legislative power to the Government and has a constitutional right to supervise how it is exercised. The real question is how to maintain the balance between the Government and the Parliament.

I move amendment 22.

Ian McKee (Lothians) (SNP): Helen Eadie might not find her explanation confusing, but I venture to suggest that the massed ranks of the Labour Party behind her find it extremely confusing—in fact, they probably still study the text before they come in to speak.

The matter that we are discussing could misguidedly be construed as an argument between the Government and the Parliament, but two points must be made. First, whatever we decide to do today will affect the process of government for many years. During that time, Governments might change. I hope not, but those who are in opposition today might form a Government in the future. Secondly, although it is not in the interests of the Parliament or the people of Scotland to have rushed legislation, it is also not in the public interest to have inordinate delays in the system—a sort of parliamentary constipation—or a confused system.

It was probably for this reason that the then Minister for Parliamentary Business, Margaret Curran, proposed in November 2006 that the 21-day period be extended to 28 days, a position that was accepted after extensive evidence taking, as Helen Eadie said, by the Subordinate Legislation Committee and which is contained in our report of 2008, which had the unanimous support of the committee, including Helen Eadie. That report was made after we took evidence from many witnesses. The witnesses who gave evidence on this bill were, to a large extent, the same witnesses whose account had been listened to and then discounted by our committee, including Helen Eadie. Furthermore, a sample of committee conveners consulted at the time all agreed that the 28-day proposal was very much to be welcomed.

Even on reflection, I am sure that the recommendations of successive Ministers for Parliamentary Business and of our own committee are still valid, so I oppose amendments 22 and 24.

Bruce Crawford: Amendment 22, in the name of Helen Eadie, would, as she says, increase to 40 days the minimum period between laying before the Parliament an instrument that is subject to negative procedure and its coming into force. The minimum period at present is 21 days. The bill already provides for that period to be increased to 28 days. I must admit that I was surprised that Helen Eadie brought back these amendments, following the discussion at stage 2. As recognised by Ian McKee, having taken evidence and carefully considered the issues, the conclusion reached by the Subordinate Legislation Committee in its 2008 report, which formed much of the basis of this bill, was that increasing the minimum period to 40 days would probably be unworkable. In reaching that conclusion, the committee considered evidence that it received from the then Minister for Parliamentary Business, Margaret Curran, who said that a move to 40 days would cause

"considerable difficulties in keeping the show on the road."—[*Official Report*, *Subordinate Legislation Committee*, 21 November 2006; c 2131.]

The idea of increasing the period to 40 days was raised again in the Subordinate Legislation Committee's stage 1 report. Committee members were divided on the issue. I concede that there was some feeling that the evidence that the Government had given for opposing such a move reflected worst-case scenarios, and members called for further examples before stage 2. The Government responded properly and provided those examples. After reflection on them, an amendment with terms identical to those of the amendment that we are considering now was voted down by the committee at stage 2. Liberal Democrat, Conservative and Scottish National Party members voted against the amendment, with only Labour members being in favour.

Let me briefly set out again the robust and reasonable case that the Government—and, for that matter, previous Governments and Labour ministers—made for setting the relevant period at 28 days. The decision was taken after close consideration and analysis of the broader constitutional framework and the day-to-day, practical impact on stakeholders. A move to 40 days would significantly reduce the speed with which Governments and the Parliament can transact business. That would be to the detriment not of Governments, which do not make statutory instruments for their own good, but of the people of Scotland. Such a move would also damage the Parliament's reputation.

The Government's formal response to the committee's stage 1 report offered what I consider to be a thorough, comprehensive and conclusive analysis of the practical difficulties that would arise. Increasing the period to 40 days would significantly reduce the speed and efficiency with which the Government and the Parliament can transact business. Although the difference between 28 days and 40 days is nominally only 12 days, obviously, it must be remembered that parliamentary recesses are not counted in the number of days.

If the proposal was applied in the current year, only instruments that were laid on 5 and 6 January, between 12 April and 16 May and between 25 October and 10 November could complete the necessary 40 days before the start of the next recess. On average, a negative instrument that was laid under a 40-day regime would take about 54 days to come into force. An instrument that was laid between 27 May and 28 June would take 103 days to complete scrutiny and an instrument that was laid between 29 June and 3 September would take anything up to 119 days to complete scrutiny.

As I explained in my letter of 12 February to the Subordinate Legislation Committee, such impacts cannot be addressed through improved management of Government business. It is the responsibility of any Government to ensure that its legislative proposals can be progressed without undue delay. Although it is true that amendment 24 seeks to make some attempt to lessen the impact by providing a complex mechanism for calculating the 40-day period, in practice it would alter only the points of the year at which problematic gluts of instruments would occur.

To Helen Eadie I say, as gently as I can, that I fully understand the implications of amendment 24. It would give rise to considerable complexity and confusion, and its illogicality is also revealed in the mechanism for lessening its otherwise absurd effects. There is no reason why, at some points of the year, 28 days is thought to provide sufficient scrutiny time while at others 40 days is required. Such an approach is frankly inconsistent with the bill's entire ethos.

The Presiding Officer: I am afraid that I must hurry you, minister.

Bruce Crawford: As the bill's whole purpose is to remove additional and unnecessary layers of complexity, I ask the Parliament to reject amendments 22 and 24.

The Presiding Officer: Mrs Eadie, I can give you one minute to wind up and indicate whether you are pressing or withdrawing amendment 22.

Helen Eadie: I welcome the fact that the period is at least being increased from 21 to 28 days. That will be good news for the Subordinate Legislation Committee. I should also set the record straight for Ian McKee yet again: the committee did not reach a unanimous decision in the private session at stage 1. For a start, Margaret Curran

and Jackson Carlaw were not present, there was a division, and, indeed, the convener of the committee supported some of the arguments that I advanced.

That said, I listened to what the minister said and I accept a great deal of it, although there are certain aspects that I will hold on to for another occasion. However, I am content to withdraw amendment 22.

Amendment 22, by agreement, withdrawn.

Amendment 24 not moved.

After section 28

The Presiding Officer: We come to group 4. Amendment 25, in the name of Helen Eadie, is the only amendment in the group.

Helen Eadie: Amendment 25 seeks to remove another defect by allowing an instrument that is subject to negative procedure to be amended to address technical points that the Subordinate Legislation Committee has raised, without having to restart the clock on the 28-day period—or what would have been the 40-day period if amendment 22 had been agreed to—that is set out in sections 28(2) and 28(3).

One problem with negative procedure is that it does not readily allow for amendments to be made to an instrument to meet the vast number of technical points that the Subordinate Legislation Committee receives and raises. Such instruments cannot simply be withdrawn; they have to be revoked. A new instrument then has to be made and laid in compliance with both the 28-day period before it can come into force and the period for its annulment. An instrument that is subject to affirmative procedure does not suffer from such defects: because it is laid in draft form, it can be withdrawn and relaid without incurring any time penalty.

Amendment 25's intention is to allow instruments subject to negative procedure to be revoked, remade and relaid without suffering such a penalty by providing that the new instrument effectively takes the place of the old instrument as far as the time periods are concerned. The only qualification is that only amendments that are intended to address technical points that the Subordinate Legislation Committee has raised, and which have been certified by the committee convener, can be made.

One might object to amendment 25's reference to the Subordinate Legislation Committee, as it is not the practice to refer to named committees of the Parliament. However, the Subordinate Legislation Committee is a mandatory committee under standing orders and it is unlikely to change its name. It is not thought that there is any other way of restricting amendments to those that deal with the Subordinate Legislation Committee's technical points and one might well argue that permitting policy amendments that address points that have been raised by, for example, subject committees would be going too far and might be undesirable.

I move amendment 25.

14:30

Bruce Crawford: If I understand the position correctly, amendment 25 derives from recommendation 16 of the Subordinate Legislation Committee's 12th report of 2008, "Inquiry into the Regulatory Framework in Scotland", which is the precursor to the bill. Given the report's contents, I understand the intention to create a procedure to deal with minor and technical changes—matters that do not relate to policy, do not affect the validity or meaning of the instrument and have no other substantive legal effect. As required by that report, the proposal was considered carefully and fully by officials representing both the Parliament and the Government, and their conclusion was that it was not possible to create a procedure to deal with this matter that was both proportionate and practical. As a result, the Subordinate Legislation Committee agreed that it should not be pursued as part of this programme of legislative reform.

Amendment 25 shows us why that was agreed. What the amendment proposes would be unduly onerous, would have little practical benefit and would create complication where none need exist. As I have said before, one of the bill's main aims is to create a simple, workable regime for us to work with. Amendment 25 would cut across that aim. Its proposed procedure would be cumbersome and resource intensive for both the Government and the Parliament. It would require additional procedures for both and amendments to the standing orders for matters which, in any event, are normally dealt with as soon as practicable. Amendment 25 runs counter to the bill's attempt to simplify and streamline subordinate legislation procedure, as it would introduce an unnecessary and entirely disproportionate level of complexity.

The simple fact is that the Government fully accepts, as did previous Governments, its responsibility to ensure that SSIs are competent and correct before they are laid before the Parliament. Where errors occur—I accept that they will occur from time to time—it is right and proper that any Government accepts the consequences. If we get something wrong, we are committed to correcting the mistake transparently and in a way that enables the Parliament, including both the lead committee and the Subordinate Legislation Committee, to give the

revised instrument full consideration, so I do not favour a shortcut measure of the kind proposed in amendment 25, which would not assist the Parliament or make the system more effective or efficient. In short, what the amendment proposes is unnecessary, complex and disproportionate. I therefore urge members to oppose amendment 25.

The Presiding Officer: I call Helen Eadie to wind up very briefly and either press or withdraw amendment 25.

Helen Eadie: I hear what the minister says and I welcome his acknowledgement that the issue behind amendment 25 was initially raised as a concern by the Subordinate Legislation Committee. It may well be that, by the time the Subordinate Legislation Committee's next annual report is being prepared, the minister will be persuaded to look at the issue again. I feel certain that the monitoring that the committee is now establishing will illustrate clearly the extent to which errors occur every year. However, having heard what the minister said, I will accept his view for today. I therefore seek to withdraw amendment 25.

Amendment 25, by agreement, withdrawn.

Section 33—Combination of certain powers

The Presiding Officer: We come to group 5. Amendment 6, in the name of the minister, is grouped with amendment 7.

Bruce Crawford: Section 33(4) provides that where a statute imposes additional obligations on the person making an instrument—for example, a requirement to consult on a draft instrument before it is laid before the Parliament—those obligations remain. Amendment 6 is a straightforward drafting amendment that is intended to clarify the meaning of section 33(4) by improving its language.

Amendment 7 is intended to address an issue that Helen Eadie raised at stage 2. Members of the Subordinate Legislation Committee will recall that section 33 will allow powers that are subject to different parliamentary procedures to be exercised together in a single instrument. Helen Eadie asked whether section 33 goes too far and whether some procedures should not be displaced by the combination of powers. The only example that the Government has identified that might theoretically create a difficulty is class 3 instruments, which involve the so-called emergency procedure. Under emergency procedure, an instrument can come into force straight away, but can remain in force only beyond a certain period if the Parliament approves it.

It was never intended that section 33 should be used to combine powers subject to the emergency procedure, so amendment 7 will ensure that that can never happen, which I hope will put members' minds at rest. I am grateful to Helen Eadie for bringing the point to my attention and, of course, for all of the careful consideration that she has devoted to such issues over recent months.

I move amendment 6.

Amendment 6 agreed to.

Amendment 7 moved—[Bruce Crawford]—and agreed to.

Schedule 2—Scottish statutory instruments: transitional and consequential provision

Amendment 8 moved—[Bruce Crawford]—and agreed to.

Schedule 4—Application of Part 2 to statutory instruments laid before the Parliament

The Presiding Officer: We come to group 6. Amendment 9, in the name of the minister, is grouped with amendments 10 to 15.

Bruce Crawford: This is a suite of technical amendments. They deal with the treatment of UK statutory instruments that are subject to procedure in the Parliament. Schedule 4 to the bill already provides that references to "Scottish statutory instrument" in sections 28 and 30 can be read, where required, as applying to UK statutory instruments. The amendments will provide for references to "Scottish statutory instrument" in section 31 to be read, where required, as applying to UK statutory instruments.

It might be helpful if I explain that section 31 sets out the consequences of failure to comply with the requirements for the laying of instruments that are provided for in sections 28 and 30. The consequence is a requirement that the responsible authority explain in writing to the Presiding Officer why the laying requirements were not complied with. Section 31 also provides that failure to comply with the requirements for the laying of instruments does not affect the validity of such instruments.

The amendments will ensure that the terms of section 31, which deals with the consequences of failing to lay an instrument, apply to UK statutory instruments in the same way as they apply to Scottish statutory instruments. That will ensure that UK instruments and SSIs are treated consistently in the Scottish Parliament.

From that easy and simple-to-understand position, I move amendment 9.

Amendment 9 agreed to.

Amendments 10 to 15 moved—[Bruce Crawford]—and agreed to.

Long Title

The Presiding Officer: We come to the final group. Amendment 16, in the name of the minister, is the only amendment in the group.

Bruce Crawford: I have lodged an amendment to the bill's long title. The long title sets out the bill's principal purposes and gives a general indication of its contents. Long titles can be, and have been, used as an aid to the interpretation of the operative provisions in legislation. It is therefore important that the long title properly reflects the content of the bill as passed by the Parliament.

Amendment 16 is a simple consequential amendment to ensure that the long title properly reflects the bill's content following the removal of part 4 at stage 2. Part 4 would have provided the Government with a power to make minor changes to legislation to facilitate the consolidation of legislation. In its stage 1 report, the Subordinate Legislation Committee expressed concerns about that power and recommended that it be removed at stage 2. The Government accepted that recommendation and part 4 was duly removed at stage 2. Amendment 16 ensures that the bill's long title reflects that change.

I move amendment 16

Amendment 16 agreed to.

The Presiding Officer: That ends consideration of amendments.

Interpretation and Legislative Reform (Scotland) Bill

The Presiding Officer (Alex Fergusson): The next item of business is a debate on motion S3M-6167, in the name of Bruce Crawford, on the Interpretation and Legislative Reform (Scotland) Bill. I invite Bruce Crawford to speak to and move the motion, in around six minutes please, minister.

14:39

The Minister for Parliamentary Business (Bruce Crawford): I take this opportunity to thank both the Subordinate Legislation Committee and the Standards, Procedures and Public Appointments Committee, and their officials, for their hard work in scrutinising the bill.

This truly collaborative enterprise has involved the Parliament and the Scottish Government working together constructively for the greater good. As I have said before, it is an exemplar for the future. The importance of the bill was clearly demonstrated by the willingness of the committees to engage with the Scottish Government both in public and in private in order to explore and better understand the provisions in the bill and their effect. The in-depth understanding that all concerned have of the matters that are legislated for in the bill is reflected in the quality of the final product.

I also take this opportunity to express my sincere thanks to the external stakeholders who contributed to both the Scottish Government's and the Parliament's consultation exercises.

As members might be aware, the bill will repeal the remaining transitional orders made under the Scotland Act 1998. The orders were of use in that they allowed the Scottish Parliament immediately to start the important work of governing for the people of Scotland at the outset of devolution. They are being replaced with wholly Scottish provisions on legislative interpretation and procedure in devolved Scotland, decided on by this Parliament. After 10 years, that can only be right.

The bill deals with the publication, interpretation and operation of acts of the Scottish Parliament and instruments made under them; the making of subordinate legislation, the definition of a Scottish statutory instrument and the scrutiny procedures that will apply in the Scottish Parliament; the publication of Scottish legislation, both in print and on the web, and its preservation for future generations; and the procedure that applies to orders that are subject to special parliamentary procedure.

The bill implements the Subordinate Legislation Committee's 12th report of 2008, on its inquiry into the regulatory framework in Scotland, and takes account of the subsequent comments of both the Standards, Procedures and Public Appointments Committee and the Subordinate Legislation Committee, as well as the responses to the consultations on the bill that were carried out by the Government and the Subordinate Legislation Committee.

For example, the bill takes a modern approach to the application of legislation to the Crown and makes it clear how instruments that are made using powers derived from both Westminster and Holyrood are to be interpreted.

We have simplified where possible and clarified where we can. For example, section 27 sets out clearly what is included in the term "Scottish statutory instrument" and section 30(4) sets out clearly which instruments need not be laid before the Parliament. As recommended by the report, we have streamlined the number of classes of instrument and procedures to be followed. That simplification is long overdue and it will be much appreciated.

We have also listened to the concerns that were expressed at stage 2 and provided that emergency instruments, because of their special circumstances, may not be combined with any other procedure.

We have ensured that Westminster instruments and Scottish instruments that are being scrutinised by this Parliament will go through the same procedure. That creates certainty for the public and practitioners alike.

The issues that are dealt with in the bill are all highly technical matters and I appreciate the amount of time and effort that the members of both committees have put into considering the bill's provisions. That has ensured that we will put in place provisions for the interpretation of the law and the scrutiny of subordinate legislation by the Parliament of which we can be proud.

Before I finish I commend once again the close co-operation of the Parliament and the Scottish Government on this very important bill. I hope that it is an example that we can follow in other cases.

I move,

That the Parliament agrees that the Interpretation and Legislative Reform (Scotland) Bill be passed.

The Presiding Officer: I should have pointed out that, because the Parliament did not divide during consideration of amendments, we have a few minutes in hand, so I do not need to be too strict about the length of speeches. I call Paul Martin to speak on behalf of the Scottish Labour Party.

14:44

Paul Martin (Glasgow Springburn) (Lab): Your kindness overwhelms me, Presiding Officer. We have all recognised the importance of what has been a highly technical bill. I have said before that it is important legislation and that the subject has been debated since the birth of the Parliament way back in 1999. We have debated the issues and challenges surrounding the delivery of SSIs throughout the subject committees.

Like others, I pay tribute to the Subordinate Legislation Committee for its hard work and diligence. Their hard work is tedious and it requires experience and considerable diligence. I commend the committee and the clerks for their hard work on the bill.

I will deal with a myth that is peddled in the Parliament—that business managers select members for the Subordinate Legislation Committee to punish them for past endeavours. I assure members that Helen Eadie, Rhoda Grant and Margaret Curran were not appointed to the committee as a punishment; their membership is in recognition of their vast experience in the Parliament and in interrogating important bills that must be passed. The Scottish Labour Party congratulates those members and I hope that they will have many more years of enjoying the committee's endeavours.

Bruce Crawford: Particularly Margaret Curran.

Paul Martin: A reference has been made from a sedentary position to Margaret Curran. I assure members that she, too, is a diligent member of the committee. I wish her good luck in the years to come and in—I hope—a new role.

In the stage 1 debate, I raised issues about the publication and accessibility of acts. The committee acknowledged that

"legislation is ... most readily accessed online and accepts that print copies of Scottish legislation should no longer be the primary means for making legislation available."

However, members might recall that I agreed with the committee's statement that

"the provisions of the Bill as introduced appear to fall short in terms of preservation of Scottish legislation."

I am delighted that the Government lodged stage 2 amendments to deal with that and I am satisfied that we have found a way forward that will preserve legislation for the future.

We have heard from Helen Eadie—I am glad that she arrived in time for the debate—who presented several challenges to the minister. To be fair to him, when I examined the *Official Report*, it became clear that he was looking for a way forward. The increase from 21 to 28 days to which Helen Eadie referred involved a positive exchange and is most welcome to Labour members. I advise

the minister that it is important that we continue to examine the system, to ensure that committees are given ample opportunity to interrogate bills and SSIs. I commend the minister for the comfort that he has provided on that point.

We all agree, and I repeat, that the bill is of course highly technical. The debate has not been highly addictive for those who queued for tickets to the public gallery, but the bill is important and deals with arrangements that we have called several times for a review of. We will support the motion to pass the bill at decision time.

14:48

Jackson Carlaw (West of Scotland) (Con): They say that if a politician is given a microphone, they will normally find plenty to say to fill the time that they have, but I assure the Presiding Officer that he will have every opportunity to extend the time of others following my brief speech.

Rarely can the timbers of this relatively new Parliament have shivered with so much excitement as they have during the bill's progress through the committee rooms and the chamber. I will pay tribute to various people who have added to our excitement, enjoyment and understanding in dealing with the bill. The Subordinate Legislation Committee's convener, Jamie Stone, managed to do what only Adam Boulton managed to do with Sky's Scotland debate—to breathe life into something that would otherwise have been horrendously parochial. The convener did a splendid job of ensuring that we got through the business of considering extremely technical amendments with care.

I was going to say to the Presiding Officer—who has left the chair—that I admired the gallantry that he showed in forcing Mrs Eadie to continue without interruption on entering the chamber after her personal rehearsal for the women's half-marathon. I feared for her wellbeing at one point. However, the committee thanks Mrs Eadie for the comprehensive and detailed way in which she shared with us, especially at stage 2, the extensive briefing that she had managed to amass on the numerous amendments that she wanted the committee to have an opportunity to consider. Although, ultimately, we did not share the conclusions at which she arrived, many members were grateful to her for the work that she did to highlight some of the issues.

I thank the minister for the way in which he co-operated with the Subordinate Legislation Committee throughout the process. Today he has resisted the temptation to make his remarks in any way exciting. I do not know whether that is his normal modus operandi but, given that this was a moment for him to shine, I know that he will have enjoyed taking the bill through the Parliament so safely and negotiating the withdrawal of the amendments that were to be considered.

For me, the only real issue of concern was the Balmoral question, which was addressed at stage 2 and to which the minister alluded in evidence to us. I was grateful to him for the way in which he was able to accommodate concerns that might have been expressed about the position of the sovereign in the consideration of legislation by the Parliament. I know that that will come as an enormous relief to all those who sit behind him on the nationalist benches.

The highlight of the stage 1 debate was the intervention by Dr McKee, who acknowledged that the other parties represented in the chamber that have yet to form a Government in Scotland will look forward to that prospect. At that point, I saw Patrick Harvie sit forward with due attention; I, too, perked up. I do not know whether Dr McKee was anticipating a Conservative-Green coalition from 2011. That may be what it takes—stranger things could happen. Dr McKee's key point was that, ultimately, there is a requirement for the Parliament to ensure that, although instruments are debated in committee, they are able to progress through the Parliament. I say that as the spokesman in this debate for the one party with substantial representation in the Parliament that has not yet formed part of a devolved Administration in Scotland. The minister made the point that the consequences are not merely political arguments between politicians, but instruments that have a practical effect on the lives of individuals in the country. If we were to delay those instruments—at one point, the minister said that there was the potential to do so for 119 days—the consequences for individuals would be considerable.

Like other members, I am happy to conclude by thanking the clerks and all those who gave evidence to the committee, who have allowed consideration of a technical, necessary, rather dull but worthwhile bill to come to its conclusion. In its quiet way, the bill will improve the business of the Parliament and the legislation that we promote.

14:53

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I speak this afternoon both as my party's representative in the debate and as the convener of the Subordinate Legislation Committee. I regard the convenership of the committee as a singular mark of my leader's sincere favour. His predecessor, Nicol Stephen, showed similar favour to me when he promoted me from the Enterprise and Culture Committee to the Subordinate Legislation committee during the previous session.

On a serious note, I thank the clerks, not just to the Subordinate Legislation Committee, but to all committees that have been involved in the bill process. On behalf of all members of the Subordinate Legislation Committee, I offer sincere thanks to the legal team, which at all times kept us right on a subject that is quite taxing for people who are not up on the law of Scotland and the United Kingdom. As Jackson Carlaw generously referred to me, I equally generously refer to colleagues on the committee, who at all times showed a degree of application and dedication to what I have already described as a complex subject.

In absolute fairness, I take this opportunity to refer to colleagues and former colleagues who were members of the Subordinate Legislation Committee during the previous session, because the process was kicked off under the convenership of Dr Sylvia Jackson. The previous Subordinate Legislation Committee laid the foundations for much of the work that we went on to do and that will be completed today.

On a personal note, I thank the Minister for Parliamentary Business for his accommodating attitude at all times. Both formally and informally, he has come a long way to meet us in the middle and to try and deliver something acceptable to both sides. It would be wrong not also to mention the team that the minster has had behind him, in Her Majesty's civil service. That is why we are where we are today.

On Helen Eadie's amendments, I give credit where it is due. Helen has tracked the various issues constantly, and she has put an enormous amount of time and effort into that work. I acknowledge the gracious manner in which she did not press her amendments today. Certainly, on the issue relating to timescale, some of us on the committee, in not agreeing with Helen Eadie—I hope in a fair and friendly way—felt that we were in danger of bringing the Scottish Parliament and its procedures into some disrepute if we laid ourselves open to the accusation of unnecessarily drawing out processes. The press is critical sometimes, and we want to be seen to demonstrate that we are acting as efficiently as we possibly can. I acknowledge Helen Eadie's contribution.

The bill is about improving the process of governance. It is about how we probe and evaluate that governance. It is about the Government and the Parliament acting as counterbalances. In a small way, as Jackson Carlaw said, today demonstrates that the Scottish Parliament, and indeed the Scottish Government, are coming of age. We have now broken free from the 1998 transitional arrangements. We have taken them, and we have changed them. The bill that we will, I hope, agree to later today is something that we can say is our own. We have made it ourselves—it is not something that we have inherited from a Westminster act, albeit a well-intentioned one.

We might take different views on how far we wish to stray from the intent of the Scotland Act 1998, and that is reflected through the different views of the parties that are represented in the chamber, but the point is that we have grown up. In a small way, as Jackson Carlaw said, what we are doing today will improve the processes of both the Scottish Parliament and the Scottish Government. I commend the bill to the Parliament.

14:57

Ian McKee (Lothians) (SNP): I am sure that you will agree, Presiding Officer, that this is a momentous occasion in the life of a member of the Subordinate Legislation Committee. The Interpretation and Legislative Reform (Scotland) Bill is the first bill in the Parliament for which we have been the lead committee. Usually, most of the committee's work lies in preparation, with its actual meetings lasting a brief few minutes. Indeed, I believe that we hold the parliamentary record for that.

How things changed when the bill came before us, with long, complex sessions, including, so I am told, the longest witness answer ever heard in the Scottish Parliament. That is what comes of asking lawyers to give evidence to a committee. I said complex. To be frank, the complexities could have overwhelmed us had it not been for the skilled, diplomatic and tactful support of our legal team and the committee clerks, for which I am sure every committee member owes a deep, deep debt of gratitude—not only committee members but all members, given the vital role that they play in appropriately scrutinising the Government's legislative output.

I add my thanks to the expert witnesses, who gave up so much time to help us through proceedings.

Through the bill, the Parliament has managed to move on from the temporary measures that were adopted when it was established 10 years ago, so that we now have our own bespoke method of dealing with legislation, as befits a mature democracy. The scrutiny process has been marked by remarkable co-operation between Government and committee, with many of our suggestions and proposed amendments to the bill being willingly accepted by the Government. I give the Government credit for that.

Members will be relieved that time limitations prevent me from covering every aspect of the bill, despite the generous offer that the Presiding

Officer made earlier. I am particularly pleased that we have clarified the procedure to be adopted when powers are combined—it is covered in section 33—and that the higher power will always take precedence.

We had considerable debate about the future of the Queen's printer for Scotland, in this electronic age when communication is more likely to be by e-mail, rather than letter. We considered that information technology has not yet progressed to the point at which we can completely dispense with the printed record. It was pointed out to us that some libraries hold books that are hundreds of years old, and we could not guarantee that electronic copies could last so long. Therefore, the office of the Queen's printer for Scotland will still have an obligation to produce at least some hard copies of acts and statutory instruments, so that they can be preserved for posterity. The approach will avoid a name change for the official in question; "Queen's e-mailer" does not sound quite so important, does it?

A debate has rumbled on for years about whether 21 days, 28 days or 40 days should be the minimum period before a statutory instrument that is subject to negative procedure can come into force after being laid before the Parliament. I join in members' admiration of Helen Eadie for sprinting to the tape to give a concise explanation of the complicated suggestions in that regard. The issue has been settled today and for that we are truly grateful. All proposals were well thought out and all had merit, but a final decision had to be made and we can now move on to a new era in the management of legislation in the Parliament.

At first sight, the bill might seem formal and dull, but it is really exciting. It modernises how we do our business and allows our Parliament to go about its work more efficiently. Members of the Subordinate Legislation Committee have largely thrown aside political attitudes and worked together—mainly harmoniously, despite the evidence of today's debate—to ensure the best possible outcome.

I would like to quash the rumour that the Scottish National Party punishes its members by appointing them to the Subordinate Legislation Committee—I would like to do that, but I have been on the committee for my entire time as a member of the Scottish Parliament, so I think that there might be truth in the rumour. In the context of comments that members have made in the debate, I will say that there has been a bit of a suspicious link between some Labour members' appearance on the committee and their supposed indiscretions in the past. However, I am certain that that is a mere statistical aberration rather than a representation of the truth of the matter. I am certain that I and Helen Eadie will serve many, many more months on the committee, so I hope that I am correct in my assumption.

This is a good bill, which has been dealt with co-operatively by all parties. I commend it to the Parliament.

15:02

Helen Eadie (Dunfermline East) (Lab): I thank the Subordinate Legislation Committee clerks and members. It is appropriate, too, to congratulate the minister on his collaborative approach. He and his officials handled all the issues that the committee raised in an efficient, friendly and responsive way. We welcomed that.

As Ian McKee said, the Subordinate Legislation Committee has made history in two ways. It was lead committee on a bill for the first time, and, as the *Official Report* shows, its members heard the longest answer ever given by a witness to a committee of the Parliament—at least, that is what Ian McKee and other committee members said. I leave it to members to identify the witness in question. I will spare him the embarrassment of naming him in the chamber. I know who he is and he knows who he is.

Until now, the transitional arrangements have been regulated by transitional orders made under the Scotland Act 1998. Although the bill is short it is highly important from a legal point of view. It deals principally with technical matters, and given the legal nature of its content it will be of most interest to academics and the legal community. It contains only one new measure to make it easier to manage the process of consolidating legislation; it broadly restates the existing law, with amendments where appropriate, to clarify and modernise the legal position. However, Jackson Carlaw tried on more than one occasion to persuade committee members that the bill was "thrilling reading"—the *Official Report* shows that he used those words.

A range of issues emerged during our consideration of the bill. We considered whether documents could be served electronically and whether the Keeper of the Records of Scotland could keep records in electronic form or whether they must be available in hard copy. We talked about consolidation acts, acts of the old Parliament of Scotland, effects on warrants and byelaws and the integration of European Union law. We took evidence on the implications of changes in EU law. The citizen is entitled to see changes in EU law in British or Scottish regulations before such changes become binding on him.

There were only 17 responses to the Government's consultation, perhaps because of its highly technical nature. We understand that.

During our evidence-taking sessions, we heard from a range of witnesses, such as the Faculty of Advocates, the Law Society of Scotland and the Scottish Law Commission. We heard about the changes in the Crown's relationship to Scotland that particularly exercised Jackson Carlaw.

I thank colleagues for their generous—I suspect that that should be in inverted commas—comments, their perseverance and their understanding as I worked my way through 24 amendments. I tied my colleagues to the committee for almost three hours that afternoon. I am not sure that they were blessing me then; I think there might have been blessings in a different sense.

I also thank Paul Martin for his generous comments and for reassuring me about my membership of the committee.

One aspect of the committee that we should keep secret is how long we attend for each meeting. I say to Ian McKee that I am not sure that it was wise to let that out to our business managers. If we let all members know about it, they will all queue up to serve on the committee.

The process of changing the legislation has been a learning experience for me. I have learned particularly about the importance of ensuring that we scrutinise our legislation appropriately and with due care.

We are especially grateful to the officials who serve our committee. Scarcely a week goes by but I marvel at the expertise and sound advice that they provide for the committee. I do not know how they have arrived at such a good knowledge and understanding of how we change our legislation.

I thank the Law Society because I was only the vehicle through which the amendments came. I hope that everyone will agree that the position that we have arrived at in the Parliament today means that our processes will fit Scotland in the 21st century and that our focus will always be on the practical impact that our legislation has on the people whom we represent.

I shall continue to serve on the committee for as long as my business manager requires me to do so and with gratitude.

15:07

Bruce Crawford: Like others, I thank all the members who have contributed, not only to the debate this afternoon, but to the many deliberations on the bill, whether at stage 1 or stage 2. Most of their contributions have been helpful and constructive.

Members know by now that the provisions in the bill are, as I have heard everybody else say, highly technical in nature but of huge importance to the future governance of Scotland. The provisions, when enacted, will form the last part of the essential legal architecture that is needed to allow the Parliament and the Government properly and successfully to govern Scotland—if only it was that easy.

The Government greatly appreciates the comprehensive review of the bill's provisions that the committees carried out at stage 1. The Subordinate Legislation Committee's stage 1 report was an extremely useful aid to our further consideration of the bill, and the full and careful consideration of the bill at stage 2 helped to draw out a few further points that were addressed this afternoon.

I am also grateful for the Subordinate Legislation Committee's continued support for the general thrust of the bill and the policy that it implements, which was expressed during its parliamentary progress. It has been a good example of a strong and effective relationship between the Parliament and the Government.

I was slightly disappointed that Helen Eadie did not press her amendments this afternoon. I was looking forward to saying that anyone who presses such amendments cannot seriously expect to be in Government. I do not know whether that changes my view of the Labour Party, but I have got the comment on the record anyway.

I assure Jackson Carlaw once and for all that this Scottish National Party Government has the best interests of Her Majesty at heart and always will do. I note that that exercised him greatly during the stage 2 debate and I was delighted to give him that complete assurance. The fact that he has accepted it speaks volumes for his attitude to his work in the Parliament.

Like Paul Martin, I am delighted that Margaret Curran is a member of the Subordinate Legislation Committee. I, too, look forward to her continuing to be a member of that committee for some time to come.

I am not aware that Ian McKee and Bob Doris have been in trouble before. Indeed, they have done such a fantastic job on the Subordinate Legislation Committee that—I am sorry, guys—I think that they will need to stay there for some time to come.

I thank Jamie Stone for his gracious comments, which are reciprocated. As Jackson Carlaw said, the way in which Jamie Stone has dealt with this complex bill is testament to his convenership of the committee, particularly the way that he allows a more light-hearted touch in the process. However, now that we know that the committee has such short meetings that it has plenty of time for tea, we will look much more closely at giving

the committee a bit more to do, as Jamie Stone will shortly find out when he reads the minutes of the most recent Parliamentary Bureau meeting.

Jamie Stone: We will be sent to Siberia.

Bruce Crawford: I am sure that the committee will be excited by what is proposed.

On a more serious note, the Government greatly appreciates the comprehensive review of the bill's provisions that the Subordinate Legislation Committee carried out at stage 1. I am delighted with its work, which has been a serious process of partnership. The committee's report has ensured that, at the end of the day, we will have finely crafted legislation underpinning the governance of Scotland. The willingness to work together helped to build up a good level of trust on serious matters during the process. I believe that that allowed us to discuss and exchange views in a robust manner without losing sight of the ultimate goal.

Together, we have taken the rules that were handed down to us by Westminster and remodelled them to serve the needs of the people of Scotland better. We have thus taken a further step on our constitutional journey. The bill will stand as a significant milestone on that path.

Like Jamie Stone, I thank the civil servants who have supported me during the process. They continually had to answer my question, "Can you please explain this to me in layperson's terms?" As those who have been involved in this highly technical bill will know, that has not always been an easy process, but my civil servants have supported me fantastically all the way through.

The co-operative nature of our work on the bill serves as an outstanding example of the constructive relationship that exists between the Government and the Parliament. I commend the Interpretation and Legislative Reform (Scotland) Bill to the Parliament.

Legal Services (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-6168, in the name of Fergus Ewing on the Legal Services (Scotland) Bill.

15:13

The Minister for Community Safety (Fergus Ewing): I am delighted to open the debate on the general principles of the Legal Services (Scotland) Bill.

At the heart of the bill is the removal of current restrictions on how solicitors can organise their businesses. The bill will allow solicitors to form partnerships with non-solicitors, to create businesses that offer a range of legal and non-legal services and to seek investment from outside the profession. The bill will also introduce a robust regulatory regime to govern those new entities. However, the bill is enabling rather than prescriptive, so traditional business models will remain an option. No solicitor's practice in Scotland will be forced to choose an alternative business structure.

Let me spell out some of the opportunities that the bill will create. First, it will open up opportunities for the larger legal firms, which is excellent news. We are all for that. The reality is that the partnership model restricts such firms' options to grow and compete in the international business market. The multidisciplinary practice is an attractive model for firms that wish to bring a range of services under one umbrella. I believe that the bill will encourage firms to remain Scottish rather than choose to be regulated in England.

The provisions will also allow such firms to bring their office managers, accountants and paralegals into the partnership. They will have the opportunity to seek to join other professionals so that they might continue to be viable in challenging economic conditions.

In December, the Law Society of Scotland, through its estimable president, Ian Smart, gave the committee an excellent example of the opportunities that the bill might provide. He said that a business could offer

"a land acquisition service that scouted out land for clients. The business would have a land agent, a surveyor and a solicitor to deliver a seamless service that involved identifying and valuing the ground, negotiating the price and acquiring the ground. That would all be done by one partnership of different professionals."—[*Official Report, Justice Committee*, 15 December 2009; c 2479.]

Contrary to what some people have claimed, the bill offers possibilities to smaller and medium-sized

solicitor firms to bring others into the partnership and to join with others so that they might continue to be viable and competitive in challenging economic conditions. The bill has been supported by business experts and the Scottish law forum, which explicitly endorsed the ABS model as being good for business. I have given just a few examples—members will no doubt come up with their own.

The bill will create an environment in which we will see economic growth, opportunities, more jobs being created, more business being done in Scotland, more business being done by legal firms in Scotland, and more business being done by Scottish legal firms furth of Scotland. It will be a particular benefit in years to come—it will certainly be a huge benefit in the medium to long term—to young Scots and young lawyers, as more work will be created, there will be more business for them to do and there will, therefore, be more opportunities for jobs. I hope that everyone will join me in endorsing the view that the bill is an outstanding opportunity for people in the legal profession in Scotland to avail themselves of new business frameworks that will permit them to grow their businesses and create jobs and opportunities for fellow Scots.

Robert Brown (Glasgow) (LD): The minister will agree that a significant part of the legal profession, particularly smaller firms, do not exactly share his enthusiasm for the bill. What assurance can he give them that the bill will not damage their particular interests and the future of traditional legal firms in Scotland?

Fergus Ewing: I will address that matter specifically later. I will say now simply that the experience abroad in another jurisdiction—although that jurisdiction is not identical to ours—is extremely encouraging. Similar frameworks were created in Australia 10 years ago, and there were predictions of doom at that time. In particular, there were predictions that small businesses would go to the wall. We have received authoritative statements and evidence from Australia—albeit that the evidence is not a thorough analysis of exactly what is happening there right now—that nothing could be further from the truth. Experience there has shown that small firms have benefited from the opportunities that were created 10 years ago. The doomsayers have been proved wrong. I will address that matter further later on.

The bill will not set up a super-regulator quango in Scotland that is equivalent to the Legal Services Board in England and Wales. By not doing so, we will save tens of millions of pounds. Despite understandable fears about the proposals, I have no doubt that they will result in necessary change that will benefit the legal profession, the consumer and the wider Scottish economy.

I welcome the Justice Committee's comments in its stage 1 report and its support for the general principles of the bill. The committee suggested that a number of points be considered further. I accept the vast majority of those points, and in my formal response to the report, I set out our plans to address them.

I am pleased that there has been much debate about the proposals in the legal profession in recent months. However, many of the arguments that have been put forward by those who oppose the bill have been misinformed, exaggerated or downright misleading. Many opponents of the bill whom I have met and with whom useful discussions have taken place have raised legitimate and reasonable concerns, but the rather lurid accusations that have been made by a few people risk turning a constructive discussion about the future of the legal profession in Scotland into an unedifying stramash. I would like to take a few minutes to refute some of the more outlandish claims that have been made about the bill.

First, the bill will not destroy the independence of the legal profession in Scotland, nor will it endanger Scots law. All of us, regardless of party, support a strong and independent Scottish legal profession. That is set out in the regulatory objectives in section 1 of the bill, to which the Scottish ministers are bound.

Secondly, the bill will not give the Scottish Government control of the Law Society of Scotland—we have quite enough to do. Provisions to give the Scottish ministers powers in relation to lay members of the council of the Law Society were always seen as a last resort. They would never have allowed the Scottish Government to control who was a member of the council. However, after further discussions with the Law Society, I have decided to lodge an amendment to delete those regulation-making powers at stage 2 because they are not necessary, given the assurances that we have received from the Law Society.

Thirdly, the bill will not allow criminals to take over law firms. The fit-to-own tests in the bill are robust. Regulators will have wide powers to reject people whose "probity and character" suggest that they are unfit to own a firm that provides legal services. The relevant provision takes account of the "associations" of applicants. The bill proposes an extremely strong system of safeguards, and we are not aware of any comparable legislation in this country that offers more protection. Furthermore, we are, following constructive suggestions from the Justice Committee, preparing additional sanctions that can be used to disqualify individual investors from the new licensed providers.

Other suggestions that have been made by people who are in possession of overdeveloped powers of imagination are that the bill will give the Scottish Government control over the legal profession, that the recent referendum on ABS was rigged by the Law Society and that drug barons will be able to use licensed providers to launder money. I could go on. Although I appreciate the depth of feeling that debate on the bill has provoked, those suggestions have been unhelpful.

The profession has now voted in favour of ABS twice, albeit by a narrow margin in its referendum involving the whole of the solicitors branch of the profession in April, and has voted against it once. Although I am sure that it will continue to discuss the issue—we remain open to discussing any concerns—I think that we must also move forward.

The bill was designed primarily to open up the legal services market in Scotland. It certainly presents significant opportunities for the legal profession, but we should not overlook the benefits to the consumer and, indeed, to the wider economy. Consumer groups have come under criticism for being unable to give definitive proof that ABSs will provide consumer benefits, but that is understandably hard to do, given that the entities in question do not yet exist and that experience in other jurisdictions is relatively limited.

James Kelly (Glasgow Rutherglen) (Lab): The minister is discussing the benefits of the bill. Earlier, he said that the bill would result in

"tens of millions of pounds"

being saved. How does he feel about the Institute of Chartered Accountants of Scotland's view that the bill's provisions will be costly to introduce and operate? Does he feel that the financial memorandum is fit for purpose, when it suggests that the proposed regulatory changes will cost less than £100,000 to implement?

Fergus Ewing: My reference to saving tens of millions of pounds is based on the fact that the cost of the Legal Services Board is, as I understand it, circa £4 million to £5 million per annum. In Scotland, we would not have required a quango of that size, so that level of cost would probably not have been incurred. However, even if the cost had been only half that—a couple of million pounds a year—running such a quango would have cost tens of millions of pounds over the years.

I am extremely proud of the fact that my officials have developed a proposal that will cost the taxpayer a tiny fraction of that. In fact, I am absolutely delighted to introduce a proposal that will provide a uniquely Scottish solution by applying to a problem our traditional assets of thrift and common sense, so that instead of setting up a new quango that is not required, we are simply setting up a robust regulatory regime, the cost of which we have estimated, as Mr Kelly said, to be less than £100,000. I know that that figure has been criticised, but neither ICAS nor the Law Society has offered an alternative figure. Until we know how many regulators there will be, it is simply not possible to state with any certainty what the cost will be, although I am delighted that a significantly more economical solution is to be provided in Scotland than has been provided south of the border, where a different route has been chosen.

Consumer groups can speak from years of experience of monitoring the introduction of more competition into restricted markets. Increased competition generally results in increased choice, lower costs and the development of more consumer-focused business models. Austin Lafferty, my former colleague at the University of Glasgow, recently opined that he does not think that solicitors who are doing a good job have anything to fear and that if they are doing a good job, they can stand up to any competition. He said that if they are providing a quality service, their clients will come back to them, they will trust them and they will continue to give them their business. There is no reason to doubt that there will be significant benefits for the consumer, which is also a good thing.

As Labour members will no doubt be aware, Bridget Prentice repeatedly stressed the consumer benefits that were driving the Legal Services Bill during its passage through Westminster. She said:

"Consumers today want their legal services delivered the same way other services are: they want a high quality, cheaper and more personalised service to suit their individual needs and one that is easy to access".

In addition, Lord Neuberger, the Master of the Rolls in England and Wales, predicted just this month that increased competition as a result of the Legal Services Act 2007 would lower the costs of litigation and lead to the development of new business models. I understand the fears about such increased competition, particularly in the current economic climate, but I have confidence in the ability of Scottish firms to innovate and to thrive under the opportunities that will be provided through the bill.

We must not overlook the dangers to the Scottish economy of not passing the bill. The four largest law firms have already threatened to move to London if the bill fails to take advantage of the opportunities that are offered by the Legal Services Act 2007. We cannot afford to lose firms to England. The long-term sustainability of the Scottish legal profession will be threatened if Scottish firms are not able to operate on a level

playing field. The biggest danger to the profession and to Scots law is in doing nothing.

Of course, the bill does not only make provision for alternative business structures: it also includes statutory codification of the framework for regulation of the Faculty of Advocates, provisions to allow non-lawyers to apply for confirmation rights, and provisions that will enable the Scottish Legal Aid Board to monitor the accessibility of legal services, which last point will further strengthen access to justice. We have already substantially increased the fee rates that are payable to solicitors for civil legal aid as well as making it available to potentially one million more Scots. Furthermore, at stage 2, we intend to lodge an amendment to allow citizens advice bureaux to employ solicitors.

The Deputy Presiding Officer: Perhaps the minister could draw his remarks to a close. You will get another shot at the end.

Fergus Ewing: I just have two paragraphs to go, Presiding Officer.

We also plan to lodge other amendments, including provisions relating to McKenzie friends and regulation of non-solicitor will writers. I have been encouraged by good cross-party support on those and on all issues in the bill, which I appreciate and welcome, and which I am sure will continue today.

In conclusion, we need to ensure that the Scottish legal profession remains competitive, and that it is free to develop innovative and flexible new business models that are to the benefit of consumers, the profession and the nation.

I move,

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

15:29

Bill Aitken (Glasgow) (Con): I am pleased to present the Justice Committee's stage 1 report on the bill. At the start, the committee took the view that this would be a relatively non-controversial matter and that the concerns of witnesses could be dealt with in relatively short order. I regret that that has proved not to be the case. Perhaps for the first time in my political career, I have been proved wrong.

The bill has, as its genesis, a European Commission review of competition and liberal law self-regulation systems, dating from 2003. Another driver for change was the UK's response to a 2001 report by the Office of Fair Trading, which challenged the restrictions on competition in certain professions, including the legal profession.

Following an initial review and consultation by the Department for Constitutional Affairs, Sir David Clementi was appointed to conduct an independent review of the regulation framework in England and Wales. On the basis of Sir David's report, the UK Government brought forward the Clementi proposals in a bill that became the Legal Services Act 2007. It is anticipated that alternative business structures will be commenced in England and Wales sometime in mid 2011.

In Scotland, the previous Executive established a working group to examine the legal services market. It reported in May 2006. Shortly before the previous Scottish Parliament elections, *Which?* submitted to the Office of Fair Trading a supercomplaint under section 11 of the Enterprise Act 2002, stating that the consumer interest was being harmed by, among other things, restrictions on solicitors and advocates providing services jointly, and restrictions on third-party entrants to the legal services market. In response to the complaint, the OFT said that it was supportive of greater liberalisation of the market and it called on the Scottish Government and the Scottish legal profession to take matters forward and to consider how best the restrictions might be limited. After what might be described in another place as sundry procedure, and following consultation involving both the Government and the Law Society of Scotland, the Government introduced the bill, which came before the Justice Committee for stage 1 consideration.

What had been thought to be a relatively non-controversial measure turned out to provoke a great degree of discussion both within and outside Parliament. The committee considered it to be essential that those whose views were not supportive of the bill should have the opportunity to give evidence.

The committee considered the bill over nine meetings and received more than 40 pieces of written evidence. The oral evidence sessions involved the OFT, *Which?*, the Faculty of Advocates, the Law Society, the Scottish Law Agents Society, the Scottish Legal Action Group, the WS Society, the Scottish Legal Aid Board, solicitor advocates, Professor Alan Paterson, Consumer Focus Scotland, the trade union Unite and the solicitor Gilbert Anderson. The committee also heard from Fergus Ewing, the Minister for Community Safety.

I record the committee's appreciation of all those who provided written and oral evidence, all of which was carefully considered. I also thank the committee clerking team—in particular Anne Peat—and my colleagues on the committee, whose dedication and professionalism is well known in this Parliament.

I think that it is fair to say that, if we had been left to our own devices, the matter would not have been a legislative priority. However, we were mindful of the UK position, so we accepted that a failure to legislate could prejudice an important sector of the Scottish legal profession.

It is important to accept, and the committee report recognises, that the bill is permissive legislation and that the vast majority of Scottish law firms will not seek to use it. The committee also recognises that the principal beneficiaries will be commercial lawyers at the upper end of the scale and that, although it is important that they be given appropriate opportunities, we require to ensure the protection of the core values of the legal profession in order to protect the interests of both justice and consumers. In that respect, the committee identified a number of issues that the Government should address at stage 2. In particular, the committee was concerned about the regulatory objectives in part 1, so we invited the Government to confirm that its intention is for the regulatory provisions to apply to delivery of all services. The Government responded positively—Mr Ewing has underlined that today.

The committee was also concerned about the prospect of bodies external to Scotland becoming approved regulators, so I am delighted to note that the Government has given assurances in that respect. The committee also reflected on the combining of representation and regulatory functions in one body. I appreciate that the distinction already exists in organisations such as the Law Society, and that it can create what some might term "creative tension". How the dual role will apply to the Law Society is a matter for it to resolve, but the committee does not want such difficulty to be exacerbated by additional provisions.

The committee also took the view that there was not sufficient evidence to require the establishment of a body in Scotland that would be similar to the Legal Services Board for England and Wales. As there is no equivalent of the Legal Services Board, the role of the Scottish ministers becomes extremely important, and the committee expressed concerns about ministerial involvement in relation to the new approved regulators and licensed legal services providers. Independence from the Scottish Government is crucial, and the committee agrees that the Lord President should have a much greater role in the process of approval of regulatory bodies, and that his agreement should be given before any regulator is approved. I am pleased that the Government has stated that it will consider lodging at stage 2 an amendment that will give the Lord President such an extended role.

In respect of the lack of a provision that would require licensed legal services providers to contribute to a guarantee fund, the committee welcomed the minister's undertaking to give further consideration to that important suggestion, and we look forward to more explicit explanations and answers being provided at a later stage. Although I can understand the concerns that have been expressed in relation to certain aspects of the bill, the committee will undertake to scrutinise matters carefully at stage 2—particularly, the question of a guarantee fund.

The committee was also concerned about the step-in powers in section 35. It agreed with the Law Society that the bill should detail when that provision might be used and that there should be an obligation on ministers to consult on any regulations made in that respect. I am pleased to note that the Government has given the issue further consideration and is currently drafting an appropriate amendment emphasising the last-resort nature of the power. However, I think that the committee will be just a little disappointed with the other aspect of the Government's response, in which it states its opinion that there should not be an obligation on the Scottish ministers to consult on any regulations made under section 35.

The committee also raised issues about the description of licensed legal services providers, and I know that the Scottish Government is giving further thought to that, as well.

Much concern was expressed about outside investors. A broad range of stakeholders expressed anxiety that legal services entities would be subject to prey by organised crime, and that the definition of "fitness to own" is inadequate to deal with that. The committee acknowledged those concerns and had sympathy with much in the views that were expressed. At the end of the day, however, the committee's view is that no test can provide a guaranteed protection against undesirable third-party investment. In those circumstances, the fitness-for-ownership tests must be as robust as possible. Members of the Law Society have also expressed concern about the fitness-to-own provision, which has been reflected in internal debates in the legal profession.

The committee has also raised concerns about legal profession privilege. Again, that and the obligation of confidentiality were referred to in the stage 1 report, so I am pleased to say that the minister has given an undertaking to review the matter.

Sections 64 and 65 relate to complaints about approved regulators: the provisions provoked some criticism. The minister undertook to check whether any further provisions are required, so

that, too, is an issue that I envisage being debated at stage 2.

Lastly, in respect of part 2 of the bill, the committee had concerns about how sanctions will be applicable to outside investors and how they will operate in practice.

Part 4 of the bill deals with the legal profession, and the committee agreed with the Government that there is no need to impose alternative business structures on the Faculty of Advocates, although I suspect that some advocates might want to rebadge as solicitors in order to take advantage of any ABS arrangements. The reverse might also apply. In respect of advocates and solicitor advocates, the Thomson review on rights of audience in the supreme courts was published on 17 March, and I know that the Government will be giving close consideration to that report.

There are other issues of governance relating to the Law Society, and the committee is pleased that the Government has already moved to explain that it will lodge stage 2 amendments on non-solicitor membership of the Law Society. That is a most welcome development.

Parliament will appreciate that a great deal of time and effort has gone into the stage 1 report. We shall presently move towards stage 2, which I hope will be characterised by focused arguments, especially outwith the Parliament.

There are sincere differences and divisions in the profession, which is understandable. However, at times, the tone has been unfortunate. I feel particularly sorry for Ian Smart, the president of the Law Society, a man with whom I have seldom been politically compatible but who has suffered some criticisms that have been decidedly unfortunate. Someone once said;

"I hold every man a debtor to his profession".

When someone seeks to repay that debt by putting his head above the parapet I do not think he should be subject to the criticism to which Ian Smart has been subject.

The committee, as ever, will be willing to consider constructive amendments. I urge all concerned to approach the issues within the spirit of compromise and conciliation. The Parliament's mood is to legislate, but we wish to do so to ensure that the Scottish legal profession emerges strengthened rather than weakened, and so that it moves constructively forward while retaining all that is good within our legal profession and fitting it to accept the challenges of the future.

15:40

Richard Baker (North East Scotland) (Lab): In reforming our legal services sector in Scotland, the first principle must be access to justice—maintaining it and improving it. In changing the law with a view to extending the availability of legal services, we must not unintentionally restrict access to justice for some people in our society. There are important questions about how we strike the right balance in making the changes.

The case for alternative business structures was first considered in the previous session. We acknowledge that the finding of the Office of Fair Trading requires a response from the Scottish Government and that changes be made in our legal services industry. There can be benefits to consumers if change brings more co-location of legal and related services—a one-stop shop model, as it is being called—but there are important questions about how, in opening up the potential for new business structures, we can maintain current valued legal services.

We can use the legislative process to improve access to justice and give our law firms a competitive edge, but we are not persuaded that the bill will necessarily achieve that. There are big questions about the timing of the legislation and the scope of the changes. We do not argue that changes to legal services in England and Wales should simply be imported north of the border. Our system is part of an international legal services industry, but we must ensure that changes that are made in Scotland are right for our legal services here. The changes down south were made before the global banking crisis and it will take time to see what effect they will have.

Let us acknowledge that, as both Bill Aitken and the minister said, there are genuinely and passionately held views within the Law Society on both sides of the debate, particularly about the independence of the profession. I note that the minister has sought to give reassurances on some of those points. Labour members have met people on both sides of the debate and we benefited throughout stage 1 from advice from some of those who have expressed their concerns about the proposed changes. We valued the input of Ian Smart, whom Bill Aitken mentioned, and the evidence that he gave to the committee represented the strongest case that was put in favour of the bill.

The Law Society's referendum showed that there is great interest among its members on the issue and that views on it are divided. I hope that Parliament and, indeed, ministers will now play a role in moving the debate forward.

I say in favour of the bill that we know that, in challenging economic times, new investment in legal services is welcome. We all want our law graduates to move on to practise in successful Scottish firms. However, concerns have been raised about how access to legal services that are

provided by small firms, often in rural areas, can be maintained if a move to alternative business structures threatens their survival. As Bill Aitken said, Frank Maguire of Thompsons and others have expressed their fear that, under the proposals, there is potential for organised crime to become involved in ownership of firms. The minister stated again that the regulatory regime around the reforms will be adequate to address that concern. That makes the issue of regulation vital, but the bill allows any number of regulators, even if the Law Society and ICAS are the two organisations that are expected to apply. No legal services board of the type that exists in England and Wales has been proposed. I still have concerns about how, in that context, there will be uniformity of regulation. Moreover, the financial memorandum's claim that regulation will cost less than £100,000 does not strike me as realistic.

At least we have stage 2 for proposing changes in not only that area, but others. I am, for example, disappointed that the Cabinet Secretary for Justice did not agree to the regulation of no-win, no-fee companies that has been introduced down south. We will lodge amendments on that and on the regulatory framework at stage 2.

We must also look to make progress on the vexed question of external ownership or investment, so I am pleased that the minister has met people on both sides of the debate and that those who have expressed concerns have made constructive proposals. For example, members will have seen the proposal from Mike Dailly of the Govan Law Centre for a co-ownership model with a 75:25 per cent split. It is good that the Parliament, the committee and the Scottish Government will have a range of proposals to decide on.

These matters are not simple; they are technical and often complex, so I urge ministers to take adequate time to ensure that they are properly considered. The saying "More haste, less speed" might well apply here. As the convener said, anyone who thought that these matters were uncontroversial and merely technical will have been thoroughly disabused of that misconception. That is because our legal services industry and the principle of access to justice in a legal system that we rightly cherish and are proud of are important in Scotland, and that is why, in proceeding with the bill, we will need an extensive debate about the changes that must be made at stage 2.

15:46

David McLetchie (Edinburgh Pentlands) (Con): I find it interesting to reflect on the fact that only a few months ago the Parliament completed its consideration of the Tobacco and Primary Medical Services (Scotland) Bill. A feature of that bill, which has now received royal assent, was the debate over the appropriate business model for the providers of general practitioner services. Members will recall that, thanks to the craven failure of Labour and the Liberal Democrats to support the policies that they had advocated and enacted when they were in government, the present Scottish Government was able to pass a measure specifically barring third-party commercial providers from having a stake in general practitioner practices, which must be wholly owned and run by practising GPs. According to the Scottish Government, such a business model is in—indeed, is essential to—the public interest.

With this bill, however, it appears that, when it comes to legal services, precisely the opposite is claimed to be in the public interest. GPs can share the profits that they make out of the national health service only with other GPs, but solicitors are to be permitted to sell their businesses to and share profits with non-solicitors, notwithstanding the public interest obligations that are currently imposed on them by statute and the fact that, in some cases, a significant amount of revenue is derived from criminal and civil legal aid. In other words, they are providing services and running businesses that, in 2008-09, were partly financed by the taxpayer to the tune of approximately £117 million.

As a former solicitor in private practice and a member of the Law Society of Scotland, I am grieved by the division of opinion and turmoil in the legal profession over this measure. As members will be aware, consideration of the bill was specifically postponed to allow MSPs to be aware of the outcome of the Law Society's special general meeting on the topic and to ensure that our debate could be informed by the views of our legal professions. That initial meeting was pre-empted by a referendum in which the Law Society's position in favour of the bill was endorsed by the tiniest of margins. Last week, however, when the special general meeting was reconvened, members voted against alternative business structures by a margin of 3:2. I understand that at the annual general meeting, which will be held next month, the position will be finalised.

The situation has been confused rather than clarified by what has happened but, in essence, we have to acknowledge that the divisions in the profession represent a difference in economic interests as well as a difference in view about the nature and ethics of a profession that many solicitors firmly believe is fundamentally different from a commercial concern. In essence, the solicitors who are opposed to the concept of alternative business structures are no different

from the GPs who successfully lobbied the Government to bring about a change in the law to secure their monopoly of ownership and provision of services through their practices. Those solicitors believe that external ownership is incompatible with the concept of an independent profession; that conflicts of interest would arise; that the standard of service would fall; and that many of the consumer protections that are inherent in the regulation of the legal profession as currently organised would be diluted or lost in legal services businesses that are owned by third parties and regulated by others.

Some will see the proposals as a final stage in the process that started in the 1980s with measures to introduce competition between legal firms, such as the ability to advertise, through to allowing third-party providers to compete with solicitors in respect of the provision of certain services, to the present proposals, which will enable third parties to own law firms. Many of the dissenting solicitors, if I can call them that, believe that those who favour the scheme predominantly come from larger firms, whose owners are interested simply in selling out their businesses for a one-off pot of gold to one of the major international accountancy practices. As we have heard, others fear the development of Tesco law, with an employed solicitor in every supermarket. However, let us not forget that, notwithstanding those strongly held differences of view, a commitment to professional ethics and standards is shared, I believe, by all solicitors, whether they practise law in large commercial firms or in small family ones.

The fundamental point is that, as others have said, the reforms are in essence forced on the legal profession and the Parliament by the report of the Office of Fair Trading, following the super-complaint from *Which?*, and by changes in the system in England and Wales. Accordingly, I have a lot of sympathy with my former professional colleagues, both those who resist the tide of change and others who want and recognise the need for change. The Law Society has tried hard and manfully to reconcile those positions. I am sure that its office-bearers and council members will be troubled by the divisions that have emerged.

The Scottish Conservatives support the bill and we will vote for it at stage 1. In doing so, we recognise that the present system of legal services provision and regulation has many features that are in the public and consumer interest and that those features need to be sustained in the new regime. In that respect, I identify the guarantee fund, which protects clients in the event of the misappropriation of funds by dishonest practitioners. I also identify the requirement for professional indemnity insurance; the disciplinary code, to deal with complaints of professional misconduct; and accounts rules and a tough inspection regime, to ensure that client funds are not imperilled.

The rules of the approved regulators must provide a level playing field, so that, whichever legal services provider a member of the public chooses, they can have confidence that that provider is subject to a system of effective regulation. We have such a system at present—it has stood clients in Scotland in good stead until now and it does not receive the credit and acknowledgement that it deserves. I firmly believe that, in changing the system, we need to build on the best and must not settle for the lowest common denominator on standards.

15:53

Robert Brown (Glasgow) (LD): As has been said, the bill raises complex issues. The divided view among solicitors has made assessment of its merits particularly difficult for the Justice Committee. I am bound to say that, although the committee earlier paid tribute, through the convener, to the evidence that the various witnesses gave, the case for the bill was not helped by the highly unimpressive evidence from *Which?* and the Office of Fair Trading, which, far from establishing the basis for the bill, tended to undermine the case for it substantially.

As has been said, part of the difficulty is that the bill has different implications for different parts of the legal profession and the so-called legal services market. I strongly dislike using the concept of a market to describe my former profession, as it is a highly inadequate definition of what solicitors do and the context in which they operate.

Our whole approach to professional regulation has changed profoundly since the banking meltdown. A lot of attention focused on the faults of light-touch regulation, but the real problem in banking was the replacement of traditional prudent and professional banking practices by a new breed of money wizards with too little depth in the banking profession and too much adherence to slick sales methods, greed and obscene levels of unmerited bonuses. In short, the problem was a loss of ethics and not primarily a failure of regulation. There are lessons in that for us, too. A vibrant legal profession with values and standards developed over many years, independent of Government and not beholden to outside funders, seems to me to be at the heart of our democracy and the rule of law.

The desire to allow the development of new business structures is driven, as I think we all agree, by the larger commercial firms. The extent

to which English law has become the international legal system of choice, not just in these islands but across the rest of Europe and beyond, is not commonly recognised. The committee raised concerns that we could gain equal access to the English market for Scottish legal firms only to find ourselves barred from parts of the continent where there are greater restrictions on who may practise law and under which business model. Our fears on that front were not established but, in any event, the issue of access to the European market is dwarfed by the need for equal access to the much larger English market. I am therefore satisfied that it is in Scotland's interests to allow our commercial firms to operate in comparable ways to those of their colleagues in England and to do so under the umbrella of the Scottish legal system.

I am by no means convinced that the requirements around business structures, ownership and investment apply to anything like the same degree to the bulk of the profession operating in private practice. We have to draw inferences from the hostility to the proposals articulated by the Scottish Law Agents Society and others and by almost half the membership of the Law Society. Ways must be found to modify the proposals, particularly in so far as they affect that part of the profession with no significant international or cross-border practice. Although it is said that alternative business structures are voluntary and no one would be forced into adopting new structures, the reality is that wider arrangements for funding, ownership and partnership with other professions will affect everyone. Unrestrained competition in other spheres has seen the virtual disappearance in many areas of traditional town or suburban shopping centres, of post offices and even of off-licences, and it will not necessarily be different with solicitors when there is less competition and choice rather than more.

The second implication is that Scottish solicitors must continue to belong to and be regulated by one body. David McLetchie rightly talked about the key components of the guarantee fund and the master policy, but those depend on the continuing contribution of the whole profession, not least of the larger firms, without which the economics of those key client protections could become shakier.

I will sketch out what I think is possible. There is scope for some multidisciplinary partnerships—an obvious example is between solicitors and accountants or other tax professionals. However, we have to be careful in that regard because such partnerships often raise the conflicts of interest that David McLetchie was right to warn against. The suggestion of partnerships between solicitors and surveyors that was made by *Which?* seemed improbable in the extreme and shot through with undesirable conflicts of interest.

We have to look carefully at the idea that seems to be advancing of multiple and competing regulators with all the complex issues that that brings. I do not mean that we should be looking at the super-regulator role that the Scottish Government rightly put to one side; no one would suggest a rival regulator to Her Majesty's Inspectorate of Education, for example. The Law Society is the obvious regulator and we should consider whether proceeding on that basis is an option available to us. One encouraging outcome of the complex proceedings at the Law Society was a clear commitment to and recognition of the importance of the society being the key regulator.

The bill must be more restrictive about outside ownership and investment, given all the problems of designated persons and undue and unprofessional influence that we have talked about—we do not want any Robert Maxwells in this sphere. That was one of the clearest messages from the Law Society's debates on the matter.

On behalf of the Liberal Democrats I am prepared to offer support for the general principles of the Legal Services (Scotland) Bill at stage 1, but only on the basis that a fundamental rethink is required of some of the details, which might involve substantial and radical surgery of the bill at stage 2. At this stage, we make no commitment to support the bill at stage 3. A satisfactory resolution of those challenges will require statesmanship and flexibility on all sides. I am in no doubt that the Justice Committee stands ready to respond properly on an issue that is uncomplicated by party positions.

I suggest that the minister might consider building on his meetings with the various bodies involved by having a more organised round-table discussion involving representatives of the Law Society, the Scottish Law Agents Society, the minister and his officials and perhaps members of the Justice Committee to re-examine some of the principles of the bill along those lines in the light of today's debate.

I discovered, somewhat to my surprise, that very few areas or functions are the sole province of professional lawyers, whether solicitors or advocates. However, the public would normally expect to rely on the advice of a qualified professional to help them to resolve many practical business and personal issues, just as one would expect a complicated medical operation to be carried out by a trained and qualified surgeon. In my view, much of the talk about opening up the market and providing increased competition is hogwash. It is about opening up the market to people who are not professionally qualified in law, who perhaps do not subscribe to the ethics of the law and who, in some instances,

may regard offering legal services as the same as selling cornflakes or yoghurt. That is not my view of the law and the profession of lawyers or what the public expect of them.

It seems to me that the bill must sustain the legal profession. As the convener said, it must strengthen it rather than weaken it, because it is in the public interest to do so.

None of the difficulties is the fault of the Scottish Government. The minister has brought great enthusiasm and technical expertise to the proposals. The Government proceeded after proper consultation and on the basis of what it thought was the view of the legal profession.

The Law Society officers have also formulated their views in accordance with the democratic rules of the society and have had a somewhat torrid time as people got to grips with the bill.

This is a difficult and complex area. We require flexibility and statesmanlike approaches to dealing with it. Getting it right is of significance to the future of the profession.

16:01

Nigel Don (North East Scotland) (SNP): As usual, I do not want to spend too much time repeating what colleagues have already said. Instead, I will look at one or two issues and perhaps offer a few helpful comments.

The first thing that I will do is go right back to the very beginning and point members in the direction of section 1, which sets out the regulatory objectives as

"(a) supporting the constitutional principle of the rule of law,

(b) protecting and promoting—

(i) the interests of consumers,"

and

"(ii) the public interest generally,

(c) promoting—

(i) access to justice"

and

"(ii) competition in the provision of legal services,

(d) promoting an independent, strong, varied and effective legal profession,

(e) encouraging equal opportunities"

and

"(f) promoting and maintaining adherence to the professional principles."

I take us back to those objectives simply to make the point that that is the intention of the law. Some of the comments that have been made have tended to suggest that the bill might be there to undermine those things, but it is made clear at the beginning that that is not the intention. We have to ensure that, when the bill is out there working, it sticks to its original principles.

I am conscious that there is concern about ethical principles. Section 2, which I will not quote, expands on those. It was clear in evidence to the committee that the minister felt that nobody who is involved in any of the alternative business structures should be subject to any lower ethical standard than the standard to which lawyers are subject at present.

Robert Brown: On the question of ethics, does Nigel Don accept that writing all that down in the bill is one thing but imbuing it right through the legal profession is something else?

Nigel Don: I take Robert Brown's point, although I would also make the point that those who have trained as lawyers have those ethics, in exactly the same way that those who have trained as medics have them—it is part of what they do. In exactly the same way, I might say that, for those in my profession of chemical engineering, safety is their middle name. That does not alter the fact that we should ensure that those ethical standards are somewhere in the text of the bill—it does not matter where. There is an argument that the professional privilege, which is accorded in section 60, assumes those kind of ethical standards. However, it might be worth ensuring that we write them down.

Another issue is how we might allow businesses to describe themselves. I do not think that there has been any comment on that yet, so I would like to make some. Some people have described it as branding, which I think is an error. I ask members to turn their minds to the idea of a can of soup, which I hope will be helpful. The brand would be the "Heinz", "Campbell's" or "Baxters" on the label. They all make tomato, minestrone, mushroom and other soups. The descriptor is the word "tomato", "minestrone" or "mushroom"; the brand is "Heinz", "Campbell's" or "Baxters".

Reserved descriptions are known in the law of food. Once upon a time, we used to buy margarine. We no longer buy much margarine because little is sold as margarine. That is because the reserved description is that margarine must be 80 per cent fat. We look for reserved descriptions of legal services providers, so that potential clients know from the business's description what they will get. The branding is the commercial name and the descriptor should say what the business is.

With that in mind, some possibilities arise. Members will understand that I present them not because I think that they represent the right

answer but because they might be a way of progressing the debate and finding sensible words. If a future firm were composed of 60 per cent solicitors and 40 per cent accountants, it might be at least reasonable to describe it as "solicitors and accountants". If the numbers were the other way round, it would be "accountants and solicitors". If the split were 50:50, we would have to resolve that—how that would be achieved does not really matter.

A firm would have to say underneath its description and in letters that were not too small that it was a regulated legal services provider, so that we were clear that it fell under the umbrella of the bill. I suggest simply for further comment that, if the split were not 60:40—if the percentage of solicitors were more than 80 per cent and the percentage of accountants or others less than 20 per cent—the firm might be "solicitors with accountants", along with the subtitle of being a regulated legal services provider.

We will have to produce a table with such descriptions. I have merely presented some thoughts in the hope that other people can improve on them. In connection with that, a firm should not have to be 100 per cent solicitors to describe itself as a firm of solicitors. Perhaps being at least 90 per cent solicitors would be enough.

I will push on quickly because time is against me, as always. The suggestion has been made and continues to be made that advocates should be able to be involved in alternative business structures. It is worth putting it on the record that we do not have many practising advocates. They are supposed to obey the cab-rank rule, to which I will return briefly. If they were allowed to be involved in alternative business structures, the number who would not have a conflict of interest would be reduced, which is clearly not in the interests of competition.

Paragraph 10 on page 58 of the Thomson review quotes an authority that suggests that the cab-rank rule is "a polite fiction". The Faculty of Advocates might choose to address that issue, because the perception is that the system does not work as well as it should.

I endorse Richard Baker's view that we must accept the bill in principle and push it forward. We must see whether we can improve it—I am pretty sure that we can. I take on board Robert Brown's comments about the effects of unrestricted competition, of which we must be aware. Voting down the bill is in no way the right thing to do at this stage. We must proceed with the bill today and find out whether we can improve it, in the light of the many comments that we have received.

16:09

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Usually when we consider change in legislation on any issue, areas where there is confusion become clearer and areas where there are controversies become more or less controversial. That is life in the Scottish Parliament. The experience of the Legal Services (Scotland) Bill has been no different, but the bill could bring major change to the delivery of our legal services. It is clear that the profession is divided on the way forward and that the Government and we in the Parliament must ensure that the concerns that have been expressed are heard and properly considered. We should not attack people whose views differ from ours.

We should remember that the most important outcome is to ensure that all of us—regardless of where we live or how much we have in our pockets—have access to justice. To have that, people need to be able to access an independent solicitor.

We may be where we are because of the super-complaint that was made on consumers' behalf, but the committee received little evidence that the public had been consulted on the matter and no solid evidence that the public would get a deal financially or otherwise, leaving me with concerns that the complaint was brought in the interests not of the public but of the big business model.

Encouraging business is not a bad thing—it is good to have a playing field that allows our legal profession to compete in the international market—but it must not be at the cost of destroying the profession's confidence. A one-door approach to legal, financial and accountancy services may seem attractive to some, and modernisation of our system may be due, but there are too many ifs, buts and maybes to rush through the measure. If the Parliament agrees to allow the bill to progress, the next stages cannot be rushed to meet the Government's timetable—we need to get this right.

The issue of the so-called Tesco law has split opinion in the legal profession in Scotland. John McGovern, president of the Glasgow Bar Association, has been quoted as saying:

> "The professional interests of high street solicitors are clearly different to the professional interests of big commercial firms."

That is true. The needs of small communities and individuals for legal services must also be considered.

There is a case for saying that a number of smaller, independent firms could be overshadowed by the larger conglomerates. The problems that are faced by the main street butcher

or baker when a new superstore opens nearby are similar to the problems that small solicitors firms could face. With the possibility that cheaper legal advice could be acquired along with the out-of-town weekly shop, it is understandable that more small partnerships are venting their concerns. There are viable arguments on both sides, but a number of the fears that have been put forward are fair and need to be aired.

That is not the only potential flaw in the bill. Another relates to the plans to allow those without links to the legal profession to hold majority stakes in law firms. To me, that is fundamentally wrong. There is a chance that felonious individuals, entrenched in organised crime or the drug trade, would invest and become the majority owners of legal practices. As a consequence, legal services providers could become puppets to Scotland's criminal underworld, leaving our lawyers compromised as a result of dodgy investors. It may sound like something out of a Hollywood gangster movie, but those in the organised crime trade are not stupid: if they see an opportunity to gain access to the respectability of a firm that is providing legal services, they will pounce on it. The minister mentioned the fit-to-own test. The test that we have heard about so far is not right. There are questions that need to be asked, answered and fully examined during the bill's next stages.

Scotland's legal system is unique. Our approaches on many issues are different from those in the rest of the UK. Sometimes that is good and sometimes it is bad, but it is clear that our legal profession is deeply divided—so much so that Ian Smart, who has been doing a good job as the president of the Law Society of Scotland, stated recently that relations could be "unbridgeable". I do want to disagree with him, as he happens to be one of my constituents, but I hope that in this instance he is wrong and that a resolution can be found. However, the fact is that there is no consensus. The tone of the minister's speech this afternoon did not do anything to take matters forward. Like Robert Brown, I hope that the minister will think on that.

We must remember that our job is to ensure that the bill gives the best deal to both solicitors and clients, who are our constituents. We must listen to both sides. I am against tampering with the traditions of our legal services on a major scale. As has been pointed out, there are many areas that the Scottish Government must iron out.

In principle, I am willing to support the bill proceeding to stage 2, as are other members who have spoken in the debate. However, I have substantial reservations and I think that the Justice Committee will have a big job to do before we can bring the bill back to the Parliament as one that is worthy of support and of progressing into statute.

We have a job to do—there is a lot of work to be done. I do not think that we should try to keep to the timetable of the Government or of business managers. The committee needs time to deal with the next stages of consideration in a competent manner.

16:15

Stewart Maxwell (West of Scotland) (SNP): As other members have indicated, the examination of the Legal Services (Scotland) Bill at stage 1 has been somewhat complicated by divergent views among the legal profession itself. Having said that, I believe that, alongside the evidence, opinions and genuine concerns that we have received about the bill, a number of red herrings have been thrown in.

I listened to "Good Morning Scotland" with interest this morning, as it ran a story on this debate. One of the suggestions that was made by a contributor from *The Firm* magazine was that there was nothing wrong with solicitors having a monopoly with regard to the ownership of legal firms, because it was the same thing as airline pilots having a monopoly on flying planes. I thought that was a strange analogy to use as an argument against the proposed changes. It is true that pilots fly the planes, but they do not own the airlines, so why is it necessary for solicitors to own the business as well as operate within it? Nobody is suggesting that non-solicitors should carry out the expert legal work, just as nobody would suggest that non-pilots should fly the planes. It is necessary that the experts carry out the expert work, but it is unnecessary for them to be the sole owners of the operation.

Other members have raised the spectre of organised crime gangs or drug barons buying up Scottish legal firms. I wish to examine that suggestion in detail. There are a number of reasons why I think it unlikely that criminals will invest in or buy legal firms.

First, there is the robust protection in the bill itself—and I believe that it is robust protection. In laying out the rules governing "Fitness for involvement", the bill states, at section 49(1):

"An approved regulator must—

(a) before issuing a licence to a licensed legal services provider, or renewing it, satisfy itself as to the fitness of every outside investor in the licensed provider for having an interest in the licensed provider,

(b) thereafter, monitor as it considers appropriate the investor's fitness in that regard."

The bill goes on to state, in section 50, what the appropriate "Factors as to fitness" are. Section 50(2) states:

"The following are examples"—

and they are only examples—

"relevant as respects an outside investor's fitness for having an interest in a licensed provider—

(a) the investor's—

(i) financial position and business record,"

and, importantly,

"(ii) probity and character (including associations)."

Concerns have been expressed in relation to not only people with a record, which is provable and clearly ascertainable, who might invest, but their associates—people who work in the same industry, if it can be called that—if the investor does not themselves have a proven criminal record. The bill uses the words

"probity and character (including associations)",

which we should take care not to ignore.

In section 50(3), the bill gives the reasons why a person is presumed to be unfit. Paragraph (d) states:

"the fourth condition is that the investor—

(i) has been convicted of an offence involving dishonesty, or

(ii) in respect of an offence, has been fined the equivalent amount to the maximum on level 3 of the standard scale or more (whether on summary or solemn conviction) or has been sentenced to imprisonment for a term of 2 years or more."

That means taking robust action to ensure that we do not get the kind of people who we do not want investing in legal firms, whether because they have a record or because of their associations.

Cathie Craigie: The member, as a committee colleague, has asked questions on and taken an interest in these issues. However, what comfort can I take from the debate, given that although his Government has recently challenged the fitness of people to benefit from national health service contracts, for example, it has not been able to win its argument in court about the suitability of the people involved?

Stewart Maxwell: I do not quite know where Cathie Craigie is going with that argument. The argument here is about the ability to identify individuals who may—improperly—be trying to invest in legal firms, and it is clear that the bill has robust defences to ensure that we are able to do that.

Sections 51 and 52 also cover an outside investor's behaviour. Section 51(2) states:

"An outside investor in a licensed provider must not (in that capacity)—

(a) interfere in the provision of legal or other professional services by the licensed provider,

(b) in relation to any designated or other person within the licensed provider—

(i) exert undue influence,

(ii) solicit unlawful or unethical conduct, or

(iii) otherwise behave improperly".

I am not so naive as to think that just because the bill says that

"outside investors ... must not ... solicit unlawful or unethical conduct, or ... behave improperly",

a criminal will not behave in a criminal manner—that is how criminals operate. However, it takes two to tango. I think that Cathie Craigie missed that point.

That brings me to my second reason for thinking that criminal gangs are unlikely to think that investing in an ABS is desirable. Solicitors and other people who might form an ABS, such as accountants, will not be exempt from operating within the rules of their own profession. Even if an investor tried to

"solicit unlawful or unethical conduct",

the collusion of the solicitor or accountant would be required for the improper behaviour to occur. Such collusion on the part of a solicitor, for example, would have serious implications, because the individual concerned would run the risk of losing their right to carry on working as a solicitor.

My third reason for rejecting the notion that the criminal fraternity will take over legal firms can be summed up in one phrase: why would they bother? Given the sanctions and difficulties that they would face in dealing with professionals who operate under a high ethical code and who would have much to lose personally, why would people involved in organised crime choose to buy a legal firm? If a so-called Mr Big needs a solicitor they can engage one. Why would they get involved in investing in a firm, with all the extra problems that doing so could and probably would bring?

Some people have suggested that criminals would buy legal firms so that they could use them to launder drugs money, but that seems unlikely. A criminal who is deciding how best to launder their ill-gotten gains could buy private taxis, sunbed salons or security firms. They would have a number of options. I cannot see why they would try to launder their money through a legal services provider rather than choose an easier option. The risk that criminal gangs will invest in or buy legal firms is pretty small and we should not be sidetracked by that suggestion.

Despite the heat that surrounds the bill, light has been shone into areas that required to be looked at, such as the role of the Lord President and the employment of solicitors directly by citizens advice bureaux. I note that the Government is involved in discussions and I hope that solutions can be found that will garner cross-party support at stage 2. I welcome the minister's comments on CABx.

I am concerned about sanctions against outside investors. In committee I noted that, although inappropriate behaviour on the part of an outside investor could lead to the suspension or revocation of an ABS's licence, the bill appears to provide no sanctions against the individual. I welcome the general sanctions, but the outside investor appears to be left almost untouched. Will the minister seriously consider adding to the bill provisions for sanctions against an individual outside investor who has behaved inappropriately? It does not seem right that the only sanction against the actions of an individual would be the closing down of the entire business, which could have a devastating impact on many innocent individuals.

The bill is controversial in some people's eyes and much work remains to be done on it. However, we must face the world as it is and not as some people would like it to be. The bill is required and I ask members to support it at stage 1.

16:23

Bill Butler (Glasgow Anniesland) (Lab): I am deputy convener of the Justice Committee and I place on record my sincere thanks to the clerking team, the Scottish Parliament information centre and the many witnesses who gave invaluable evidence to the committee at stage 1.

The bill seeks to enable the establishment of new business structures in the legal services industry in Scotland and to deliver an appropriate regulatory framework for individuals and organisations that provide legal services. The reforms in the bill have the stated aim of creating a more flexible and up-to-date regulatory framework for legal services and, consequently, achieving improved access for all to high-quality legal services.

At first sight, those policy objectives appeared to committee members to be worthy and relatively uncontroversial, not to say somewhat dry and even esoteric. However, the bill has excited a degree of passionate debate and a level of controversy within the profession, the like of which has not been seen in modern times. The result of a recent referendum that was conducted by the Electoral Reform Society on behalf of the Law Society of Scotland and the society's special general meeting of 21 April illustrate the division of opinion within the profession on the bill.

In his letter of 26 April to members, Michael Clancy noted with admirable diplomacy:

"these expressions of democracy ... show ... there is no consensus in the profession on two important areas—external ownership; and solicitor participation in a minority role in an entity with other professional participants."

Quite so.

In his briefing to members of 26 April, Mike Dailly of the Govan Law Centre puts it rather more robustly:

"We do not believe the Bill as presently drafted contains appropriate safeguards".

Furthermore,

"the particular concept of Alternative Business Structures adopted in the Bill does not lend itself to acceptable safeguards for those citizens requiring access to justice or a legal service."

Indeed, according to Mr Dailly, safeguards need to be put in place to

"protect the public interest and the independence and professional ethics of solicitors subject to ABS."

That division within the legal profession places elected members in a very awkward position, to say the least. It is clear that there needs to be a commitment to positive dialogue both within the legal profession and between practitioners and politicians to ensure that a workable compromise can be agreed that addresses the salient concerns of a significant proportion of people who work in the legal services industry in Scotland.

As my colleague Richard Baker said, Labour members are committed to the extensive debate that is necessary at stage 2 to deliver legislation that has at its core the maintenance of access to justice. There must be no unintended consequences that restrict access to justice for any section of Scottish society. Especially with regard to the make-up of alternative business structures and external involvement in such organisations, there is need for more dialogue and for a willingness to listen to constructive proposals from those who have expressed concerns about those aspects of the bill.

I am confident that the ministerial team will listen carefully to such suggestions, as will the committee. Indeed, the minister's formal written response to the committee's stage 1 report shows constructive engagement with many of the concerns that the committee raised, for which he must be commended. For example, on section 36, the committee noted that a restriction on eligibility for being a licensed legal services provider may restrict

"the way in which ... not-for-profit organisations can provide legal services."

The committee expressed its sympathy for the concerns that Citizens Advice Scotland raised in that regard. I am heartened by the minister's promise to consider the issue further and the discussions that his officials have already had with CAS in respect of its desire simply to allow citizens advice bureaux directly to employ solicitors by way of an exemption under section 26(2) of the Solicitors (Scotland) Act 1980.

Further, I am cheered by the ministerial team's willingness to consider the role of the Lord President. The committee shared

"the concerns expressed in much of the evidence about the extent of proposed ministerial involvement and the perceived threat to the independence of the legal profession as a consequence".

In his written response, the minister noted that he had been

"listening to those who have called for the Lord President to have an equal role to the Scottish Ministers",

and that the Government was

"considering an amendment at Stage 2 to give the Lord President a greater role in the process of approving approved regulators."

That is a good thing.

I am also heartened by the assurance in the minister's speech that the Government will introduce additional sanctions regarding the fitness-to-own test. That is only prudent.

Such a listening approach is welcome, necessary and must be adopted if our stage 2 consideration is to be successful in making the amendments that are necessary to shape a robust piece of legislation that is acceptable to the whole legal profession and which addresses the major concerns about which there is still no agreement. That lack of agreement is concerning.

In that regard I hope that the Government will consider carefully what my colleague Richard Baker described as constructive proposals, such as the one that Mike Dailly outlined for a co-ownership alternative business structure model, with a 75:25 per cent split. He made that suggestion in his fairly detailed briefing paper, which members have seen.

On that clear understanding as to how we should proceed, Labour will support the general principles of the bill at 5 o'clock tonight.

The Deputy Presiding Officer (Trish Godman): We move to wind-up speeches.

16:30

Mike Pringle (Edinburgh South) (LD): I feel perhaps a little outnumbered as someone who is not a lawyer, but it must be a positive thing that a number of ex-lawyers are so involved in the debate.

Bill Aitken: Let me clarify that I am not a lawyer and am most certainly not rich.

Mike Pringle: I was not implying that all lawyers are rich or that the convener of the Justice Committee is a lawyer. I understand that, like me, he was a magistrate at one point.

The Legal Services (Scotland) Bill, which was introduced on 30 September 2009, is intended to enable the establishment of new business structures within Scotland's legal services industry and to deliver a suitable regulatory framework for individuals and organisations that provide such services. Currently, legal practitioners must operate within business structures that are strictly limited, both by statute and by professional practice rules, and within a regulatory framework in which the regulators both regulate and represent the legal profession.

I have had several conversations with friends—including an ex-president of the Law Society of Scotland—who probably know more about the bill than I do. They have looked closely, perhaps closer than I have, at the proposals. However, it must be said that many practitioners are not hugely supportive. Opinion on the bill among the legal profession is extremely divided. I will come back to that later.

The reforms in the bill are intended to liberalise the legal services market to create a more flexible and modern regulatory framework for legal services, with the ultimate objective of achieving improved access for all to high-quality legal services. Some have referred to the bill as one that introduces a sort of Tesco law, on the basis that it will allow organisations that are not owned by legal professionals, such as banks and supermarkets, to offer legal services to the public. Those with whom I have discussed the bill perhaps have the biggest issue with that proposal.

The Law Society of Scotland supports the bill, but it has echoed the Justice Committee's concerns that the bill should be amended—we have heard almost every member who spoke in today's debate say this—to ensure the independence from Government of the legal profession and the licensed legal services providers that may be created under the bill. I entirely agree with my colleague Robert Brown that multiple regulation is an idea too far that should be removed at stage 2. I know that he intends to do that.

The legal profession faces significant challenges, including competition from English firms, as it has been significantly affected by the economic downturn. Perhaps that is driving some in the legal profession down the route of

supporting the bill. One need only ask any lawyer about the economic downturn to get confirmation that the legal profession is not doing as well as it was several years ago. More and more legal businesses in Scotland that also operate outwith Scotland—in England and further afield in Europe—are using English firms to conduct their legal business both south of the border and in Europe. I understand that many of the firms that operate in Europe are now using English law, whereas in times past they would, I suspect, have used Scots law, which we all accept is better. For Scottish firms that operate outside Scotland, the current arrangements may be to their detriment. If the bill can help to address that, it must be positive.

I return to the issue that has divided the Law Society of Scotland. In April 2008, the society published a paper in which it was argued that allowing alternative business structures would be in the interests of both the legal profession and the public as long as such firms were subject to a regulatory framework that protected the profession's core values. That policy was endorsed by the society's annual general meeting in May 2008. The society continues to adhere to its policy on ABS as stated at that AGM and accordingly it supports the general principles of the bill.

However, as David McLetchie said, there was a very narrow majority in favour of ABS in the Law Society referendum, the results of which were announced on 7 April. Some 2,245 voted in favour of the introduction of ABS, as long as there were appropriate safeguards, and 2,221 voted against it. That is a majority of 24, or 0.53 per cent of the people who voted, which is pretty narrow. I suspect that most lawyers would have got involved and voted on the issue. The resolution that was voted on and passed at a special general meeting that the Law Society held on 16 April, in which the issues were debated again, was at complete odds with that vote. I am sure that the committee will carefully consider that matter in the run-up to stage 2.

So who will benefit—the small firms or the large firms? Of course, solicitors in small firms and individual solicitors make up the biggest percentage of lawyers practising in Scotland, and it is expected that many of those solicitors will wish to continue to operate in traditional solicitors' practices. Nothing in the bill should prevent them from doing so. Therefore, are we passing legislation for the benefit of perhaps four, six, eight or 10 firms? I do not know. Existing forms of regulated legal practice, such as solicitors who operate as sole practitioners in partnership, will, of course, continue to be regulated by the society. Will larger Scottish firms benefit? The committee has found little, if any, evidence of alternative business structures or multidisciplinary practices working elsewhere. The minister mentioned Australia as an example, but it is the only example. It has therefore proven to be difficult to reach a conclusion on the issue.

In conclusion, I note that the committee said that the bill is permissive and that it has the support of the Law Society of Scotland—just. The committee is in no doubt that the bill may be of importance for larger Scottish firms, but its advantages for smaller Scottish firms and, indeed, most consumers are much less clear. We must continue to protect those two groups. As a result of all that has been said by the members of the Justice Committee, I am sure that they will ensure that that happens.

16:37

David McLetchie: The debate, which has been interesting, has reflected many of the divisions of view that have come to light in the wider public debate and among the legal profession in the past few months.

The Minister for Community Safety, Mr Ewing, took a characteristically robust tone in an unequivocal defence of the key principles of the bill. He was right to remind us that the bill is enabling rather than prescriptive in respect of future models for our legal profession's business structures. He was also right to remind us of the opportunities in the alternative models, particularly for our larger legal firms, one of which I used to work for.

If the minister's tone was robust at the start of his speech, I worried a little bit that it was verging on the uncompromising. It has emerged in the debate that the bill will need to be significantly modified at stage 2 if we are to address some of the concerns that have been expressed. I am a little concerned that some concerns that bear further examination were too casually dismissed.

Mr Aitken reminded us of the Justice Committee's lengthy and careful scrutiny of the bill. We are grateful to that committee for the care that it has taken in examining the bill, its consideration of the oral and written evidence, and the comprehensive report that it presented.

Richard Baker made fair points about the big questions that remain to be asked. There is the important question whether a body can have a representative as well as a regulatory function. I noticed in the committee report that some had suggested that the legal profession might like to follow the medical profession. I made that analogy in my opening speech. The medical profession has a representative body in the British Medical Association and a separate and distinct regulatory body in the General Medical Council. However, having said that, we must acknowledge that

whatever divisions there may be among members of the legal profession about the merits or otherwise of the ABS provisions, there is substantial support from the profession for the view that the Law Society should be a regulator under the new regime and should have representative functions as well.

I was interested to hear Robert Brown's critique of the unimpressive evidence that he said was presented to the committee by *Which?* and the Office of Fair Trading. His analogy with the banking crisis was characteristically thoughtful. He suggested that, at heart, it might have been caused by a failure of ethics and professional standards rather than by a failure of regulation. That goes to the heart of many of the concerns that have been raised in the debate on the bill. Fundamentally, people expect those who provide them with legal services to be persons who are qualified in the law. Although the monopoly on the provision of those services is reserved to qualified solicitors and advocates whose range of expertise might be quite limited, people expect providers of legal services to have the same high level of training and qualification over the whole range of legal services. They will be sadly disappointed if that is not the case.

Nigel Don made some interesting observations about the descriptions and designations that may be applied to businesses. Although his speech verged on the esoteric in some respects, it underlined the fundamental principle that by a company's name is it known. The public need to know the nature of the business with which they are contracting at first hand and the service that they can expect from it.

Along with other members, Cathie Craigie highlighted the work that needs to be done at stage 2.

I thought that Stewart Maxwell was a little dismissive of the concerns about people who might end up owning law firms. There is a greater danger than some people think in that regard, which needs to be examined further. I am talking not just about the test that is to be applied on who can own such a firm, but the supervision and application of that test. The issue is about not just the rule, but the resourcing of the regulator and whether the regulator does a good job.

I was struck by Stewart Maxwell's point that it is not necessary to own a business in order to provide a service. I remind him that that was precisely the point that I made in the context of general practitioner services a few months ago, on which, regrettably, I could not persuade him or his Government.

I thought that Bill Butler's winding up on behalf of the committee struck exactly the right tone. He drew attention to the concerns that still need to be addressed and to the need for workable compromises to be arrived at that will bring together some of the disparate views that are held by members of the profession. The committee still has a great deal of work to do on the bill at stage 2, and I wish its members every success in their endeavours in squaring what I think will be an extremely difficult circle.

16:43

James Kelly (Glasgow Rutherglen) (Lab): I welcome the opportunity to close on behalf of the Labour Party. As a member of the Justice Committee, I thank the clerks and the team at the Scottish Parliament information centre for the amount of work that they put into assisting us during our nine evidence sessions on the bill at stage 1.

The committee's consideration of the bill was my first outing as a member of the Justice Committee, and I was advised that it would be a relatively calm and uncontroversial journey. How wrong that proved to be. As we took evidence, it became clear that there were strong views on both sides about the benefits and the disadvantages of the bill. As many have said during the debate, there are divisions of opinion within the legal profession and the Law Society. That has made it difficult for the members of the committee to navigate their way through the bill, to understand it, to grapple with the issues around it, and to map a way forward that will ensure that the passage of the bill benefits the legal profession and the consumers and users of legal services throughout Scotland.

As I have said, there are strong arguments for and against. In favour, there are those who point to the modernisation of legal services in England and Wales, and there is a feeling that we do not want Scotland to be left behind. If we are left behind, Scottish firms could become disadvantaged. The minister pointed out that there are potential economic advantages to moving down the ABS route. We do not want to disadvantage our Scottish legal firms. If we can, we also want an opportunity to boost that sector of the Scottish economy. Consumer Focus Scotland pointed out that, if ABS is successful, the bill provides the opportunity of helping consumers by giving them better access and reducing prices.

Against those strong arguments are those who say that the independence of the legal profession is under threat, and that long-standing arrangements, such as the guarantee fund, will be in danger of being terminated. There are also fears that the bill spells the death of many small firms, and that there is a danger of unscrupulous third parties becoming involved.

The committee's role in assessing the effectiveness of the legislation was not helped by the lack of evidence. The Law Society gave the committee some strong evidence but, as Robert Brown pointed out, some of the other evidence was not so strong. It was also difficult because we did not have strong international examples. The changes that have been introduced in England and Wales have yet to be implemented, so we cannot see the advantages or disadvantages of them yet. The minister quoted Australia, but there are no strong examples nearer to home that allow us to assess whether this is the correct route to take.

Throughout the process, we have seen divisions in the Law Society. It has gone through a number of processes and taken different views on ABS. As far back as 2008, there was a strong vote in favour. There was then a special general meeting, which was halted. In between times, a referendum voted narrowly in favour of alternative business structures, and then the reconvened special general meeting voted against. We are now awaiting the results of the Law Society's executive's discussions and a further AGM. I am sure that we all wish Ian Smart and the officers well in their efforts to come up with a consensus and a way forward that can be agreed by the majority of members. That will not be an easy task.

A number of important issues are still to be addressed as we move to stage 2. There are concerns that the legislation could undermine the independence of the legal profession. As Bill Butler and others said, the proposal made by Mike Dailly of Govan Law Centre for a co-ownership model with a 75:25 per cent split is one way forward. Mr Dailly has been critical of ABS structures, and his proposal gives us the opportunity to build consensus.

The issue of regulation is complex. Concerns were expressed at the committee about the power vested in ministers. I welcome the minister's commitment to look at an enhanced role for the Lord President. That is the correct route to take. David McLetchie is right to point out that we want a level playing field, no matter how many regulators we have. It is important that those proposals come forward.

If the change is to be successful, it must be properly resourced. As I said earlier, ICAS said that the new regulatory system would be costly to operate. The financial memorandum is sketchy on detail, and the finances to back up the bill are not adequate. The estimated cost for moving applications through the process is a minimum of £27,000 and a maximum of £71,000, and the estimated cost for the monitoring of the process is a maximum of £48,000, depending on staff numbers. If we are to address the concerns that members have raised about potentially unscrupulous third-party involvement, we need greater resources to perform the task properly and not the paltry sums that we see in the financial memorandum.

As Bill Butler, Richard Baker and others have said, it is important that we can demonstrate that the proposals give adequate access to justice. As Robert Brown helpfully pointed out, there is an important role for the minister in getting the interested parties round the table to discuss the issues and hammer out a way forward. I recognise that the minister wants to make a robust defence of his bill, but some of his criticisms went a bit too far. He must reach out to those in the legal profession who have been critical and get them on board, so that we can all move forward on the issue.

Labour supports the bill at stage 1, although it will have to be amended heavily at stage 2. We will await further developments with interest.

16:52

Fergus Ewing: I thank all members for their contributions, which have been extremely useful—at times thoughtful, perceptive and coming at the issue from a large number of different perspectives. As our response to the committee clearly demonstrated, we have not only listened to the committee but responded positively to most of the points that it made, many of which have been repeated in the debate.

As Mr Maxwell mentioned, it seems unreasonable that the citizens advice bureaux should not be able directly to employ solicitors. A removal of that restriction would seem to be sensible and easy to effect, and I hope that it will be done at stage 2. The committee recommended an enhanced role for the Lord President. We have given that recommendation careful consideration, and we agree with the committee and the arguments that it adduced to that end. That change, too, will be brought forward.

At the very outset, I indicated to the committee that it is imperative that the new alternative business structures should be subject to the protection of clients in exactly the same way as the principle exists at present with regard to both negligence and fraud. So far as I recollect, I made it clear in my stage 1 evidence that it will be necessary therefore to introduce provisions at stage 2 for a compensation fund, so that clients of the new licensed providers receive protection against fraud. That protection, which a number of members rightly raised, will be introduced at stage 2.

Section 35—on the step-in powers of ministers to act as regulator in the event of default of approved regulators for whatever reason—was intended only ever to be a last resort, and amendments to make that clear will be lodged.

Mr Maxwell mentioned sanctions on outside investors, as I think did Labour members. The argument is well made that there should be sanctions that can be taken on individual outside investors, and that issue will be the subject of amendments at stage 2.

In addition, I have decided that, although I have been told by the Scottish Government's legal experts that it is not strictly necessary, because it is already implicit in the terms of section 2—in subsections (c) and (e), from memory, which could, of course, be at fault—it should be said explicitly in the bill that those who are working under the new licensed providers business structure will be subject to the same duties of confidentiality that are owed by solicitors to clients in traditional solicitors' practice. Making that clear will ensure that there is no doubt that we are aiming for the highest ethical standards to be provided by everyone who engages in alternative business structures. That is the type of business that we envisage being done, and that is the type of approach that we will require to be taken.

Nigel Don talked about the terms of sections 1 and 2. Those are the first and second sections of the bill because of the importance that we attach to their provisions. Section 1 sets out the regulatory objectives

"supporting the constitutional principle of the rule of law",

protecting and promoting "the interests of consumers" and "the public interest generally" and promoting "access to justice", which Labour members have, rightly, highlighted as a key objective. Section 2 sets out professional principles, which all solicitors hold dear, such as acting "with independence and integrity" and

"in the best interests of their clients".

In my response to the debate, I hope that I have indicated that we have listened to all members and that we have responded to their points. In most cases, we are responding to the points by doing exactly what has been asked of us.

Richard Baker quite fairly raised a point about claims management companies. We have no fixed position on the matter, and we understand the case the Richard Baker outlines. I welcome the opportunity to discuss the matter with Richard Baker, and I think that that would be useful, even in advance of stage 2.

We are aware of concerns relating to claims management companies, but we are not aware of much evidence relating to malpractice in Scotland. We know of about four or five complaints about such companies, but we do not know whether they can be substantiated. At my request, officials have made inquiries of the OFT, trading standards officers, Citizens Advice Scotland and the former Scottish Consumer Council, but we have not detected a huge amount of evidence. If Mr Baker has evidence, we would like to see it. It might be that this bill is not the correct vehicle for addressing the matter, and I do not know whether an amendment on the subject would be competent—that is for the Parliament to decide, not me. Nonetheless, we wish to engage with Richard Baker on the issue and respond to those concerns.

In case of doubt, as I said in my opening remarks, I have had useful discussions with the profession. I was determined so to do when I took over responsibility for the handling in the Parliament of the bill. I have had, I think, 11 meetings with various interested parties, including several representatives of the legal profession, the Scottish Law Agents Society, the Law Society, MacRoberts and individual solicitors. Even before the referendum, I had sought further meetings and will continue to seek them. I am to meet representatives of individual firms and will have a further meeting with SLAS. Like all members who have spoken, I think that it would be preferable if we could secure broad support in the profession for our proposals. That is what I aspire to, but I will not predict at this stage whether it is achievable—suffice it to say that, for whatever reason, the attempts that have been made in that regard have so far not been successful.

I echo the sentiment, expressed by speakers from across the chamber, that those in the Law Society who have been involved in the bill have carried a huge burden over the past year and have faced a difficult time—I think that Mr Brown referred to it as a torrid time.

I pay tribute to Ian Smart, who will soon demit office as president of the Law Society and who, I think, is present in the gallery today. Ian has worked tirelessly to support the interests of the legal profession and the public in relation to the bill and on many other matters. A sole practitioner, Ian clearly has the wellbeing of all solicitors at heart, and I have no doubt that, in his remaining time as president, he will continue to work hard on their behalf. I thank him for his extremely constructive contribution over the past few months.

I commend the principles of the bill to the Parliament.

Business Motions

17:00

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-6218, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees—

(a) the following programme of business—

Wednesday 5 May 2010	
2.00 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Members' Business
2.50 pm	General Question Time
3.10 pm	First Minister's Question Time
3.40 pm	Themed Question Time Rural Affairs and the Environment; Justice and Law Officers
followed by	Business Motion
followed by	Parliamentary Bureau Motions
4.20 pm	Decision Time
Wednesday 12 May 2010	
2.30 pm	Time for Reflection
followed by	Parliamentary Bureau Motions
followed by	Scottish Government Business
followed by	Business Motion
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business
Thursday 13 May 2010	
9.15 am	Parliamentary Bureau Motions
followed by	Scottish Government Business
11.40 am	General Question Time
12 noon	First Minister's Question Time
2.15 pm	Themed Question Time Finance and Sustainable Growth
2.55 pm	Scottish Government Business
followed by	Parliamentary Bureau Motions
5.00 pm	Decision Time
followed by	Members' Business

(b) that the period for lodging First Minister's Questions for First Minister's Question Time on 5 May 2010 ends at 4.00 pm on Thursday 29 April 2010 and

(c) that the period for lodging First Minister's Questions for First Minister's Question Time on 3 June 2010 ends at 4.00 pm on Thursday 27 May 2010.—[*Bruce Crawford*.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-6219, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a stage 1 timetable for the Patient Rights (Scotland) Bill.

Motion moved,

That the Parliament agrees that consideration of the Patient Rights (Scotland) Bill at Stage 1 be completed by 19 November 2010.—[*Bruce Crawford.*]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-6221, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a stage 2 timetable for the Scottish Parliamentary Commissions and Commissioners etc Bill.

Motion moved,

That the Parliament agrees that consideration of the Scottish Parliamentary Commissions and Commissioners etc Bill at Stage 2 be completed by 7 May 2010.—[*Bruce Crawford.*]

Motion agreed to.

Parliamentary Bureau Motion

17:02

The Presiding Officer (Alex Fergusson): The next item of business is consideration of Parliamentary Bureau motion S3M-6222, in the name of Bruce Crawford, on the approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the Census (Scotland) Order 2010 to the extent that it relates to the following particulars in Schedule 2—

(a) item 1;

(b) in item 2, the words "and, as the case may be, where there are 5 or fewer persons in the household, the relationship of each of the previous persons mentioned in the return and where there are 6 or more persons in the household, the relationship of the sixth and subsequent persons to the two previously mentioned persons in the return";

(c) item 7;

(d) in item 8, the words "and, if not born in the United Kingdom, month and year of most recent arrival to live in the United Kingdom";

(e) items 9,10,12,14,17,18,19,20;

(f) in item 21, the words "on a Government sponsored training scheme;"

(g) items 22,27,28,30,31,33,34;

and items 1,2,3 and 4 of Schedule 3 to the Order, be approved.—[*Bruce Crawford.*]

The Presiding Officer: The question on the motion will be put at decision time.

Decision Time

17:02

The Presiding Officer (Alex Fergusson): There are three questions to be put as a result of today's business.

The first question is, that motion S3M-6167, in the name of Bruce Crawford, on the Interpretation and Legislative Reform (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees that the Interpretation and Legislative Reform (Scotland) Bill be passed.

The Presiding Officer: The next question is, that motion S3M-6168, in the name of Fergus Ewing, on the Legal Services (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, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brocklebank, Ted (Mid Scotland and Fife) (Con)
Brown, Gavin (Lothians) (Con)
Brown, Robert (Glasgow) (LD)
Brownlee, Derek (South of Scotland) (Con)
Butler, Bill (Glasgow Anniesland) (Lab)
Campbell, Aileen (South of Scotland) (SNP)
Carlaw, Jackson (West of Scotland) (Con)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Coffey, Willie (Kilmarnock and Loudoun) (SNP)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Don, Nigel (North East Scotland) (SNP)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
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)
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)
Harvie, Christopher (Mid Scotland and Fife) (SNP)
Hepburn, Jamie (Central Scotland) (SNP)
Hume, Jim (South of Scotland) (LD)
Ingram, Adam (South of Scotland) (SNP)
Kelly, James (Glasgow Rutherglen) (Lab)
Kerr, Andy (East Kilbride) (Lab)

Kidd, Bill (Glasgow) (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)
McArthur, Liam (Orkney) (LD)
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)
McNulty, Des (Clydebank and Milngavie) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Morgan, Alasdair (South of Scotland) (SNP)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Paterson, Gil (West of Scotland) (SNP)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
Russell, Michael (South of Scotland) (SNP)
Salmond, Alex (Gordon) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Elizabeth (Mid Scotland and Fife) (Con)
Smith, Iain (North East Fife) (LD)
Somerville, Shirley-Anne (Lothians) (SNP)
Stevenson, Stewart (Banff and Buchan) (SNP)
Stewart, David (Highlands and Islands) (Lab)
Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
Sturgeon, Nicola (Glasgow Govan) (SNP)
Swinney, John (North Tayside) (SNP)
Thompson, Dave (Highlands and Islands) (SNP)
Watt, Maureen (North East Scotland) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Bill (West of Scotland) (SNP)
Wilson, John (Central Scotland) (SNP)

Against

Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)

The Presiding Officer: The result of the division is: For 92, Against 2, Abstentions 0.

Motion agreed to,

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

The Presiding Officer: The third question is, that motion S3M-6222, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the Census (Scotland) Order 2010 to the extent that it relates to the following particulars in Schedule 2—

(a) item 1;

(b) in item 2, the words "and, as the case may be, where there are 5 or fewer persons in the household, the relationship of each of the previous persons mentioned in the return and where there are 6 or more persons in the household, the relationship of the sixth and subsequent persons to the two previously mentioned persons in the return";

(c) item 7;

(d) in item 8, the words "and, if not born in the United Kingdom, month and year of most recent arrival to live in the United Kingdom";

(e) items 9,10,12,14,17,18,19,20;

(f) in item 21, the words "on a Government sponsored training scheme;"

(g) items 22,27,28,30,31,33,34;

and items 1,2,3 and 4 of Schedule 3 to the Order, be approved.

Nuclear Power

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-5352, in the name of Joe FitzPatrick, on the need for nuclear power. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the intervention in the Dundee-based *The Courier* by Bailie George Regan, Chair of Nuclear Free Local Authorities, to the debate on the future of Scotland's energy needs; considers that his opinion reflects the will of the people and the Parliament that Scotland's future energy needs lie in renewables rather than nuclear power, and believes that the massive government subsidies that are earmarked for new nuclear power stations in the UK would be of greater benefit to the research and development of renewable technologies.

17:04

Joe FitzPatrick (Dundee West) (SNP): The debate provides an opportunity to make Scotland's position on nuclear power clear. I acknowledge that the title of the motion might be a little ambiguous but, just in case there is any doubt, my argument is that Scotland has no need for new nuclear power. We do not need the expense or the risk associated with it and we certainly do not want to pass any more nuclear waste down to future generations. Given the abundance of renewable energy options that Scotland has at its disposal and the wealth of green energy on our doorstep, it would be unforgivable to pursue a new generation of nuclear power stations.

I was prompted to submit the motion for debate after the question whether Scotland should have a new generation of nuclear power stations was raised in my local paper, the Dundee *Courier*, by Bailie George Regan, a Dundee Labour councillor and chair of Nuclear Free Local Authorities. He argued that we should not aim to build new nuclear power stations because, with the wealth of renewable options already in place, the country's huge additional potential in that respect and the work being carried out by the Scottish Government and local councils on energy efficiency and microgeneration, Scotland simply has no need for new nuclear power generation.

Gavin Brown (Lothians) (Con): The member's motion refers to

"massive government subsidies that are earmarked for new nuclear power stations in the UK".

What size are those subsidies?

Joe FitzPatrick: I will talk about subsidies later and quote the United Kingdom minister with responsibility for the area.

At present, 11 Scottish local authorities, including Dundee City Council, are members of NFLA, which works with the councils to ensure that they meet their commitments to sustainable development and environmental protection. NFLA also campaigns against nuclear new-build and the proliferation of nuclear weapons.

I am against new nuclear power for two reasons: first, we do not need it and secondly, we cannot afford it. On the first point, last year Scotland generated about 50,000 gigawatt hours of energy. As that far exceeded demand, just under 20 per cent of that energy was exported to England and Northern Ireland. At present, 24 per cent of the electricity consumed in Scotland comes from renewables. The figure is growing year on year and we are on track to hit the Scottish Government's targets of 31 per cent by 2011 and 50 per cent by 2020.

Scotland's two working nuclear power stations generate around 30 per cent of its total electricity production. The decommissioning dates for Hunterston B and Torness are expected to be around 2016 and 2023 by which time, the figures suggest, renewables will have not only filled the gap but ensured that Scotland continues to be a net exporter. For the record, I am not suggesting that existing nuclear power stations should be closed before their natural lifespan runs out.

The figures for Scotland's renewable potential are truly staggering. For example, its potential to generate electricity from renewables has been estimated at 60GW. Given that that is more than 10 times what we need, there is huge potential to export green energy.

My second reason for not supporting new nuclear power is that we cannot afford it. We simply cannot afford to divert funds away from the progress that we are making in harnessing Scotland's renewables potential. Scotland is leading the world on measures to tackle climate change and, with our natural resources, we can be at the forefront of renewable technology and reap the benefits of exporting our expertise to the world.

Lewis Macdonald (Aberdeen Central) (Lab): Will Mr FitzPatrick now answer Mr Brown's very pertinent question about the Government subsidies that he appears to have identified?

Joe FitzPatrick: I will come to the point when I come to the point.

The potential for green energy is huge, with 26,000 extra jobs expected to be created in Scotland over the next decade. In my Dundee West constituency, we can see both the potential of green jobs and the threat posed by investing in nuclear power rather than renewables. Dundee port is well placed as a hub for the construction and maintenance of offshore wind turbines and the

investment that the Scottish Government is putting in to offshore renewables is providing a major opportunity for companies in the city. It is estimated that over the next 10 years more than £15 billion will be spent on offshore wind turbines and the potential for companies in Dundee and throughout Scotland to supply the European market is vast. To do that, however, we must continue to keep our global lead in new technology. A shift of money and focus away from renewables to nuclear would mean missing out on the opportunity to export skills and goods to Europe and the rest of the world. We cannot afford to waste billions on new nuclear, as we are already paying the price of a costly legacy.

Nuclear is the most expensive way in which to produce electricity. To respond to the point that members of pro-nuclear parties have made, I point out that, in 2008, the then UK business secretary, John Hutton, conceded that no nuclear plant had been built anywhere in the world without public money. We must consider the full costs of nuclear plants. The cost of decommissioning alone is more than the value of the electricity that plants generate over their lifetime. The cost of the Chapelcross clean-up is estimated at £1.4 billion and the site will not be available for re-use until 2128. The clean-up at Dounreay will cost more than £3 billion. So we do not need it and we cannot afford it.

It is clear that Scotland's renewable potential, coupled with the Scottish people's opposition to nuclear, provides a clear mandate against new nuclear energy. The Parliament needs control over our energy policy to make the most of the potential and to reap the benefits in jobs and tax revenue from a successful renewables industry. Any investment in new nuclear would be a step backwards and would be hugely damaging to Scottish jobs and our carbon footprint. We do not need new nuclear and we do not want it.

17:11

Lewis Macdonald (Aberdeen Central) (Lab): The hallmarks of a mature party in a mature democracy are that it can tolerate different views on important issues and recognise that colleagues who disagree with the party line are sincere and well informed, even though it thinks that they have reached the wrong conclusions. Mr FitzPatrick's speech has reminded us that Scottish National Party policy on nuclear energy is misguided, but it is encouraging that a long-standing SNP member such as Jim Gray, a member of the Helensburgh branch of the SNP, can take a different view from the party.

Members might have seen Mr Gray's critique of party policy under the title "Electric Power in the New Scotland", which he offered alongside his evidence to the Economy, Energy and Tourism Committee's inquiry into the future of Scotland's energy industries, the report of which was published last June. Mr Gray has extensive first-hand experience of the electricity generating industry. He is a fellow of the Royal Academy of Engineering, among other things. His commentary on nuclear power states that the SNP's 2007 manifesto is

"marred by the inclusion of two self-contradictory and dangerous paragraphs."

Those are paragraphs on climate change and electricity, which Mr Gray interprets as meaning that

"We will reduce carbon emissions and get rid of the biggest producer of carbon-free energy we have."

That goes to the heart of the contradiction in the SNP's policy position. It makes no sense to rule out nuclear power at the very time when we need more rather than less low-carbon electricity. It is good that at least some members of the SNP are prepared to stand up in public and point that out. It is no wonder that Mr Gray subtitles that part of his pamphlet with a quote that is borrowed from Oliver Cromwell to address the Scottish ministers. It reads:

"In the bowels of Christ I beseech you, think it possible you may be mistaken."

Electricity policy should be based on the imperatives of reducing carbon emissions and increasing security of supply while tackling fuel poverty and creating quality green jobs. Labour at Westminster has sought to deliver on those objectives by supporting renewable energy and new nuclear while putting up to £1 billion into work on carbon capture and storage and creating a green investment bank to support new jobs.

Brian Adam (Aberdeen North) (SNP): Mr Macdonald has given an eloquent demonstration of his commitment to new nuclear power. Will he say exactly where in Scotland he wants the new power stations to be? Can he assure us that he does not want them in his back yard up in the north-east?

Lewis Macdonald: That is an interesting proposition from Brian Adam, because the SNP's position on the future of energy is much less clear than tonight's motion suggests. It refers only to renewable technologies as the way forward, yet the national planning framework 2 says explicitly:

"There is a need for new baseload electricity generating capacity to replace the power stations programmed for closure over the next 20 years."

Joe FitzPatrick: The suggestion that nuclear power can provide a stable base-load is blown out of the water when we consider countries that are dependent on nuclear power, such as France,

which frequently has to import electricity from other countries when its nuclear power stations are down because the reactors are overheating or threatening to overheat.

Lewis Macdonald: What a pity that Mr FitzPatrick did not make that point in his own speech.

The national planning framework identifies Hunterston as having the capacity to accommodate a major new clean coal-fired power station, and it identifies that as a priority national development. However, again, it appears that not everyone in the SNP agrees. There was a vote here last month on an amendment to oppose unabated new coal-powered capacity and to reject plans to build a new coal-fired power station at Hunterston. Mr Gibson was one of several members of the SNP who voted for that amendment; Mr FitzPatrick was one of several who voted against it. Some might say that SNP members believe that it is all right to have new coal-fired power stations as long as they are not in their own backyards. A more generous interpretation might be that that split was a sign of a new culture of tolerance and informed dissent within the SNP. Time will tell which of those is true.

If Scotland is to meet its carbon reduction targets, there will have to be a change of Scottish Government policy sooner or later. In spite of the dissenting voices within the SNP, I fear that that will not come before the election next week. Indeed, I fear that it will not come as a change of Scottish Government policy until after the election next year.

17:16

Kenneth Gibson (Cunninghame North) (SNP): Dearie me.

I congratulate my colleague, Joe FitzPatrick, on securing the debate on an issue that is of great importance to the people of Scotland and to the people in my constituency. Although the Scottish Government is committed to the running of our existing nuclear power stations, such as Hunterston, and is aware of the energy that they provide to the national grid, we see no need for any future nuclear facilities. Indeed, in the context of jobs, the Nuclear Decommissioning Authority is of the view that decommissioning Hunterston will take anything from 25 to 125 years—70 years is about the best bet—and that decommissioning will provide more jobs than the plant currently provides. Incidentally, Hunterston A, which closed in 1989 after 25 years of operation, is still being decommissioned—at a cost last year of approximately £49 million.

Lewis Macdonald: Will the member give way?

Kenneth Gibson: I will let Lewis Macdonald in in a wee second.

The key to the debate is the word “need”, in the context of nuclear power. I met Muir Miller, the project director of Ayrshire Power Ltd, which proposes the coal-fired power station that Mr Macdonald spoke about a few moments ago. He accepts that Scotland has no need of the energy for its own use, but his company is progressing with the project in order that energy can be exported. That company appreciates the fact that there will be an energy surplus in Scotland in the future. Even in the past year, we have learned that Cockenzie power station, which was going to close, is likely to be reconfigured as a 1.5GW gas turbine plant, and that Longannet will be completely renewed as a 2.4GW coal-fired power station. That would provide about three times the current energy output of Hunterston.

Lewis Macdonald: If Mr Gibson accepts the view that the power that would be generated at Hunterston would be surplus to requirements, does he also believe that the national planning framework has got it wrong?

Kenneth Gibson: If Mr Macdonald looks at the plans for Ayrshire Power Ltd, he will see that they are not being applied for under the national planning framework, but under industrial policy 4. He may want to look at the matter in a bit more detail.

Any argument about nuclear power stations being somehow more efficient and safer must surely be dispelled by recent experiences in France and Finland. French company Areva is currently constructing two identical power stations at Olkiluoto—I hope that I have pronounced that correctly—in Finland, and at Flamanville, in France. Billed as the models of a “nuclear renaissance”, those plants were meant to be cheaper, more powerful, safer and more efficient than previous generations of nuclear power stations. However, their construction has been hit with a plethora of problems. First, both projects are massively over budget. In Finland, the plant’s estimated cost was €2 billion, but the cost is now more than double that. Secondly, both plants were supposed to be built within four years, but are currently going to take six years.

Gavin Brown: Will the member give way?

Kenneth Gibson: I would really like to give way, but I have only a minute left and I am not even halfway through my speech.

Perhaps most worrying is that there has been genuine concern about the safety of the plants. The Finnish Radiation and Nuclear Safety Authority identified 700 non-conformances during investigation of the project, and the director-general of that authority condemned Areva’s

"attitude and lack of professional knowledge"

in failing to correct problems more than a year after they had been identified. He also slammed the design of the plant as failing to meet

"the basic principles of nuclear safety".

It is, therefore, extremely concerning to note that the proposed fleet of new nuclear power stations to which the UK Labour Government has recently given the green light are likely to be built by Areva and will be, in the words of the chairman of UniStar Nuclear Energy, standardized down to "the carpeting and wallpaper."

Nuclear energy is costly and potentially dangerous, and the Scottish Government's stance on the issue is widely applauded by environmentalists. I agree with my colleague Joe FitzPatrick that the money that is to be spent on new nuclear power would be more effectively spent on enhancing the renewable energy sector in Scotland and other parts of the UK.

Scotland has already been identified as a world leader in renewable energy technologies and has huge offshore renewables potential. Failure to invest in the skills and resources would be a massive opportunity missed as the world races to create viable and efficient renewable technologies.

Admittedly, only a small percentage of Scotland's energy requirement is produced at the moment by, for example, the Siadar wave energy project, which will nevertheless create energy for 2,000 homes and 70 jobs, but more is in the pipeline from a new hydro project in the Great Glen and from offshore wind—of course, 6.4GW of capacity was leased by the Crown Estate only recently.

Scotland has unique offshore potential, for which many countries would give their eye teeth. Continued investment in research and development and pilot projects could lead to Scotland providing up to a quarter of the European Union's energy needs.

There is no need for nuclear power. We should go ahead with other forms of energy production.

17:20

Gavin Brown (Lothians) (Con): I take issue with the wording of the motion, as I alluded to in an intervention, and with the substance of it. My issue with the wording of the motion was emphasised by the question that I put to Mr FitzPatrick, which I would have put to Mr Gibson if he had accepted my intervention. The motion uses clearly the phrase:

"believes that the massive government subsidies that are earmarked for new nuclear power stations in the UK would be of greater benefit to the research and development of renewable technologies."

The questions that I put, which I do not think were answered, were these: What are those subsidies? Where have they been earmarked and what is their total value? I did a lot of research today to try to establish where the subsidies are. As far as I could establish, they do not exist, although I am happy to be proved wrong. Perhaps the Minister for Enterprise, Energy and Tourism could explain to us where the subsidies are and for what they have been earmarked. I could not find them. The Labour Party seems to suggest in its manifesto that it supports nuclear power, but thinks that it should be without subsidy. I can certainly confirm that the Conservative manifesto is supportive of nuclear power, but that it also says that it should be without subsidy.

Joe FitzPatrick: Can the member point to an example anywhere in the world of a nuclear power station being built without the injection of public finance?

Gavin Brown: The member rests his claims pretty much on first and second-generation nuclear power stations and seems to ignore the third-generation nuclear power stations that are being built around the world. I put the question to him, because the matter is in his motion. He wrote it personally, lodged it and demanded that it be debated in the Parliament. The Parliament deserves to know where are the subsidies that he refers to as having been earmarked for new nuclear power stations.

I do not accept the other argument that we simply cannot afford nuclear power because any money that goes into new nuclear from a private source is, by definition, money that is taken away from renewable technology. That simply is not correct. The two nuclear power stations in Scotland are, of course, owned by EDF Energy plc, which bought out British Energy plc. If there is to be no nuclear power in Scotland, I do not think that EDF would suddenly decide to convert to wave or tidal power. What will happen is that EDF will take its investment elsewhere; it will take its investment south of the border and it will invest more in France. It will take its investment to any other European country, a growing number of which are investing in new nuclear technology.

Those countries are investing in nuclear power because although it is not carbon free, it is a low-carbon source of electricity. That is an uncomfortable truth for members of the SNP and other parties that are against nuclear power, but that is the reality. It is a very uncomfortable truth for the SNP to face. By getting rid of nuclear power and replacing it with renewables, we do pretty much zero to the overall effect of our carbon emissions. The big danger is that Scotland will end up being a net importer of electricity from south of

the border and that that electricity will be from nuclear power from south of the border.

17:25

Liam McArthur (Orkney) (LD): It strikes me that the theme and the motion for the debate stray somewhat from the approach that is generally taken to members' business. That is no bad thing and I congratulate Joe FitzPatrick on securing the debate, notwithstanding the slight ambiguity in the motion's title.

British politics is said to be in flux, but the speeches this evening confirm that a game-changing movement towards a cross-party consensus on nuclear power is unlikely. However, I acknowledge Lewis Macdonald's point about the healthy debate that has happened in all our parties on the issue.

Like others, I will start by reiterating my party's position. The Scottish Liberal Democrats oppose the development of new nuclear power stations. That position is reflected throughout the UK and does not apply solely in Scotland.

Mr FitzPatrick's motion refers to

"the will of the people".

That factor is important and is not simply a gut reaction to an abstract proposition. It is worth reflecting that the nuclear aspect of the wider energy debate is perhaps given more prominence than any other aspect. To some, that is a source of frustration and complaint. I understand that frustration to a degree. Nevertheless, it means that public views are shaped by greater exposure to the arguments for and against new nuclear power stations, which is significant.

It is generally accepted that there are no easy or inexpensive solutions to decarbonising our economy and meeting our future energy demands—to reducing harmful emissions, safeguarding security of supply and eradicating the scourge of fuel poverty. However, that does not mean that no options exist.

The options are well set out in the report by Garrad Hassan and Partners, "The Power of Scotland Renewed", which was published last year. It suggests that renewable energy can meet between 60 and 143 per cent of Scotland's projected annual electricity demand by 2030—that depends on the levels of energy saving and of new renewables. The base scenarios that were used assume increased energy consumption and stable peak demand but, as the report's authors made clear, that is a worst-case scenario, as one hopes that current and future efforts to reduce consumption and manage peak demand will bear fruit over time.

An increased commitment to widespread and significant energy efficiency measures is essential, as is investment in grid upgrades—including subsea cables—and in interconnectors and storage options, to reflect the changing nature of energy generation. That was a central theme in last week's excellent debate on transmission charging. I reiterate the need for the charging structure to underpin the renewables revolution that we all want and certainly not to work against it, as at present.

I do not dispute that all that comes at a significant up-front cost, but the benefits in the longer term for emissions reductions and security of supply and for more managed and affordable energy costs more than justify the investment. When we add the opportunities for job and wealth creation—not just in Dundee but in remoter parts of the country, such as the islands that I represent—it is self-evident that we should strain every sinew to deliver those aspirations.

The risk is that new nuclear build diverts investment—including vital research and development funding—from genuine renewables. It is worth reflecting on the Scottish Government's record. The importance of the saltire prize—Mr Salmond's vanity project that will pay out nothing until 2017 at the earliest and might pay out later—has constantly been elevated above the need for more immediate and targeted R and D funding for the marine sector. The point about R and D in Mr FitzPatrick's motion is well made. Another risk is that the picture is distorted for decisions about grid, other infrastructure and supply-chain development.

New nuclear is touted as a cheaper solution in the short to medium term, but such an approach to policy making has landed us with the problems that we now face. Given that we still have no acceptable solution for waste disposal—perhaps the minister will say whether his Government is considering disposal options for nuclear waste—and given the longer-term issues with sourcing uranium and the serious concerns about the impact on the development of genuine renewables, the case for new nuclear is at best superficial.

I congratulate Joe FitzPatrick again on securing the debate, although I fear that his hope that it will allow the Parliament to speak with a clear voice on the issue was a little overoptimistic.

17:29

The Minister for Enterprise, Energy and Tourism (Jim Mather): I thank Joe FitzPatrick for lodging the motion and other members for their contributions this evening. The Scottish Government welcomes the debate and supports

the motion. It is the will of the people of Scotland and of the Parliament that Scotland's future energy needs should be met from renewable rather than nuclear power. The Scottish Government has consistently argued that new nuclear power stations are neither wanted nor necessary in Scotland. The Scottish Parliament has consistently backed it on that.

With our huge renewable energy resources and massive carbon storage potential, Scotland is embracing the energy future and positioning itself to be Europe's low-carbon hub. We are achieving that without the huge inefficiency, dangerous safety record, wasteful cost overruns and appalling toxic legacy of the UK's nuclear programme, which is not the right choice for Scotland. There is a balance of payments argument, a comparative advantage argument and the sheer evidence of utility companies investing in line with our plans.

We genuinely want a nuclear-free future for Scotland. How can we have a nuclear programme when safety concerns are so widespread that, as recently as 27 November 2009, *The Guardian* reported that the Health and Safety Executive cannot recommend acceptance of reactor designs? I put it to my colleagues in the Labour and Conservative parties that nuclear power is an unacceptable risk that we do not have to take. The people of Scotland should not be expected to bear an even greater cost burden than our share of the £44.5 billion that is needed to clean up our existing nuclear plants.

Lewis Macdonald: I recognise the point that the minister makes about nuclear waste and the long period during which it must be kept safely. Does he accept that the alternative base-load strategy of carbon capture and storage that he has pursued will require the safe storage of captured carbon for a very long time?

Jim Mather: I do, but it offers us an internal balance of supply in Scotland, the ability to develop technologies and expertise that we can sell elsewhere and the ability to make Scotland and its North Sea the carbon capture and storage location of choice for Europe. There is a big prize to be won.

With nuclear, there is a risk of new costs for us to shoulder in the long term. Mr Brown made a point about subsidies. In my view, it is inconceivable that the decommissioning charge will not come back to the taxpayer. We are already bearing heavy cost. The experience in Finland is of cost overruns and delays in the project coming on stream. There is also a possibility that the Finnish environmental protection agency will not allow it to open.

Gavin Brown: The motion states clearly that "massive ... subsidies ... are earmarked for new nuclear power stations".

In his capacity as energy minister, is Jim Mather aware of any earmarked subsidies?

Jim Mather: I suspect that the earmarked subsidies to which the motion refers relate to decommissioning and its track record. Even with the new technology that is coming through, we have unknown unknowns. When we look at what is happening in Finland at this time, the track record is deeply worrying.

We should compare and contrast that uncertainty and track record of cost with our ability to have a sustained increase in renewables deployment in Scotland. The level of consents here is monumental. Since we came into government, we have consented to 33 renewables and two non-renewables applications under section 36 of the Electricity Act 1989. We have a streamlined process that is boosting investor confidence and are well on track to deliver our ambitious renewable targets.

People are responding to the signals. We are better placed to capture a healthy share of the supply chain with renewables and CCS than in any nuclear scenario.

The Scottish Government has a clear and consistent energy policy and a track record of delivery. We are going to meet our renewable energy targets, exceeding the UK's share of the EU 2020 target. We are continuing to speed up the planning process. We are reducing the amount of energy that is used by households and businesses, through our energy efficiency action plan. We are securing record levels of investment in energy, both onshore and offshore. We have opened up the world's largest commercial-scale marine energy zone. We have clearly stated that there will be no new coal power stations in Scotland without CCS in place from day one. Our electricity-generating sector needs to be completely decarbonised by 2030, in line with our world-leading climate change legislation.

The energy policy is backed up by robust data, which will ensure security of energy supplies and will allow Scotland to export clean energy across the UK. The trends in the generation mix in Scotland have changed over the past decade. There is also a considerable difference between the Scottish generation mix and the wider UK generation mix, which must be carefully considered. The higher levels of renewable energy capacity, coupled with our ambitious renewables targets and our intelligent approach to grid issues, negate the need for new investment in nuclear energy. The future investment conditions to attract what we need to move forward are being created here in Scotland.

Before I close, I will refer to the arguments that Joe FitzPatrick made. Joe FitzPatrick is entirely in accord with me. He argues that there is no need for nuclear energy, and that it is not affordable, particularly from a balance of payments standpoint. He argues for a legacy that could be positive, not negative; for a balance of payments that is positive, not negative; and for avoiding the diversion of funds that could be invested here in Scotland—in Scottish projects, in Scottish jobs, delivering Scottish energy. We should learn from the negative experiences in Finland and France, and we should instead create opportunities for Scottish communities and for Scottish ports. We can play to our material comparative advantage, which the Garrad Hassan report identified.

We are in a substantially better position than we were before. We have created clarity in the market, and the market is responding.

Meeting closed at 17:36.

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