



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Thursday 30 September 2010

Session 3

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2010.

Applications for reproduction should be made in writing to the Information Policy Team, Office of the Queen's Printer for Scotland, Admail ADM4058, Edinburgh, EH1 1NG, or by email to:
licensing@ogps.gov.uk.

OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

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

Thursday 30 September 2010

CONTENTS

	Col.
HIGHER EDUCATION	29087
<i>Motion moved—[Elizabeth Smith].</i>	
<i>Amendment moved—[Michael Russell].</i>	
<i>Amendment moved—[Claire Baker].</i>	
<i>Amendment moved—[Margaret Smith].</i>	
Elizabeth Smith (Mid Scotland and Fife) (Con)	29087
The Cabinet Secretary for Education and Lifelong Learning (Michael Russell)	29091
Claire Baker (Mid Scotland and Fife) (Lab)	29096
Margaret Smith (Edinburgh West) (LD)	29100
David McLetchie (Edinburgh Pentlands) (Con)	29103
Bill Wilson (West of Scotland) (SNP)	29106
Karen Whitefield (Airdrie and Shotts) (Lab).....	29108
Alex Johnstone (North East Scotland) (Con)	29111
Mike Rumbles (West Aberdeenshire and Kincardine) (LD)	29113
Christina McKelvie (Central Scotland) (SNP)	29115
Ken Macintosh (Eastwood) (Lab)	29118
Gavin Brown (Lothians) (Con)	29121
Ian McKee (Lothians) (SNP).....	29123
Rhona Brankin (Midlothian) (Lab).....	29125
Bob Doris (Glasgow) (SNP).....	29127
Hugh Henry (Paisley South) (Lab).....	29130
Hugh O'Donnell (Central Scotland) (LD)	29131
Des McNulty (Clydebank and Milngavie) (Lab)	29133
Michael Russell.....	29136
Murdo Fraser (Mid Scotland and Fife) (Con).....	29139
SCOTTISH EXECUTIVE QUESTION TIME	29143
GENERAL QUESTIONS	29143
Education (Performance).....	29143
Rosyth Passenger Ferry Service.....	29144
Poverty.....	29145
Stornoway to Ullapool Ferry Service (Consultation).....	29146
Councillors (Salaries and Allowances)	29147
Literacy	29148
Achbuie Respite Unit	29149
Construction Industry	29150
FIRST MINISTER'S QUESTION TIME	29152
Engagements.....	29152
Prime Minister (Meetings).....	29154
Secretary of State for Scotland (Meetings)	29156
Obesity.....	29159
Hospitals (Cleanliness)	29161
Commonwealth Games 2014	29162
SCOTTISH EXECUTIVE QUESTION TIME	29164
JUSTICE AND LAW OFFICERS	29164
Scottish Policing Board (Structural Reforms)	29164
Methadone (Prisoners)	29165
European Convention on Human Rights	29166
Antisocial Behaviour Notices (Landlords).....	29167
Prisons (North-east Scotland)	29168
Open Prisons	29170
Court Processes	29171
RURAL AFFAIRS AND THE ENVIRONMENT	29172
Waste (North-east Scotland)	29172
Flooding (Inverclyde)	29174
Scottish Food and Drink	29176
Waste Processing Facilities.....	29177

Milk Prices	29178
Green Cities.....	29179
Portencross Coast Site of Special Scientific Interest	29180
Johne's Disease	29181
TRIBUNAL SYSTEM REFORM	29182
<i>Motion moved—[Kenny MacAskill].</i>	
<i>Amendment moved—[Richard Baker].</i>	
<i>Amendment moved—[John Lamont].</i>	
The Cabinet Secretary for Justice (Kenny MacAskill)	29182
Richard Baker (North East Scotland) (Lab).....	29186
John Lamont (Roxburgh and Berwickshire) (Con)	29189
Robert Brown (Glasgow) (LD)	29192
Dave Thompson (Highlands and Islands) (SNP)	29195
Cathie Craigie (Cumbernauld and Kilsyth) (Lab).....	29197
Nigel Don (North East Scotland) (SNP)	29199
Stewart Maxwell (West of Scotland) (SNP).....	29201
Bill Butler (Glasgow Anniesland) (Lab).....	29204
Anne McLaughlin (Glasgow) (SNP)	29206
Mike Pringle (Edinburgh South) (LD)	29208
Bill Aitken (Glasgow) (Con)	29211
James Kelly (Glasgow Rutherglen) (Lab).....	29213
The Minister for Community Safety (Fergus Ewing).....	29217
DECISION TIME	29223
OFFSHORE RENEWABLES	29228
<i>Motion debated—[Maureen Watt].</i>	
Maureen Watt (North East Scotland) (SNP).....	29228
Lewis Macdonald (Aberdeen Central) (Lab).....	29230
Rob Gibson (Highlands and Islands) (SNP)	29232
Nanette Milne (North East Scotland) (Con).....	29233
Nigel Don (North East Scotland) (SNP)	29235
The Minister for Enterprise, Energy and Tourism (Jim Mather)	29236

Scottish Parliament

Thursday 30 September 2010

[The Deputy Presiding Officer *opened the meeting at 09:15*]

Higher Education

The Deputy Presiding Officer (Alasdair Morgan): Good morning. The first item of business this morning is a debate on motion S3M-7109, in the name of Elizabeth Smith, on higher education.

09:15

Elizabeth Smith (Mid Scotland and Fife) (Con): On my plane journey from London to Edinburgh on Sunday, what should I find on the seat beside me but a copy of *Scotland on Sunday* and, in it, an article by the Cabinet Secretary for Education and Lifelong Learning headed “Time for a consensus on Scottish education”.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Not today.

Elizabeth Smith: Perhaps not today.

Now, I know that funny things can happen when the air is thinner at higher altitude, but I found myself having great difficulty with the article, so incredulous was I about the content. Bold as brass, in his usual modest tone, the cabinet secretary was trying to persuade the people of Scotland that the Scottish National Party was leading the debate in higher education, so significant had been the party's 2007 manifesto commitments and the SNP Government's subsequent announcements. I asked a member of the cabin crew for a strong coffee and I read on. It got worse: three times the cabinet secretary punted the line that it was only as a result of his leadership that the other parties had been forced to start talking about the right issues.

I cannot speak for Labour and the Liberals on what they really think about the issue—perhaps we will find out a bit more about that this morning—but I say to the cabinet secretary that on this side of the chamber we have policies. If he really believes that he is leading the field when it comes to finding a Scottish solution to the problem, why is it that we have not heard any utterance from him as to what he will do, as opposed to what he will not do? I will cut to the chase. Two things need to happen and they must happen now, not at some undefined time in the future. First, students must be asked to make a graduate contribution and, secondly, there must be reform of the structure of the university system—one will not work properly without the

other. I will use the debate to set out our policy stance on both issues.

I will be crystal clear: the Scottish Conservatives believe that four key principles should underpin any sustainable funding mechanism for the future. It is because of those principles that we have ruled out up-front tuition fees and a pure graduate tax and instead declared ourselves in favour of a deferred fees system that is facilitated through income-contingent loans. Let me articulate those four principles. The first principle is that any funding mechanism must be needs blind so that academic merit, not wealth or privilege, is the driver for a university place. We believe that that ethos has always been central to what is best in Scottish education. The second principle is that we must do everything possible to enhance the very important autonomy of our university system, something that Sir Andrew Cubie has always rightly argued must never be undermined by Government or commercial enterprise.

Hugh Henry (Paisley South) (Lab): I understand perfectly what the member says about autonomy and the need for universities to have academic freedom, but when we look at the excessive pay awards that university principals have been awarded by their courts—awards that seem to have moved in tandem—taking them almost to £250,000 per year and with excessive perks as well—

The Deputy Presiding Officer: It is an intervention, not a speech, Mr Henry.

Hugh Henry: Does she not agree that a greater degree of accountability is required of our universities?

Elizabeth Smith: The member makes a good point. The Scottish Conservatives have argued strongly that there is need for restraint, but that is not the only issue in terms of who should control our universities. Sir Andrew Cubie's point is that we must ensure that universities have autonomy in their decision-making processes on how to deliver the best form of education. That is what I want to preserve.

The third principle that has driven our thinking is that of income contingency, which is fundamental in ensuring that, far from being dissuaded from applying to university, less affluent students are encouraged to do so. At the heart of an income contingent scheme is the loan that is repaid by the student once a given threshold of earnings is reached at a repayment rate that is affordable to the student. In short, income contingency is a form of insurance that means that individuals repay their fees only when they can afford to. The fourth principle is variability in the fees that are charged—a variability that reflects the cost of the

individual course and the ability of the university to set the fee.

I will lay out some more home truths on those points. First, the status quo in Scotland is highly regressive. Our proposals are designed to make the system more progressive, so that it better reflects both the marginal social and marginal private costs and benefits of a university education. As the former aide to Tony Blair, John McTernan, rightly posited:

"Is it right that a dustman, who left school at 16, should work extra hard so that a duke's daughter can have a free education, and then enjoy the lifelong ... benefit of a university education, calculated by economists as between £200,000 and £400,000 across a lifetime?"

Mike Rumbles: We have a good system that ensures that those who earn more money, however they get there and whether they have a degree or not, pay more tax. It is called income tax.

Elizabeth Smith: We will come to why we reject a graduate tax, which I think is what the member is suggesting.

Secondly, and crucially in my view, evidence from other countries such as Australia, England, and New Zealand suggests that university fees have not deterred those from poorer backgrounds from attending university. Indeed, both the Russell Group of universities and Universities UK argue that being able to charge fees has provided them with more revenue to widen access to those from lower socioeconomic backgrounds. Just last week, we heard more evidence that suggests that a higher proportion of those from deprived backgrounds are making it to university in England, Wales and Northern Ireland, where fees are levied, than is the case in Scotland, where there are no such fees.

Any policy recommendations that we make on higher education must work in tandem with a more flexible and efficient structure for the sector. Without addressing some of those institutional and organisational issues, we will not fully stem the tide of the financial pressures that Scottish universities face. For instance, there are 14 higher education institutions in Scotland with university status that thus far have probably not done enough to co-operate in terms of research funding and administration. Too many universities are trying to do too much in-house. Scotland, perhaps even more so than England, has a distinct advantage: the unique geographical locations of our universities, old and new. That gives us greater scope for the economies of scale and resource sharing that are a key part of my colleague David Willetts's plans in England. Also on efficiency, we agree with those in the sector who say that there is a debate to be had on the

future of the Scottish Further and Higher Education Funding Council.

Co-operation should not be confined to the university sector alone. Just as in the independent budget review report, the Scottish Chambers of Commerce and some of our university principals have stated the need for encouraging greater private sector investment in Scottish higher education. If we can succeed in achieving greater rationalisation and specialisation within our university sector while making degree qualifications more flexible—and perhaps a little shorter in some cases—we will have a better chance of attracting much-needed private sector investment. As some of my colleagues will say later in the debate, there is much scope for introducing flexibility into the degree system—a flexibility that can deliver better educational prospects and the potential for reduction in costs.

Of course, the elephant in the room is whether far too many young people feel pressured to go to university because sufficient opportunities for non-university-based education are not available to them. Scottish Conservatives believe that that is wrong, which is why we have policies to accelerate the pace of developing top-quality, formal vocational training and apprenticeships at an earlier age and why we have been advocating more flexibility within the Scottish Qualifications Authority examination system.

Rhona Brankin (Midlothian) (Lab): Will the member take an intervention?

Elizabeth Smith: I think that I cannot; I am in my last minute.

The Deputy Presiding Officer: The member can do so if she wishes.

Rhona Brankin: I am interested in what the member says about the number of young people at university. Is it Conservative policy to reduce the percentage of young people who go into university education?

Elizabeth Smith: The member makes a good point, but there is an elephant in the room: what motivates young people to go to university? Those who go to university—who should be from any background and any income bracket—should genuinely want to be there. In our view, too many people feel pressured to go to university; it is seen as the socially acceptable thing to do. That must change, because in this country we have suffered too long from a sort of class barrier, to which I thoroughly object, when it comes to whether university is better than any other form of education. That is not the case in Denmark, Germany or many other European countries. We need to address that issue. It is a difficult question, but it needs a serious answer. On top of that, we need much greater flexibility in the Scottish

Qualifications Authority examinations system, which I know that the cabinet secretary is pursuing.

I could go on for much longer, but it is very clear that it is certainly not the Scottish Conservatives who are short of ideas. It might be time for some consensus—I do not disagree with that—but it is well past the time for some leadership and our universities are waiting desperately for this Parliament and this cabinet secretary to provide it.

I move,

That the Parliament believes that the present funding structure for Scottish universities is no longer sustainable if they are to maintain academic excellence and also widen opportunities and access for students who are from traditionally non-university backgrounds; welcomes the growing consensus among key groups both within and outwith the university sector that favours a graduate contribution toward the cost of a university education, and notes the scope in Scotland to provide a more cost-effective and flexible degree structure in universities and to enhance vocational training as an alternative to higher education.

09:25

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): I am very pleased that the Conservatives should choose to use their allocated time to bring the subject of the future of higher education in Scotland to the chamber. In the piece in *Scotland on Sunday* to which Elizabeth Smith referred, I paid that tribute, too. For the record, it should be noted that I am glad that that has happened and I think that we can have a consensual debate.

We had such a debate in the chamber on 3 June, when we reached the consensus that tuition fees—both up-front and back-door—are not the right solution for Scotland. I hope that today we can build on that by working towards a broader consensus on what a sustainable funding and organisational solution should look like to preserve the excellent reputation of our universities for years to come.

I also want to set the record straight in response to Elizabeth Smith's closing words. She talked about a desperation for leadership in our university sector. Last week, at the very conference that she organised, Professor Anton Muscatelli, the principal of the University of Glasgow, said:

"I think Scotland's universities are doing extremely well at the moment. We have three in the top 100, five in the top 200. So, at the moment there is no problem."

He went on to say that he wanted to see a resolution to this issue over the next year. I am surprised that there should be laughter from the Labour Party at Anton Muscatelli's opinion. The Opposition usually quotes him with approval, but when he disagrees with it, Opposition members

laugh at him. That says something about the future of higher education in Scotland.

Murdo Fraser (Mid Scotland and Fife) (Con): Will the cabinet secretary give way?

Michael Russell: No. I want to make progress.

So, we have about 12 months to take this issue from where we are now—we are not at the beginning—through to a conclusion. That is the agreed and accepted timetable across the sector.

As the debate proceeds, we will hear a range of competing views, as we should, because there are many views on the subject. Let us try to start with what we agree on. I think that all members recognise the valuable contribution that the universities make to Scotland. They contribute to our economic growth, to enhancing our culture and to enriching our society.

Our university sector punches above its weight globally. That is best illustrated by the fact that we publish 1.8 per cent of the world's research citations, despite having less than 0.1 per cent of the world's population. In 2008 alone, our record on citations rose by a remarkable 21 per cent. Our universities are not simply world class; they are world beaters and are part of a Scottish success story of which we should all be proud.

Another area on which we can agree is that we need to find a solution to address the predicted reduction in public spending and the questions posed by the Browne review, from which, as I have said before, we cannot hide. However, our obligation is to deliver a Scottish response—a uniquely Scottish solution to funding universities and university students in Scotland.

The need for us to reach a consensus was set out perfectly by Professor Sir Tim O'Shea, principal of the University of Edinburgh, earlier this year when he said:

"My own gut reaction in situations like this roughly goes: 'Why don't the people involved in this all sit down together and try and think it through'. You can bring in consultants, you can set up an independent review if you want to, and in a way, that lets you off the hook. I would much rather the people that are there in it get together."

That is why, since March this year, I have been speaking to representatives across the sector, listening to what they have to say and considering the ideas that they are presenting.

Des McNulty (Clydebank and Milngavie) (Lab): When the joint future thinking task force was set up, why was it explicitly prohibited from talking about the future of university finance?

Michael Russell: Now we are in a situation, with the Browne review and the pressures on public finance as a result of Labour wrecking the economy, where we have to make some tougher

decisions. However, I was quoting university principals expressing their views and it behoves the whole chamber to listen to them.

Over the course of this year, I have met university principals individually and as a group. I have met business leaders and representatives of staff and students. I have met leading thinkers on higher education funding and I have spoken to United Kingdom ministers and Lord Browne about the situation in England.

It is my intention to bring together many of the ideas that featured in those discussions into a green paper that we will publish before the end of the year and which will present a menu of options for consultation. In the early months of next year, I want there to be a wide-ranging debate across Scotland on what the component parts of that solution should be. In considering those options, we must remember that there is no silver bullet; there will be many parts of an eventual Scottish solution. Today is a welcome staging post for that debate and I hope that the chamber treats it in that way. I look forward to building on the consensus that we have already achieved in Scotland around our shared opposition to tuition fees—both up-front and deferred—and to continuing to discuss inside and outside this chamber the new ideas and fresh thinking that Scotland and the wider world can offer. The green paper must be wide ranging and radical and we must be open-minded in considering our options.

I will put forward some of the many ideas that are being discussed and which will have to be considered. Let us start with our four-year degree. It is a strength; it is the international norm and I believe that it should remain the cornerstone of the university experience. The breadth and depth of education that students gain at university does not just prepare our graduates for life after university. In the words of Gary Kildare, global vice-president of IBM and its senior executive in Scotland, it delivers

“global citizens of the future”.

So we should stop attacking the four-year degree and start celebrating it. It also puts us at the heart of the Bologna process—that growing together of higher education in Europe.

There are undoubtedly ways in which the learning journey can be made more efficient to meet the needs of an increasingly diverse student population. The choices that students make about that learning journey should be crucial, including the time that they take to complete it. Building on the success of higher national certificates and diplomas, what opportunities can be created on the back of the Scottish baccalaureate to allow students to begin their studies in second year? The University of Edinburgh, the University of

Glasgow, the University of Aberdeen, the University of the West of Scotland and the University of Abertay Dundee are all leading the way in supporting that new qualification, but I am interested in exploring how we might encourage it to spread more widely throughout the system.

Elizabeth Smith: I hear what the cabinet secretary says about the Scottish baccalaureate, but to date no university has offered a pupil a place on the basis of it.

Michael Russell: Edinburgh, Glasgow, Aberdeen, the University of the West of Scotland and Abertay are supporting the new qualification. I spoke to Tim O'Shea just yesterday about that and other matters. There is enthusiasm to take it forward and I would like to see the Scottish Conservatives get behind those students and the new qualification, because that would help greatly.

The question of higher education funding and the role of graduates also needs to be discussed, although it is not the only question of income. As we know, Professor Muscatelli and our National Union of Students president, Liam Burns, have both come out in favour of a graduate contribution of some kind, not a deferred fee, as have my colleagues on the Conservative benches, as we now know. If one examines the detail of those statements, one finds that the methods proposed for that and the ultimate destination of any additional resource vary greatly. Some, like a graduate tax, are alas presently outwith the powers of this Parliament. Nonetheless, this is interesting and important territory and it must be given further consideration.

Mike Rumbles: Will the cabinet secretary explain the difference between a graduate contribution and a graduate fee?

Michael Russell: There is a very important difference, which I think is laid out rather well in the NUS briefing note for the debate. It should not be a deferred fee. That is an important distinction, which I am happy to endorse.

As well as focusing on the issue of what graduates might contribute, we should also focus on our contribution to our students. I am discussing the future of student support with the NUS and I am clear that it should form part of the green paper. We continue to work to simplify our current student support system where we can, but we also aim to be more aspirational.

In whatever we do we need to ensure that we protect access to university for those from the most disadvantaged backgrounds. We are making some progress, but not nearly as much as we should. We should start to recognise that the real solutions for widening access do not lie simply at the entrance to the university campus; they lie

increasingly at the door of the nursery school and the gates of the secondary school.

In our consideration of access, we must also recognise the essential contribution that our colleges make. I acknowledge the point that Elizabeth Smith made. It is too easy to forget that 20 per cent of our higher education students attend colleges. Do we properly recognise the colleges' role in what I would call the more vocationally oriented, skills-based element of higher education?

It is essential that we have a map of who offers what provision across the country. There is not such a map, but we need one, and I encourage our universities to play their part in making one. Alongside that map of provision, we should consider developing a map of institutions and the links between them. That will be essential in considering what the respective roles of the Government, the Scottish funding council and the institutions should be. There is an issue about the bureaucracy of funding colleges and universities and whether the Scottish funding council needs to change that and develop.

Internationally acclaimed research is really important to us. We must ensure that we take that forward and that businesses at home reap commercial benefit from what is done in Scotland's universities. The knowledge base must support the growth of the country's economy, so another challenge is to increase the rate of knowledge exchange.

There is more that needs to be looked at, such as how we can build on the success of our research pooling and the role and definition of impact in the new research excellence framework. Our Scottish solution must recognise not just success—we attract 10.8 per cent of UK research council funding despite having a population share of 8.4 per cent—but the challenge of a future in which there will be a reduction in UK science and research budgets.

I thank those who are taking part in the debate and have been for many months. I have been hugely encouraged by the leadership and ownership that is being shown across the sector and by the amount of work and thought that is going into this. I conclude by making a further offer. There is a range of views and there are important contributions to be made. The Conservatives have set out some of their preferred approach and I hope that Labour and Liberal Democrat members—as well as the Greens and our independent member—will be similarly positive. Today, I formally invite all those in the chamber to submit their views. I welcome all ideas that I receive in writing and would be happy to meet to discuss these matters at any time. The subject merits mature political consideration, and

we must all work together to achieve the prize of a sustainable funding solution for Scotland's higher education sector.

With that in mind, I move amendment S3M-7109.2, to leave out from "believes" to end and insert:

"welcomes the firm consensus against any introduction of up-front fees in Scotland; notes the ongoing Independent Review of Higher Education and Student Finance in England and Wales; recognises that the Scottish Government will need to consider any potential impact on Scottish universities, and further recognises the Scottish Government's intention to publish a green paper on higher education to explore these issues further."

09:37

Claire Baker (Mid Scotland and Fife) (Lab): I am pleased to open the debate for Labour and thank the Conservatives for providing us with the opportunity to debate this important and pressing issue. Since I was elected to the Scottish Parliament, and during all my time as spokesperson on further and higher education for the Labour Party, the funding of the university sector has been a key concern. Over the past three years, there have been continuing calls for the Scottish Government to take measures to secure a stable, long-term funding solution for the university sector that meets the challenges that we face in Scotland.

As the Conservative motion acknowledges, there is an increasing recognition that the way in which we fund universities is no longer sustainable. Even the cabinet secretary admitted that. However, it is a situation that the Scottish Government has allowed to develop through its policy decisions and it must take responsibility for allowing the uncertainty in the sector to build. Although the Scottish Government is now calling for a debate, it is the body that has stood in the way of the debate and, as the debate moves on, it is in danger of being the body that is left behind.

Since the 2007 comprehensive spending review and the removal of the graduate endowment, there have been persistent calls for an examination of university funding, reflecting fears that the SNP Government is offering no direction or leadership on the issue. The Government's initial move to address those concerns, the joint future thinking task force, completely failed in its objective of providing answers on the long-term sustainability of the sector. Criticised for being exclusive in its membership, its focus was far too narrow to provide any lasting answers, and it was excluded from discussing the one area that everyone wanted to talk about—funding.

Every Holyrood conference, every parliamentary debate on universities, every HE evidence session at the Education, Lifelong Learning and Culture

Committee and every newspaper's comment piece has asked how we can properly resource our universities in the future, how we can ensure that our university sector remains competitive and world leading and how we can properly support students so that they can focus on their studies. Those questions have been consistently posed over the past few years; yet, disappointingly, the Government has been short on answers. Now, at the tail-end of a Government that has run out of ideas, we have the promise of a green paper; however, I fear that the SNP's green paper may be too little too late. We are being asked to put all our faith into a so-called green paper that is being compiled from conversations that the cabinet secretary will not reveal, the content of which is unclear, and a set of options that have the very real prospect of never being pursued by the Government, as it is running out of time.

The Government's lack of action is letting down students in the sector. The SNP talks up its achievements, but student hardship continues to be the pressing concern of Scottish students. Sure, we have seen a slight increase in support levels for many students this year, but that has always been a sticking-plaster solution. NUS Scotland's report "Still in the Red", which was published in the summer, warned that student hardship has reached crisis proportions, with 80 per cent of higher education students stating that they were more concerned about having enough money to live on than about reducing their student loan debt. Fifty per cent of students had been forced to access commercial credit to get by, and 36 per cent had considered dropping out because of financial worries. We should not allow that level of poverty to continue for the poorest students; we must meet their need by finding ways to give them more pounds in their pockets while they are studying.

It is clear that the sector will enter a more challenging period. In the past few weeks, the principal of the University of Glasgow has warned that it will run out of money by 2013, but there has been little response from the Government but concern. According to the NUS, there is a real-terms cut in university budgets this year, and universities anticipate a 3.2 per cent cut each year from next year. That is all coming at a time when we are seeing a record number of applications and gifted students being denied places.

The Browne review is due to report next month, and that will be followed by the UK Government's spending review. Those will present further challenges for the Scottish sector, but such a divergence in policy is a reality of devolution that the Scottish Government must deal with. We cannot predict the outcome and, although we will soon have the Browne report, we do not know when the UK Government will provide a response.

One thing that is certain is that it will require a re-evaluation of the Scottish Government's approach.

Labour has consistently called for an independent review, and I believe that that is needed now more than ever. At the centre of any review must be the outcomes that we want: properly resourced universities that are able to deliver high-quality teaching and compete internationally; universities that undertake world-class research that is successfully translated into business opportunities; a student support system that is fair, funded and affordable; and a sector in which access is widened and retention improved.

Elizabeth Smith: Given the principles that Claire Baker has just outlined, is she prepared to put her cards on the table as to what form of contribution, tax or whatever she thinks might be the way forward?

Claire Baker: I very much respect the Conservatives' proposal and the ideas that they are putting forward. Nevertheless, they must recognise the fact that there is no consensus on their proposal in the sector. An independent review that considers the range of issues, recognises that there is no consensus and takes the matter out of the hands of politicians and gives it to the sector has more chance of producing a long-term, lasting solution. Labour has consistently called for an independent review. Although we acknowledge that there is debate in the sector over graduate contributions, this is the wrong place to start the discussion. We must be clear about what we want to achieve and then ask how we can fairly fund it.

Mike Rumbles: I asked the minister the question that I now put to the member. She mentioned a graduate contribution. In her view, what is the difference between a graduate contribution and a fee or a charge? Is there any difference?

Claire Baker: These are complex issues that we believe an independent review should examine in detail. They are issues that the UK Government—including the Liberals, who are now in partnership in the UK Government—must deal with at a different level.

Of course, we must prioritise the funding of the sector and find a financial solution, but unless we re-examine the structure of the tertiary sector and how that can best meet the needs of the students, focus on a curriculum that delivers for the learner, strengthen the links between further and higher education and offer flexible education to best meet the needs of the learner, we will be missing an opportunity. We very much recognise the need for early action in the area and, along with other parties in the chamber, we have been calling on the Government for action. Nonetheless, we also

recognise the need for expediency in undertaking a review. There are more questions to be asked of the sector than how it is funded.

Michael Russell: Will the member give way?

Claire Baker: I am sorry, but I need to make progress.

There is much of which we can be proud in the Scottish university sector. We have excellent examples of innovative universities, exceptional strength in key sectors that lead the world in their field and research assessment exercise ratings that reflect the fact that our universities consistently punch above their weight. However, there are other areas in which the Government must show greater leadership.

Scotland's drop-out rates remain persistently high. It is even more concerning that the problem is concentrated in particular universities, which have an inverse relationship with Scotland's widening access figures.

Margo MacDonald (Lothians) (Ind): Will the member give way?

Claire Baker: Yes.

Members: Oh!

The Deputy Presiding Officer: Order.

Margo MacDonald: I thank the member for giving way. She picked the nicest-looking one.

Has any work been done on the drop-out rate? Is whether a student drops out dependent on their financial circumstances or on whether they had the academic background to start the course in the first place?

Claire Baker: I am pushed for time, but Margo MacDonald raises an important issue. We need to look at the complex reasons for the drop-out rate. A combination of issues is involved, including hardship and how we support students from non-traditional backgrounds once they get into university to ensure that they are successful in their courses. In Scotland, people from a non-traditional background have less chance of getting a university place than such people anywhere else in the UK. As a Parliament, we should challenge that and take bold decisions to address that educational inequality.

Mike Russell likes to talk about creating consensus. The only real consensus is that the SNP has got things wrong. It has had three years' worth of chances to secure the sector's financial future, and it has failed. It is only right to take politics out of the equation. It is time to formalise the debate through the appropriate process, which is an independent review.

I move amendment S3M-7109.3, to leave out from "welcomes" to first "education" and insert:

"acknowledges the growing consensus among key groups within and outwith the university sector that recognises the need to examine the various graduate contribution options; calls for an urgent and independent review of institutional funding and student support".

09:46

Margaret Smith (Edinburgh West) (LD): I am pleased to speak in this debate.

I listened with interest to Elizabeth Smith's speech, and there are certainly points of agreement between us. The crucial ones are that academic merit should be the key that unlocks higher education, that flexibility in the system is worth pursuing, and that greater private sector investment is needed. Where we disagree is on who should pay. Elizabeth Smith quoted John McTernan. Not for the first time in my life, I find myself in complete disagreement with him and Elizabeth Smith. He said that we should be worried about the fact that the dustbin man pays for the duke's daughter to go to university, but the point is that the duke's daughter would go to university anyway, and we have to get a system that allows the dustbin man's daughter to go to university. The fundamental issue is not the duke's daughter, but all our daughters.

In June, I said during a debate in the chamber on student fees that the debate reminded us of

"one area in which Scotland has been different from the rest of the United Kingdom and in which we believe that it should continue to be different".—[*Official Report*, 3 June 2010; c 26983.]

Our stance has not changed. The Scottish Liberal Democrats remain committed, as we have been throughout the years of devolution, to the demise of student fees in whatever form they may come.

In Scotland, under the coalition Government with the Labour Party, funding for our universities and colleges reached record levels. Thanks to the Liberal Democrats, the up-front tuition fees that the Labour Party introduced were abolished. We found a Scottish solution that has meant that nearly 200,000 Scottish students who have entered Scottish institutions have not paid fees. As a result, there has been a total of £4 billion less debt for Scottish graduates. In opposition, we voted with the current Government party to end the graduate endowment because we believe that access to education should be based on the ability to learn, not the ability to pay.

The Conservatives will claim that a system that allows for deferred fees, based on a graduate's income, will leave the door to higher education open to all. Widening access to higher education is supposedly on the Conservatives' agenda, but

their view is naive. As the NUS has said, the Conservative proposals amount to an up-front fee, albeit with the option of an income-contingent loan, which will act as a deterrent to widening access.

Currently, only 14.9 per cent of higher education entrants come from our most deprived areas. Things have improved, but Scotland's rates on widening access and its drop-out rates are poor. Since the introduction of top-up fees in the rest of the UK in 2006, the number of students from disadvantaged backgrounds who enter higher education has increased by less than 1 per cent.

We know from research by the Joseph Rowntree Foundation and the Scottish Government income, expenditure and debt survey that the level of debt associated with studying at university is already a deterrent for some people, particularly people from poorer backgrounds, to whom debt is simply unacceptable. That fear of debt influences not only whether individuals move on to higher education, but their courses and the institutions at which they choose to study. A review that the University of Leicester released last week showed that the amount that is charged in fees, regardless of whether they are up front or deferred, has an impact on the decisions of pupils from poorer backgrounds on whether to go on to university. Given the Tories' agenda, evidence from Australia is equally worrying. That evidence shows that an up-front price tag combined with variable institution and course fees has resulted in the most expensive institutions and the most expensive courses becoming the preserve of students from traditional backgrounds. I cannot believe that that is what any of us in the chamber, including Conservative members, wants.

Murdo Fraser: Let me give Margaret Smith some statistics on the percentages of people from deprived backgrounds who go to university. Across the UK, the average is 32.3 per cent. In England, where there are top-up fees, the figure is 32.4 per cent. In Wales, where there are top-up fees, the figure is 32.5 per cent. In Northern Ireland, where there are top-up fees, the figure is 41.7 per cent. In Scotland, the figure is only 28.2 per cent. Does that not completely give the lie to the case that Margaret Smith is making?

Margaret Smith: I will give Murdo Fraser a statistic. When the charges that the Conservatives want to introduce in Scotland were introduced in Australia, participation in higher education by males from the poorest backgrounds decreased by 38 per cent. We already have a lack of equality in educational choice in Scotland. Reintroducing fees, whether up-front, top-up, deferred or whatever, would serve only to exacerbate existing inequalities. We want to open up opportunities, not close them down.

I agree with Murdo Fraser that we are nowhere near to where any of us wants us to be. That is why we need to have proper debates, and why we welcome the publication of the green paper and the continuing consideration of ways in which access to university education can be widened for all who are able to attain that level. We remain whole-heartedly committed to supporting social mobility through education.

Mike Russell was right: there is no silver bullet. Parental income should not be seen as a golden key to higher education. That is why we cannot follow the course that is being plotted by the Tory party and Labour, which want to see the reintroduction of fees in Scotland. Make no mistake: in spite of the improvements to student support and an end being put to tuition fees and the graduate endowment—the Liberal Democrats fought for those policies—Scotland's students are still struggling. We can see that in NUS Scotland's "Still in the Red" report.

We recognise that the findings of the Browne review of higher education funding south of the border and any subsequent UK actions will need to be considered by the Scottish Government and the Scottish Parliament in due course. However, until that review is published and we know the consequences for Scotland, we should not make substantial assumptions or jump to conclusions. We will not know exactly what financial circumstances we face until the comprehensive spending review is delivered and the Scottish budget is fully revealed. That is why we support the proposal to publish a green paper on the future of higher education funding by the end of the year. Whatever the findings, I am sure that the green paper will spark open and productive discussion. Crucially, I should add that we welcome the comments of the First Minister at First Minister's question time last week on the green paper not including a return to tuition fees. We acknowledge, of course, the real problems that our higher education institutions are facing, and we are aware that there are issues, but we are not willing to pass the burden on to our young people as a tax on learning.

Scotland has a world-class and world-renowned higher education system. It is in our hands to ensure that we not only maintain that system, but improve it. We know that Labour's recession has hit hard. Times are tough and cash is tight, but we need to protect and support our education system so that we can build on our existing excellence.

It is not only students who benefit from higher education; our economy is directly and indirectly boosted by good graduates, research funding and the attraction of business here because of such things. Graduates already tend to pay more tax because they tend to earn more. They pay a

graduate contribution all their life if they are able and lucky enough to get the kind of salaries that most graduates get. Such salaries tend to be higher than those of dustbin men.

The Tories seem to think that they can regulate which degrees are economically useful and prioritise them. I am more inclined to agree with John F Kennedy, who suggested that we

“think of education as the means of developing our greatest abilities, because in each of us there is a private hope and dream which, fulfilled, can be translated into benefit for everyone and greater strength for our nation.”

At the Tory education conference, Liz Smith said:

“We start from the premise that the status quo for funding in Scotland is no longer tenable and that the decision taken by the Scottish Government to return to ‘free’ higher education was the wrong one.”

The Liberal Democrats disagree. We say that that is the wrong premise. We believe that lifting the burden of tuition fees and the graduate endowment was the right thing to do, and that it remains the right thing to do.

I move amendment S3M-7109.1, to leave out from “believes” to end and insert:

“welcomes that, thanks to the actions of the previous and current administrations in Scotland, full-time Scottish higher education students studying in Scotland pay neither tuition fees nor top-up fees; notes the ongoing Independent Review of Higher Education Funding and Student Finance in England and Wales; recognises that the Scottish Government will need to consider any outcomes of this review and the potential impact on Scottish universities, which have a global reputation for excellence, and welcomes the Scottish Government’s commitment to bring forward a green paper on higher education following publication of the review.”

09:54

David McLetchie (Edinburgh Pentlands) (Con): Like my colleague Elizabeth Smith, I am an avid reader of newspaper articles that were written by Michael Russell. However, I prefer the articles that he wrote when he was not an MSP, in the days when he was grasping the thistle. It now appears that he is clutching at straws. His clarion call to build consensus on the way forward for funding higher education in Scotland is based on a Scottish Government contribution to that debate of absolutely nothing. Today’s effort has advanced the debate no further.

One of the reasons for Mr Russell’s failure is his failure to grasp some basic facts. In his article on tuition fees he wrote:

“I congratulate the Scottish Tories for finally coming out against them.”

No congratulations from Mr Russell are needed, because the Scottish Tories were never in favour of tuition fees. Let me remind him and other

members of a few truths—they might be inconvenient truths, as Al Gore would no doubt say, but they are nonetheless worthy of repetition. The first truth is that throughout the period of Conservative Government from 1979 to 1997 no tuition fees were levied on our first degree full-time students. Tuition fees were the creature and creation of the incoming new Labour—rest in peace—Government, and were introduced following the report of the Dearing committee.

The Scottish Conservatives opposed tuition fees. We said so in the 1999 and 2003 Scottish Parliament elections. We were highly critical of the graduate endowment and the betrayal by the Liberal Democrats, who conceded the policy to Labour as a price of the coalition deal.

Mike Rumbles: What is the Conservative view of the difference between a graduate contribution, which Conservatives propose, and a fee or a charge? Will David McLetchie explain the difference? I have tried twice to get an explanation.

David McLetchie: I refer Mr Rumbles to all the answers that Liberal Democrat ministers gave to that question between 1997 and 2007 and I remind him that he voted for the graduate endowment.

Where our position changed was when we said that before we abolished the graduate endowment, for which the ashamed Liberal Democrats voted, we should have a full-scale review and examination of structures and funding for higher education in Scotland. We said that it would be premature and not sensible to take steps that would add to the cost to the public purse before the issue had been thoroughly examined, particularly in light of developments south of the border. That was a remarkably prescient call, because that is what is happening with Browne in England, and even Mr Russell says that he will publish a green paper.

I repeat, for the benefit of Mr Russell and others, that at no time, in government or in opposition at Westminster or in the Scottish Parliament, have the Scottish Conservatives been in favour of up-front, pay-as-you-study tuition fees.

The second inconvenient truth that is worth repeating is that the number of full-time students in higher education in Scotland increased from 72,150 in 1980-81 to 162,335 in 1997-98. In other words, there were more than 90,000 additional students in an 18-year period, which represents a growth rate of 5,000 students a year. Moreover, that pace of growth is far superior to anything that has subsequently been achieved by Labour or the SNP in their attempts to widen access and increase opportunity. Accordingly, our record is one of unprecedented expansion in higher

education, which was achieved without resort to the levying of tuition fees and was accompanied throughout by a system of grants and loans to support students. That is a proud record.

We have not been overly specific in our motion about the form that a graduate contribution might take, but it is self-evident that an up-front tuition fee cannot be a graduate contribution, because such a fee is paid by a student, not a graduate. Just as we did not favour, introduce or support tuition fees either when we were in government or when we were in opposition during the past 30 years, we do not do so now.

We are quite prepared to debate what form a graduate contribution might take. It might be made through an income-contingent loan, as Elizabeth Smith said. We could have a graduate tax, which our Liberal Democrat friend and colleague Vincent Cable advocates. There could be a variation of the graduate endowment scheme that was introduced and advocated by Labour and the Liberal Democrats in the Scottish Parliament.

The subject of graduate contributions and fees merits a section to itself in the report of the independent budget review panel, which helpfully told us:

"In 2009-10, the total cost of fee support for higher education students studying in Scotland was just over £200 million."

The panel also highlighted the substantial element of subsidy in the loans system. What is noteworthy are the implications for the Scottish Government's budget of changes that the Browne review might recommend on public funding for higher education in England, if such changes are adopted south of the border.

In that context we must consider the extent to which a graduate contribution of whatever form is earmarked as an additional source of funding support for higher education in Scotland and the extent to which it becomes a substitute for some of the funding that the Government currently provides.

Margo MacDonald: Will the member give way?

David McLetchie: No. I am sorry, but I must finish.

In its report, the independent budget review panel acknowledged:

"Income from fees might ... be seen as a way of offsetting any budget reductions in the Scottish Government's allocation to the Scottish Funding Council while maintaining universities' competitiveness."

That demonstrates that the options that we are all considering—and those that some members might eventually disclose—will need to have additional and substitutional characteristics when it comes to

funding levels and funding sources. It would be naive to think otherwise.

10:01

Bill Wilson (West of Scotland) (SNP): We are debating a strange Tory motion. It opens, bizarrely, with the phrase:

"That the Parliament believes that the present funding structure for Scottish universities is no longer sustainable".

There can be no doubt about the Scottish Government's commitment to higher education as a major priority. Let us look at the current funding: a record £1.076 billion for our universities in the financial year 2010-11. Higher education's share of Government spend also remains higher under this Administration, at 3.88 per cent, than it was under the previous, Labour Administration, when it was 3.73 per cent. In contrast with England, we did not impose funding cuts in 2010-11.

In July 2010, a comparative study showed that Scotland invests more in research and development through higher education as a share of overall gross domestic product than does any other Organisation for Economic Co-operation and Development country. Scotland ranks first in the world in the number of research citations relative to its GDP.

Were we simply to look at the current funding and performance of Scottish universities we would have difficulty comprehending the panic in the opening line of the Tory motion. However, there is one great disadvantage from which our universities suffer, which might indeed give rise to panic and explain the opening line of the Tory motion. We are not an independent nation. We cannot determine our taxation levels or the UK's spending priorities. Our universities are vulnerable to the caprices of a London Tory Government.

I begin to understand the panic that is expressed in Elizabeth Smith's motion. When one considers the spending plans that are being outlined in Westminster, there is indeed cause for concern. Robert M May, the former chief scientific adviser to the UK Government, has roundly criticised the current UK Government's attitude towards science. A *New Scientist* editorial talked of scientists taking up pitchforks to resist the spending cuts. One can imagine the scene: desperate scientists waving flaming brands and pitchforks in a frantic last-ditch effort to stop the mindless monster of savage cuts rampaging through our great institutions, leaving a trail of shattered test-tubes, broken Longworths and distorted quadrats in their wake. One can almost smell the smoke and hear the despairing cries of the few surviving scientists being drowned out by the savage roar of the bloodstained, rending maw of the Westminster Government.

Enough of such metaphors. It cannot go unremarked that the UK Government's proposals to slash expenditure on research contrasts sharply with the approach of the United States, which has provided a \$21 billion boost for science, and with that of France, which has provided €35 billion. Germany and China are also increasing their expenditure. While we cut, other nations recognise the value of research and the university sector and acknowledge the sector's central role in the economy.

No doubt some people will insist that in spite of the damage that cuts will do to our economy we have no choice. I take this opportunity to offer a few choices. We could choose to have a progressive taxation system that makes the very wealthy rather than the very poor pay significantly more tax. We could opt for an increase for HM Revenue and Customs, to enable it to slash the £95 billion or so a year that is lost through tax evasion and tax avoidance. We could immediately scrap Trident, thereby saving £2 billion a year and a further £100 billion on the development of a new system. It is not rocket science, which is just as well, given that we will be hard put to find a rocket scientist after the coming cuts have worked their way through.

To be fair, the opening lines of Elizabeth Smith's motion are perhaps not so bizarre after all when they are considered in the light of Westminster spending cuts. However, all in all, the motion would have been much clearer if it had read: "In the light of the massive spending cuts planned by the Tory Government, the Parliament believes that the present funding structure for Scottish universities is no longer sustainable."

The debate over graduation contributions is not a new one, and it is always interesting to listen to individuals who graduated at a time when there were student grants and no fees lecture today's students on the need for them to borrow ever-increasing sums and pay substantial fees.

I am, and continue to be, an unashamed supporter of free education. The introduction of fees and the abolition of grants actively work against equality of access. That in turn reduces the pool of potential university recruits and damages both our universities and society as a whole.

Some argue that students gain financially from having an education and that they should therefore pay the cost. That is a smokescreen. If students indeed benefit financially from their education, why are the payback levels invariably set below the median income? What of graduates who work as nurses and for charities and non-governmental organisations on relatively low levels of pay? They make a significant contribution to our society but might find themselves paying

additional tax while earning less than is earned by 60 per cent of wage earners.

If students indeed earn more because they have attended a university, and society wishes them to pay extra because they earn more, the solution is simple. It is called progressive taxation, which simply involves taxing higher-income individuals at higher rates so that those who earn more pay more. That is not complex at all and is extremely fair.

Margo MacDonald: I appreciate the member's contribution, but there is a niggle that members might have heard from members of the public who have not attended university. What happens to all the students who come here from abroad? They go home and do not pay any progressively higher taxation or, indeed, any taxation at all.

Bill Wilson: Foreign students bring vast sums of money into the UK. Universities charge extremely high fees to the Governments of the countries involved. That is a major source of income that runs into billions of pounds across in the UK. We should welcome that source of income, which is strong in Scotland precisely because we have such well-funded universities, which are of such a singularly high quality. I thank the member for her question.

The Deputy Presiding Officer: The member should be winding up.

Bill Wilson: There is an element of hypocrisy in the debate. Bankers all but wrecked our economy, yet all those who did so walked away the richer for it. The state has had to bail out the banks, yet the scandal of low tax on bankers bonuses continues. We are told that students should pay more and that the poor should pay a greater proportion in VAT, but the culture of tax evasion and tax avoidance by the very wealthy and of low tax on obscene bonuses rolls on and on.

In the end, it is a matter of priorities. I am a supporter of independence because I believe that the priorities of Scotland and Westminster are not the same. When we debate funding in education and consider the wider picture, those differences in priorities are clear.

10:08

Karen Whitefield (Airdrie and Shotts) (Lab): Like others, I am grateful to the Tories for lodging the motion. However, I think that its wording is nothing if not ironic. As has been noted, it starts by stating:

"the Parliament believes that the present funding structure for Scottish universities is no longer sustainable".

Those words could soon become the best single transferable motion ever—members need only remove the words "Scottish universities" and

replace them with the public service of their choice.

Under the savage and aggressive public spending cuts that are shortly to be inflicted on us by the Tories and delivered by their Liberal Democrat little helpers at Westminster, few, if any, public services will be sustainable in their current form. Under the new Con-Dem Government, we will return to the heartless, Thatcherite mantra of unemployment being a price worth paying.

Of course, it will not be the senior bankers and city speculators who pay that heavy price. No—it will be ordinary men and women throughout Scotland who lose their jobs and lose hope. The effects of the cuts on higher education will be the same as they will be on other aspects of public life: they will disproportionately affect the poorest. The impending budget cuts will result in fewer students from deprived areas taking up places at colleges and universities in Scotland. Already, too many prospective students turn away from higher education because they perceive that they cannot afford it, and too many students drop out because they are not able to sustain their studies. The coming spending cuts will only make matters worse. Faced with increasingly limited employment opportunities, insufficient grant and loan mechanisms and inadequate child care provision, far too many young people from deprived communities will decide that attending college or university is just not viable.

Gavin Brown (Lothians) (Con): I understand that the member is the convener of the Education, Lifelong Learning and Culture Committee. Given her experience in that role, what ideas is she bringing forward for getting us out of this difficulty?

Karen Whitefield: I will cover some of that later in my speech. We do not have a consensus about the way forward, but the Labour Party has a position on the matter. I speak today not as the convener of the Education, Lifelong Learning and Culture Committee but as a Labour politician, and I think that we need to have an independent review that considers all the options so that we can find a long-term and sustainable programme that everyone can buy into. It is clear from today's debate that we have not yet arrived at that position. The Tories have come forward with proposals today, but not everyone agrees with them. We need a set of proposals that will work.

I recognise that, even in the best of times, student funding is a difficult and hotly debated subject. Increasingly, universities compete on an international basis for valuable research funding, making the provision of adequate and sustainable core funding a key issue. That is a challenge that the SNP Administration has singularly failed to face up to. Mr Russell hides behind secret meetings and Chatham house rules—in fact, he

will hide behind anything rather than be open about the current review.

Of course, that should not come as a surprise to Scottish students, because this is a Government that has broken more manifesto pledges than any other. It is a Government that promised to dump student debt, which is now worth £2.4 billion.

Michael Russell told us today that he will bring forward a green paper. I wonder whether it will be like the literacy action plan that he promised months ago would arrive before the summer recess and of which there is still no sign. Perhaps if we did something about literacy in this country we would have more students going into further and higher education.

The SNP Government has presided over a reduction of more than 1,000 undergraduate and postgraduate places in the past year and seems oblivious to the plight of thousands of students facing real hardship.

It is worth noting that the central concern of NUS Scotland is student hardship. Its report, "Still in the Red", concludes that student hardship in Scotland has reached crisis levels. The report clearly shows that many students have financial worries and difficulties that impact on their performance at university. Many are being forced to turn to commercial credit just to get by, and far too many students are working long hours, which they believe is having a negative effect on their studies. It is clear to me that, in those circumstances, students from less well-off families are much more likely to drop out of their course. That should be a worry for every MSP in the chamber.

This is no way in which to run higher education in Scotland. Scottish universities and Scottish students need something better than a Government that is burying its head in the sand and praying that the problem will go away until it finally gets around to publishing its green paper. That is why Scottish Labour is calling for an independent review of institutional funding and student support—something that the cabinet secretary could put in place today, if he were so minded. That needs to happen sooner than later. The cabinet secretary quoted Anton Muscatelli, and I will do so, too.

The Deputy Presiding Officer: As long as it is a short quote, because you should wind up.

Karen Whitefield: I promise that it will be.

Anton Muscatelli emphasised that the University of Glasgow

"would run out of cash"

by 2013. I point out to Mr Russell that Anton Muscatelli was not saying that everything was

going to be fine; he was pointing out that something needs to be done right now, rather than waiting for a green paper that might come along one day.

The Deputy Presiding Officer: You must wind up.

Karen Whitefield: To conclude, Presiding Officer, I welcome the opportunity to highlight the plight of Scottish students. The Scottish Government has failed and is failing them. Too many students are living on the breadline and too many Scottish students are struggling to survive. Is the minister willing to listen to that—

The Deputy Presiding Officer: No. The member has exceeded her allocation.

Karen Whitefield: —and is he willing to support our call for an independent review?

10:15

Alex Johnstone (North East Scotland) (Con): I seek during my six minutes to talk about some fairly disparate ideas that are relatively peripheral to the funding of higher education, and then to tie them together to demonstrate how important they are to the arguments that are put in the motion.

One of the perceived problems that we have in the Parliament is that everybody believes—apparently—that change is necessary in higher education. However, the previous speaker in particular, but also others from whom we have heard this morning, clearly take the view that, although something needs to change, somebody else will have to come up with the ideas, whether it be an independent commission or whatever.

The problem is that we have a lack of ideas. We desperately need ideas in Scotland today. The reason why is that we have increasingly developed a mismatch between the demands of Scottish industry and the Scottish economy and the nature of the graduates that we are producing. That not only affects the ability of Scottish industry to develop at a time when that is urgently required, but means that we are suffering from the problem of tying too many people in to courses at too early a stage, which results in their holding qualifications that are not necessarily marketable once they have been achieved.

If we are to go down a road on which, as many of us now accept, we may have to ask graduates to make a contribution, it is essential that we equip them to make that contribution when the opportunity comes along. We therefore have a responsibility to look at how we would achieve that. Many of our universities are beginning to explore those opportunities. For example, the University of Aberdeen is seeking to provide a range of options when it comes to providing

courses. Of course it wants to continue the traditional four-year Scottish honours degree, but it also proposes an advanced entry three-year honours degree for applicants who have advanced highers, A levels or other qualifications in appropriate subjects and at appropriate grades. It wants to offer three-year degrees, which are simply enhancements of the old ordinary degree, and it wants to offer other options, too.

We have also seen Heriot-Watt University coming forward with proposals such as its MA2MA programme, which will offer the opportunity to move from a modern apprenticeship all the way through to a masters degree if that option is suitable for the candidate. Those are examples of the type of options that we need to bring forward.

Christopher Harvie (Mid Scotland and Fife) (SNP): Will the member take an intervention?

Alex Johnstone: Sorry. I wish to make progress.

Those options have something to contribute to ensuring that the cost of a degree is kept under control. However, there is another aspect that is not specifically related to cost, and that is about the accessibility of higher education. The idea that someone might start a diploma or higher national certificate course and progress to taking a degree qualification at a later stage opens up the higher education system to people who would otherwise not consider it—the very people who we are concerned are not accessing higher education today. The evidence suggests that there is more than simply a financial plus to be achieved from opening up flexibility within higher education. That is why it is essential that we take the opportunity that is afforded by the reviews that we are all talking about today to look at ways of opening it up.

If we go down that road, we will secure financial benefits—students who go through shorter degree courses will end up with less debt. It will suit those who wish to have a more broken-up career structure, and it will facilitate those who wish to take up higher education opportunities later in life, because they will be able to do that, in some cases while they are in paid employment. It will also give appropriate respect to vocational training, which starts people at a level that is appropriate to their school qualifications and takes them through the system, delivering opportunities and enabling them to achieve as they develop their ability. It is also a catch-all that will allow us to ensure that those who are not successful at school have an option to get into higher education. That is what Scotland needs today.

Scotland needs a broader-based and more flexible approach to the provision of higher education. By going down that road, we will

provide a system that is more affordable for the student, even if we ultimately pass more of that financial cost on to the student. That will also make it more attractive for the private sector to become involved in training at that level, because if we have a shortage of a particular skill—we all know that there is a shortage of engineers and scientists in Scotland today—the private sector can become more directly involved in ensuring that the right people pursue the right education and get the required support.

In an ideal world, I would not want to have the conversation that we are having today, but it is obvious that if higher education is to flourish in the years to come, we must be open-minded and flexible about how it is funded. If we are to do that, we must be open-minded and flexible about the nature of the courses that we provide.

10:21

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): There is no question but that the key point in this debate is how to fund Scotland's universities and keep them competitive if, as expected, universities in England and Wales receive a substantial boost to their income. The Conservative party's motion maintains that there is a

"growing consensus among key groups both within and outwith the university sector"

that favours a so-called graduate contribution, although the Conservatives cannot define what a graduate contribution is. When I asked David McLetchie earlier, he could not tell me the difference between a fee, a charge and a graduate contribution. I really liked Alex Johnstone saying that they will "ask" students to make a graduate contribution. Will they give them the option of saying no?

I make it clear that I, for one, do not share the so-called cosy consensus. If the key question is how to ensure adequate funding for our universities in the face of better funding for universities in England and Wales, how does the logic automatically jump to the charging of our students?

At the moment, Scottish universities are largely funded out of the public purse by the Scottish Government using taxpayers' money, but so, too, are our schools. I do not see anyone—not even the Conservatives—rushing to say that, because we need to pump more money into our schools, we should consider charging our 16, 17 and 18-year-old students who stay on at school because they benefit from that while others leave at 16 and enter the world of work, but that is exactly the logic of the Conservative motion.

Rhona Brankin: I am interested in the analogy between schools and higher education. Schools are a universal service but, as we have heard, higher education manifestly is not. There is surely a distinct difference between the two sectors, and that is the key.

Mike Rumbles: Of course it is a universal service. Students can stay on at school if they have the ability and wish to do so, and they can go to university if they have the ability and wish to do so.

Elizabeth Smith: Will the member give way?

Mike Rumbles: Let me press on. I will take an intervention later.

We have heard it said that university students will earn more money when they enter the world of work, and that they therefore benefit at the taxpayer's expense. Indeed, that is the logic of the calls for the reintroduction of tuition fees by another name, and for the imposition of a graduate contribution. It seems to me that those who advocate either tuition fees or a graduate contribution on that basis fail to recognise that we already have a tax that is specifically designed to ensure that the more someone earns, the more they contribute in taxation. It is called income tax, which is paid at 20 per cent, 40 per cent and, soon, 50 per cent. The achievements of students in obtaining their chosen degrees does not necessarily mean that they will earn more than their contemporaries; the earning power of a degree will not apply to everybody. The fairest form of taxation is without doubt income tax. I cannot understand the logic of suggesting another tax on top of that.

Elizabeth Smith: Surely the logic is about the marginal cost and the marginal benefit of having a university education. That is the key principle that underlines our proposals.

Mike Rumbles: The marginal cost? The fact is that what the Conservatives propose is based on the assumption that everyone who gets a university degree will earn more money than people who do not get a university degree. The present system is funded largely by the state, and I find the logic of the Conservative motion, which assumes that our students must somehow make a contribution—which they will "ask" them to make—ridiculous.

Rather than address an as-yet hypothetical situation—the increase in funds for English and Welsh universities that might result from the Browne review—I would much rather spend the time debating student debt, as Claire Baker did, to an extent.

At the moment, a Scottish student who attends a course that is available only in England has to

pay tuition fees and, in a great many cases, has very limited access to a student loan. The non-means-tested loan is only some £900 a year. That is a complete nonsense, as it means that many students rely on commercial loans with high rates of interest, in addition to the tuition fees that they have to pay. It is a big issue, which I raised in Parliament many times with the previous education minister, and I am disappointed that no action has been taken to allow those students greater access to the student loan funds. That could be done if the political will existed. I appreciate that the issue might not have been bright on the minister's radar screen, given all the other problems that exist, but I would like him to make a genuine attempt to end the reliance on commercial loans with high interest rates. The minister could take action, at a relatively marginal cost, that would really help those students.

Claire Baker: I am interested in the member's view on the position of NUS Scotland, which is debating what a true graduate contribution would look like as a means of increasing student support. He has expressed concerns about student hardship. Does he agree with the NUS that discussing a graduate contribution is a way of resolving the present situation?

The Deputy Presiding Officer: You are very near the end of your time, Mr Rumbles.

Mike Rumbles: The short answer to that is no, I do not. I think that that is the wrong way to approach the issue.

At the moment, our universities are funded largely through general taxation. I would have more sympathy for the university heads such as Anton Muscatelli who are calling on the Parliament to legislate to charge our students for the privilege of attending their institutions if they themselves had moderated their huge salaries. Anton Muscatelli is on a salary of £250,000. How dare he? I have little sympathy for those calls for our struggling students to pay up.

The Deputy Presiding Officer: We have now used up most of the slack in the debate, so members should stick fairly closely to the time limits.

10:27

Christina McKelvie (Central Scotland) (SNP): I was delighted by the recent news—which the cabinet secretary mentioned—that the University of Edinburgh would be fast-tracking new students who have passed the Scottish baccalaureate by allowing them to proceed straight into second year, where appropriate. It is heartening that the University of the West of Scotland in my region has committed to the Scottish baccalaureate, too.

Rhona Brankin: Will the member take an intervention?

Christina McKelvie: I want to make progress.

That recognition of the excellence of the award and the hard work that pupils put into gaining the qualification is a very welcome development in Scotland's education system, and the University of Edinburgh, the University of the West of Scotland and all the other institutions that are looking at the baccalaureate should be congratulated on their foresight.

The quote in *The Herald* from Edinburgh's vice-principal, Professor Mary Bownes, makes it quite clear why the university has chosen to mark the qualification. She said:

"The breadth and depth of study required is ideal preparation for higher education, and lends itself particularly well to the Scottish degree."

It is good to see one of Scotland's universities joining Scotland's business community in acknowledging the Scottish baccalaureate, and I look forward to the other higher and further education institutions across the country following that example, and to the continued growth and success of the baccalaureate as an important part of Scottish education.

That, I believe, answers—at least in part—the call in the motion for a more flexible degree structure. We cannot forget that our universities are not public institutions; they are independent of the state, and decisions about their degree structures and cost-effectiveness are for them to make. Ministers have restricted room for manoeuvre here, and that is exactly as it should be.

What funding the state is prepared to offer the universities is a different matter, of course, and it is on that issue that we will find political differences. I appreciate where the Conservative motion is coming from, and it may surprise some members to find that I agree with part of it—the part that refers to a graduate contribution. In fact, the graduate contribution is a traditional part of our education system, but it is usually called by another name: income tax.

The proposal that was made recently by one of the new Conservatives—one Vince Cable—rested on the idea that graduates who earned the most would make a larger graduate contribution than their peers, so we are talking about not only income tax, but progressive taxation. Who would have thought that the Westminster coalition would have led to the Conservatives advocating progressive taxation in less than six months? I find that I can readily agree with my Conservative colleagues that progressive taxation is the way forward. The times truly are a-changing.

Interestingly, Ed Miliband wrote an article for *The Guardian* in June that called for a graduate contribution, but not at different levels. Ed is a flat-tax Labour leader who opposes a Conservative coalition that advocates progressive taxation. Westminster is, truly, through the looking glass.

Importantly, though, Vince Cable's remarks on research funding impact on Scottish universities because it is the UK research councils that he is talking of cutting into.

Claire Baker: The member talks about a progressive taxation system. Does she support Vince Cable's proposals for a graduate tax?

Christina McKelvie: No, I do not support those proposals at all.

I will quote Vince Cable directly:

"My preference is to ration research funding by excellence and back research teams of international quality—and screen out mediocrity—regardless of where they are and what they do."

He talked of concentrating funding in the 54 per cent of research that has been identified as world class, and of driving down the number of centres that undertake some forms of research. Let us make that clear: it is the 17 per cent of research across the UK that was defined as "world-leading" in 2008 and the 37 per cent that was defined as "internationally excellent" that Mr Cable thinks should be funded. That would mean cutting funding for the 33 per cent that is

"of a quality that is recognised internationally in terms of originality, significance and rigour"

and the 11 per cent that is

"recognised nationally in terms of originality, significance and rigour".

However, I am confident that my enlightened Lib Dem colleagues in the Scottish Parliament are committed to free education, and I believe that they will have an extremely positive impact on the proposed green paper.

In the light of the proposed cut in research funding, I took a look at the figures on the website of the Higher Education Funding Council for England. In 1998-99—the year in which tuition fees were introduced in England—the teaching grant for England's universities was £4.68 billion. For this academic year, the teaching grant and Government-funded fees amounted to £5.1 billion. That is a real-terms cut of £1.1 billion—17 per cent of what the English teaching grant would have been if it had just kept pace with inflation. Tuition fees have not added to the income of English universities; they have reduced Government funding and dipped into the pockets of the students.

The motion talks about new funding methods. The Conservatives—both the old-fashioned kind with blue rosettes and the new ones with yellow rosettes—seem to be in favour of a graduate contribution and they have been joined by not-so-red Ed, who is leading the Labour Party into the same paddock.

Margaret Smith rose—

Christina McKelvie: To save Margaret Smith the trouble, I say that I welcome her reassurances and know that she wears a vibrant, bright yellow rosette and that, like me, she believes that education should be based on the ability to learn, not the ability to pay.

I turn to widening access. The NUS-Labour claims that Scotland's record is worse on that issue are based on Higher Education Statistics Agency figures, which are based on students who go to Scottish universities rather than on residents of Scotland who go to university. We have more students as a whole than England, so the fact that we have a smaller share of students from non-traditional backgrounds may mean that a similar rate of people from non-traditional backgrounds go to university.

The Deputy Presiding Officer (Trish Godman): You should be finishing now, Ms McKelvie.

Christina McKelvie: Scottish universities receive a cross-border flow of students, predominantly from higher occupational class backgrounds. HESA figures do not take into account higher national certificates and higher national diplomas.

In conclusion, the Institute of Directors' publication concluded—

The Deputy Presiding Officer: No. You are concluding now, Ms McKelvie.

Christina McKelvie: —that a graduate tax would be a burden on employers. I do not agree—

The Deputy Presiding Officer: I do not agree, either. Will you sit down, please?

10:34

Ken Macintosh (Eastwood) (Lab): I think of myself as an optimist. In fact, I would go further: I would suggest that despite the presence of the occasional doom-monger among us and the reputation of politics as a cynical business, the majority of members of this Parliament are optimists, too. Perhaps we need to be. Every now and then there are moments that test our fortitude. One such moment—certainly for Labour members—was May 2007 and the election that ushered in the SNP Government.

I do not mind admitting that I consoled myself with the thought that, nominally at least, the SNP claims to be a progressive party. I do not even mind admitting that there are good people in the SNP, some of whom are probably not that far removed from where my colleagues and I stand on some issues. In fact, particularly on education, I took comfort from the fact that the Scottish Government agenda was supposedly to pick up from where we left off by narrowing the opportunity gap, raising attainment, widening access and maintaining the cornerstone of the comprehensive system.

On higher education, the SNP promised to be even more progressive. It promised to return us to a supposed golden age of free education and famously—or, rather, infamously—to dump student debt. That makes it even more disappointing that we find ourselves in the current situation. Who could have predicted, or would have wanted to predict, that three years on the SNP would end up leaving our students and universities in the mess that they are in? Who would have thought that the party that optimistically promised so much could have delivered so little?

Little or no progress has been made on the widening access agenda. Universities are struggling with the funding settlement and are gloomily looking to a future of cuts and cutbacks. Students are still in the red because of a lack of support, and Scotland enjoys one of the highest drop-out rates in the United Kingdom, at 1 in 10. I am sorry, but even for an optimist it is difficult to see the upside of what the SNP has done to higher education in the past three years.

I suggested that the SNP claims to be a progressive party. However, time and again on education the SNP has demonstrated a lack of leadership or progressive policy direction. At a time of plenty, Mr Salmond could demonstrate his populist touch with the promise of free school meals, free university education and free this, that and the next thing, but the SNP has been unable to deliver on any of its education promises. The trouble with promises and policies that are based on populism is that they are directionless. The SNP has proved to be incapable of steering us through times of difficulty. To take advantage of people's optimism and to make promises on the back of people's hopes for the future is not only deceitful, but damaging to all of us who want to use the Parliament to build a fairer and better society.

None of the strategic decisions that could and should have been taken on higher education has even been fully considered. Instead, the education secretary has suggested that we should all just wait—optimistically, of course—for his big brain to

get to work to produce a green paper. He will not tell us what is likely to be in it and there is no discussion or sharing of ideas. We simply wait and rely on Mr Russell to magically pull the rabbit from the hat. That is no way to plan the future of higher education.

Our universities are currently struggling with a 0.6 per cent real-terms cut across the board. Just as the institutions are finding it difficult to cope, the SNP's failure to deliver on its promises on student support means that those who have worked hard to get to university are now even deeper in debt. Students in Scotland already have the lowest level of support in the UK—Scottish students can be entitled to £1,300 less than their counterparts in England. Hardship funds have been cut, despite the increase in need because of the recession.

The NUS Scotland report "Still in the Red: Student Finance in 2010" highlights how bad the situation has become. Almost two thirds of students worry frequently or all the time about finances. Almost two thirds said that not receiving enough money was having a negative impact on their studies. More than two thirds said that they were working more than 10 hours a week, and half of those said that that was having a negative effect on their studies. Harking back to the SNP's oft-repeated claim to have restored free education, I was particularly struck by the pertinent words of the NUS Scotland president, Liam Burns, in his introduction to the report. He said:

"Despite what many commentators say, education is not currently free in Scotland. When a student is forced into thousands of pounds worth of commercial debt, education is not free. When a student has to work over 20 hours a week on top of their course work to survive financially, education is not free. And when the price tag of tuition fees hangs over all but the traditional full-time undergraduate student, education is not free."

Ian McKee (Lothians) (SNP): Does the member not recognise that, when the party that he supports was in government, it played a part in bringing about the situation in which students are in such debt?

Ken Macintosh: I certainly do not. When we were in power, we recognised the difficulty of finding a sustainable solution for student support and university finance, which is why we introduced a graduate endowment scheme. Somehow, we have all come back round to that way of thinking and we are all considering a graduate endowment scheme again.

Mike Rumbles: No. We are not all considering it.

Ken Macintosh: Mr Rumbles interrupts from a sedentary position. What is the Liberal Democrats' position? They voted for the graduate endowment and they voted against it. Now they say that they have not brought forward any ideas whatever, yet

in England they support the Conservative Government. I am not sure what the Liberal Democrat position is.

Whether it is parents, taxpayers or students, somebody pays for education. The SNP would like to conduct the debate using misleading soundbites and talking of supposed free education. That is because its guiding principles are populist, not progressive; because it wants to take the easiest option, not the right option; and—heaven knows—because it certainly does not want to face up to difficult decisions.

10:40

Gavin Brown (Lothians) (Con): As members from all parties have fairly said, we should all be immensely proud of our institutions and their students and staff. They have an incredibly outstanding history and still punch well above their weight today. The difficulty is that, if we want them to punch well above their weight in the future, we have to do something different.

Our university sector is staring at a future funding crisis. Members have referred to Professor Muscatelli's point that he believes that his university will run out of cash in 2013. Recently, we heard from Lord Sutherland that

"we cannot fund the status quo on current cash flows."

That is the reality. The Parliament and Government must find a solution to it. Some people say that the solution is to do absolutely nothing and to allow our universities over time to run into the ground and drop down the league tables. Some people think that the solution is more central Government funding for our universities. That was the main plank of the NUS report. That is a perfectly legitimate position, but the difficulty with it is the crisis that the country faces in the funds that are available to us.

We have all read the independent budget review report. Although we do not know what the outcome of the spending review will be, there are pretty clear indications in that independent report that we will be about £1.7 billion down in real terms next year and, potentially, £3.7 billion down at the end of four years of the spending review period. The difficulty is not just short term. Rather worryingly, the independent budget review report suggests that it could take us 15 years to get back to where we are today in real terms. We therefore need a solution that does not simply bridge a gap for a couple of years. It has to be a long-term solution.

So, should we do nothing, provide more Government funding or introduce a different system—as has been suggested by Elizabeth Smith and the Scottish Conservatives—revolving

around some form of graduate contribution? Elizabeth Smith outlined the case clearly. It has been misinterpreted, perhaps unintentionally—although perhaps not so unintentionally—by various members. It would be a deferred contribution; that is why we call it a graduate contribution, rather than a student contribution. It would not be paid until the graduate was working. It would also be an income-contingent contribution. Until the graduate reached a threshold of earnings, they would pay back not a penny of the sum. If, at some point in the future after they had begun to pay it back, they were unlucky enough to be made redundant or lose their job, there would be a pause in the payment. They would not pay a penny until they were again above the threshold for payment.

We heard some good rebuttal to the worries that the proposal might reduce access to university. The NUS paper to which a couple of members have referred states that since 2006 and the top-up fee introduction—that is south of the border—

"the number of students from disadvantaged backgrounds entering higher education has increased by less than 1 per cent".

That is a small increase, but it is an increase nonetheless, which goes some way to rebutting the argument that our proposal would reduce access.

In an intervention, my colleague Murdo Fraser pointed out fairly that the percentage of people from lower-income backgrounds going to university is higher in England, Wales and Northern Ireland than it is in Scotland. He pointed out that in all three of those cases there is a deferred graduate contribution, while in Scotland there is not.

Ken Macintosh: I thank and commend the Conservatives for bringing forward an option, but does Gavin Brown not recognise the concern that making the graduate contribution variable based on course and institution could be a route for the privileged few to have access to a few of the institutions and for the rest to have access only to courses of lower status?

Gavin Brown: Ken Macintosh put his point across fairly, but I do not accept his argument. There would be a clear threshold and any money to be paid back would be income contingent, so I do not accept that the graduate contribution would put people off in the way that he suggests. The benefit of making the contribution variable is that we would give greater independence to the institutions, instead of having a flat rate that treats all institutions in the same way.

This is a critical issue, and I think that Elizabeth Smith has been extremely bold in taking it forward.

Let me close with another quotation from Lord Sutherland:

“An additional flow of funds will be necessary to avoid generally slipping down the world performance tables”.

Slipping down the performance tables for higher education would be seriously bad news for the country because, once we start to do that, four or five years later we will slide down the entire economic tables. None of us wants that.

10:46

Ian McKee (Lothians) (SNP): In the spirit of consensus, I wish to speak in support of Elizabeth Smith's contention in the motion that graduates should contribute towards the cost of their university education. It is only right and proper that those who increase their earning power by benefiting from higher education, free from tuition fees, should in turn pay back more money to the community that funded that education. Where Elizabeth Smith and I slightly part company, however, is on the nature of the mechanism that should be employed in achieving that aim. Although her proposal initially sounds very reasonable, it contains serious flaws—and here I will add my personal contribution to the debate, as the cabinet secretary requested in his speech.

For a start, many graduates do not enter work at a higher rate of pay than those, perhaps in other fields, who have never taken a university degree. Some do not enter work at all. I appreciate that there are a variety of mechanisms, such as income floors and others mentioned by the Conservatives, through which lower-earning graduates can have extra contributions deferred or even written off altogether, but they automatically involve means testing and a cumbersome and—dare I say—expensive bureaucracy.

Furthermore, what would the Government do to collect its money if a person immediately emigrated the moment he or she was awarded a degree? Could an unintended consequence of such an initiative be an extra incentive for our brightest and best to leave the country and for their talents to be utilised by those who had no input at all into their university education? Would the notion of a large debt hanging over a student deter potential entrants, especially from low-income backgrounds?

There is another, equally serious, misunderstanding embedded in the philosophy behind the motion. It is that by increasing the pool of intelligent well-educated graduates we are benefiting only the individuals concerned, whereas nothing could be further from the truth. Modern society is so integrated and interdependent that we all depend on having such talent in our midst.

As John Donne wrote in 1624, in words that are familiar to us all,

“No man is an Island, entire of it self”.

He went on to say:

“every man is a piece of the Continent, a part of the main; if a clod be washed away by the sea, Europe is the less”.

Let us think of those words. If a humble piece of earth be washed away by the sea, he argues, the entire continent of Europe is the poorer. If that was true almost 400 years ago, how much more that analogy is true today when we are so much more dependent on each other.

Therefore, where do I agree with Ms Smith? I agree that, despite what I have said, most graduates are in the happy position of earning more precisely because they have a university degree. Those extra earnings—earnings they otherwise would not have received, as others have said—are taxed, perhaps even at 40 or 50 per cent. It is no secret that I would like those tax payments, along with all others, to come directly to the Scottish exchequer so that we could continue to fund Scottish universities in a way that enables them to compete in an important international market without having to depend on handouts from Westminster. However, the concept that the more someone earns the higher the taxes they pay is universally considered to be fair and is relatively simple and inexpensive to operate—as Mike Rumbles said—so why consider anything else? It is not often that I agree with Mr Rumbles, but on this occasion I do.

Gavin Brown: One problem with the member's suggestion is that if the money goes to the exchequer—at UK or Scottish level—it does not necessarily go to the institutions themselves.

Ian McKee: Indeed it does not, but the Government—whichever one we are talking about—has the responsibility for funding higher education, and if that is the mechanism it is up to us in politics to see that it keeps that commitment.

Remaining true to the “No man is an island” theme, it is probable that an entrepreneurial non-graduate who has made his or her fortune in business still depends very much on the existence of a skilled workforce that includes university graduates. Therefore, the benefit is shared, and it is fair that a proportion of the tax paid by such an entrepreneur goes towards providing the pool of graduates for future advances. We all benefit from higher education, not just graduates.

Let me now turn to another part of the motion on which Elizabeth Smith and I are as one. A university degree was once a sign of great status, as only a tiny section of society were graduates. When university education became more widely available, there was an entirely understandable

stampede to gain this status symbol. "You're bright enough to get into university so go for it," was the common refrain of parents and teachers alike. However, the inescapable truth is that not all university degrees are of equal worth or value to society, and there is a crying need for skilled tradesmen. Perhaps the answer is to abolish the gap between higher education and vocational training altogether—a gap that has narrowed in practice considerably in certain disciplines. What would be wrong with a BSc in plumbing or plastering? We already pay many tradesmen more than graduates, so let us abolish the social stigma.

What I want to do is challenge the assumption that our universities will inevitably suffer if we do not go down the route of adding to the financial burden already faced by our students. We all benefit so we all should pay—but pay according to our means by the most progressive tax of all: income tax.

10:52

Rhona Brankin (Midlothian) (Lab): I begin by thanking my Conservative colleagues for lodging the motion, and I am grateful to have the opportunity to contribute to the debate.

We all agree that the higher education sector is vital to the Scottish economy. It contributes in the region of 38,000 jobs and accounts for an annual turnover of about £2.7 billion. The world-class research in Scotland's universities contributes both to our economic growth and to our health and wellbeing. That is not in doubt; the challenge is how we continue to have a world-class university sector in Scotland and to ensure the sustainability of the sector.

It is noble of the Conservatives that they wish to widen opportunities and access for students who are from traditionally non-university backgrounds. Maybe somewhat less noble is their answer in the motion of how to do so in a fair and sustainable way. If the Conservatives speak to NUS Scotland, which I am sure they do, they will be advised that there is no growing consensus on graduate contributions. For NUS Scotland, Conservative plans constitute a rebranding of tuition fees rather than a graduate contribution.

In Labour, we are open to ideas. The problem is that with the Conservatives now plumping for the Australian model, we do not believe that there is evidence at this stage that it is the correct way forward. That is why we are keen to see a genuinely independent inquiry into the sustainability of higher education in Scotland.

In Labour, we wish to widen access and opportunity for young people. Indeed, during our time in government we did exactly that for thousands of young people, many of whom were

the first generation in their family to go to university, with a Labour-led Executive behind them that scrapped up-front tuition fees and allowed them to embrace the opportunities that were traditionally closed to those from non-university backgrounds.

However, the Conservatives are correct to point out the growing consensus about the lack of sustainability in the SNP's approach to higher education funding—or, more accurately, the lack of sustainability in the SNP's approach to many matters across policy divides. That is—regrettably—of little surprise. The SNP has failed on many counts throughout Scotland and its education policy sits at the top of a long list of failures. The promise to dump student debt was broken, the number of students who go to university is at its lowest in three years and Scotland's figures on widening access to higher education are the worst in the UK. We can debate those figures.

The situation is entirely unforgivable, and come May 2011 Mike Russell and the SNP can count on it being unforgettable for the students whom they have let down badly. I assure him that, like every other Labour MSP, I will at every opportunity between now and May remind my constituents of his failures and those of the SNP.

Bill Wilson: Given what Rhona Brankin says, does she now regret her original opposition to dumping the debt? Is she saying that if Labour was in power, it would dump student debt and abolish it?

Rhona Brankin: Students in Scotland are well aware of who made and broke the promise to dump student debt.

Another failure is that, in 2008-09, a lower number of young people in my constituency of Midlothian left school to go to higher education than the Scottish average and the level in all the surrounding local authority areas. Such failures leave massive employers in Midlothian—such as the Bush estate, which is at the forefront of biotechnology—having to look outside my constituency to find the highly skilled workers they need to continue to develop and stay ahead of the game.

The gap in academic attainment between rich and poor is simply unacceptable and must be tackled in a variety of ways. Unlike the Government, we have led on that policy by establishing the literacy commission, which reported last December. We have adopted the commission's recommendations, but we have had nothing other than warm words from Mike Russell. Where is the literacy action plan? It was promised before the summer recess, but there has been nothing since then.

Widening access means not only increasing aspiration and providing opportunity but putting more cash in students' pockets, to allow them to tackle their studies and benefit as much from the overall experience of higher education as anybody else does. In government, Labour worked hard to alleviate student hardship, but under the present Government the number of poor students who are eligible for student loans is at its lowest level since devolution and such students receive less support than those who study elsewhere in the UK.

Now to Mike Russell's volte-face. First, the class size policy was abandoned, and now the SNP appears to think that perhaps higher education should not be free, but it really does not know. After three and a half years of the SNP Government, we have had nothing—all that we have is a promise of a green paper. To be frank, that is unacceptable.

The SNP has stuck its head in the sand for years on university funding. The SNP claims to talk to university principals, and I am sure that it does, but we do so, too. They tell us that the Government has not faced up to the potential funding crisis for Scottish universities. They know already the challenges of the funding that they have been given, but they genuinely fear for the future. The sensible way ahead is to have a genuinely independent review of university funding. There is no consensus on future funding, but solutions need to be developed as quickly as possible.

I join my Labour colleagues in calling for that review. A genuinely non-partisan approach needs to be taken and the sector needs to be consulted properly, to allow it the greatest say in securing the future of what is undoubtedly one of Scotland's greatest assets—its world-renowned education system and its institutions.

10:58

Bob Doris (Glasgow) (SNP): The motion wants to take us to a point at which a university education is the preserve of the well-off more than it currently is and at which the debt burden on graduates threatens to stall further our younger generation's prosperity. I welcome the Conservatives' debate, as it gives us the opportunity to reject such prospects.

With an election year on the way, we all need to be frank about where we stand, so that it is easier for electors to make conclusions about their decisions. I stand against a graduate tax and tuition fees, be they up front or otherwise.

Hugh Henry: Will Bob Doris take an intervention?

Bob Doris: I would like to make progress, Mr Henry.

To varying degrees, I am pleased by the Labour and Lib Dem amendments—if not by the tone of Labour members' speeches, unfortunately. I am grateful for the amendments. However, the SNP is the only party in the Parliament that has consistently refused to entertain the introduction of tuition fees, and we have rejected a graduate tax. That is where I stand now. I take a principled stance that is backed with strong arguments.

The Labour Party opposed fees back in 1997, but it went on to introduce them. As we have heard, the Tories opposed fees and voted against top-up fees in 2004. We are having the debate today because the Tories have switched sides and seem to have the convert's zeal.

The Lib Dems in Scotland opposed fees until their coalition with Labour in 1999. I will not reopen the debate about whether a fee at the point of exit from higher education ceases to be a fee. I hope that we have moved on from such debates and that the Lib Dems in Scotland are coming on board with the SNP in abolishing—as we have done—the £2,000-plus tuition fees.

Margaret Smith: Mr Doris was not a member of the Parliament in 1999, but it is clear that the Liberal Democrats opposed tuition fees then. We entered into a coalition with the Labour Party, which was in favour of tuition fees. We now no longer have tuition fees. I will leave it to him to join the dots.

Bob Doris: I suspect that we might join the dots differently, but I genuinely want to agree with the consensus today on how we move forward together rather than to discuss various interpretations of history. I am grateful for the Lib Dem amendment.

I look at how our tax pounds are spent and how our oil wealth is squandered and I despair when the chronic waste in the system is mistaken for value and when education is so undervalued that it is mistaken for waste.

The Tories have come to the chamber to call for “a graduate contribution toward the cost of a university education”.

It is a contribution to society to spend four or five years without a full wage and to leave university with significant debt but with a skills base that will benefit our country in the longer term. Let us be clear—the Tories are not asking for a contribution; they want to squeeze harder young people who are already squeezed financially.

Elizabeth Smith: I make it absolutely clear that education involves a social responsibility and a private responsibility. We do not suggest any

system that would remove Government funding for universities—that would be bizarre. We suggest that, on top of such funding, some form of graduate contribution will have to be made to ensure that we move away from the current unsustainable system and provide greater income. As Mr McLetchie said, the contribution would be an additional source of income.

Bob Doris: A country raises income by raising taxes and not by targeting one sector of society, such as our students, so I reject what Elizabeth Smith says.

Margo MacDonald: Will Bob Doris give way?

Bob Doris: I apologise, but I will run out of time if I give way.

I could not oppose more the Conservatives' vision for Scotland's future. In that future, education would not be valued. I want an education system in which opportunities abound and in which people are not crippled by debt. This year, more than 17 per cent of non-European Union undergraduate applicants to UK universities chose Scotland as their destination. Progress has been made and we should not play down the Scottish higher education sector's contribution to the UK and beyond.

I will paint a picture that I see of Scottish society. I do not believe that students should pay for higher education via a graduate tax, just as I do not believe that ill people should pay for our national health service. I do not believe that parents should have to pay for all child care responsibilities—that would be wrong, but that is the Tory logic. I do not believe that communities in deprived areas should have to pay for policing those areas—that would be wrong.

As soon as we start to pick one strand of society and tell it, "You pay for that—you've got your higher education," we are only a short step from saying to mothers, "You pay for your child care"; from saying to parents, "You pay for secondary school education"; or from saying to the ill, "You pay for hospitals." That is the situation in the States, but this country rejects that.

I have two words: progressive taxation. I wish that we in this place had the powers to fund higher education properly. We need independence for that. We are short of those powers, but we must still fund higher education. Our SNP Cabinet Secretary for Education and Lifelong Learning will produce a green paper on whether we can square that circle, short of independence. Our students deserve better, but the constitutional settlement denies them that opportunity.

11:04

Hugh Henry (Paisley South) (Lab): Ken Macintosh was right to point to the dithering of the present Administration and the chaos that that is bringing to Scottish universities. As members have said, it is right that we recognise the contribution that our universities make. We also need to recognise that we need to invest in order to deliver the best-quality education—not just for the students who attend universities but for the secure future of our society.

It is right that we take this opportunity to re-examine fundamentally the role and function of our universities. It is a scandal that many bright young people in this country from poorer backgrounds are still denied opportunities to attend university in Scotland: as Murdo Fraser and others pointed out, Scotland has the worst record in the United Kingdom for widening access to universities. We need to consider how we can ensure that equity and fairness underpin our approach to higher education, and to commit ourselves to more and better financial support for less well-off students.

However, we also need to recognise that, in the current financial climate, hard decisions about funding will need to be made. It is no good for politicians of any party to try to out-promise people as the SNP did in 2007, when it made false promises that were there to be broken. That leads to cynicism and apathy among electors.

When we talk about hard decisions about funding, we need to seek a fair and sensible system that sees students making a modest contribution. As other members have mentioned, previously we had a system under which students made a modest contribution once they had started earning, and then only for a limited period. Regrettably, the SNP decided to scrap that system, which still has much to commend it to those who are looking at the future of Scottish education. I hope that it will be one of the options that is considered. I have a personal preference for a system that involves students contributing for a limited period, rather than through a lifetime increase in income tax that would financially penalise teachers and other relatively low-paid workers but take no additional contribution from millionaires who make their money without the benefit of a university education.

Christopher Harvie: One theme that has not come up so far in the debate—I may have missed it at the beginning, because I was delayed on the bus—is the role of part-time education and the Open University, which I played some part in setting up in 1969. I would be interested to hear Mr Henry's views on that.

Hugh Henry: That is an issue for another day and a more specific debate, but such options have much to commend them.

Unlike many of my colleagues in the chamber, I think that there needs to be a debate about the number of students who attend university. Boasting about who will have the most students at university should not be a test of political virility. It ignores the fact that just over 20 per cent of higher education students study in the college sector. Why are universities paid more than colleges of further education, often for providing the same courses? As a country, we need to address our future skills requirements and to consider what institutions are best placed to do that. We ignore at our peril the critical role that our excellent FE colleges can play and the flexibility that they offer in getting students into jobs. That issue must be part of any sensible debate.

There needs to be a debate about the four-year degree. I accept some of the cabinet secretary's warnings, but Alex Johnstone put the issue in a better context. We need to look at the structure of the academic year and at how the exam system in our schools prepares people for university. Simply saying that we will not touch the four-year degree is not the best way forward. We need to consider where the four-year degree—or any degree—fits into our broader education system.

Liz Smith raised the issue of enhancing autonomy. I agree that there should be autonomy in relation to academic freedom, but we need to question the lack of accountability in our universities and the way in which they use—and abuse—valuable public resources. University principals are accountable only to university courts. Is it a coincidence that, right across our universities, the courts have decided to increase substantially the salaries and perks of our university principals? Most are earning around £250,000 plus perks, at a time when they are holding down staff pay, increasing workloads and making staff redundant. It is time for the cabinet secretary to take action to end the excesses and abuses in too many of our universities. That display of greed contrasts with the hardship faced by students and the stresses faced by staff.

11:11

Hugh O'Donnell (Central Scotland) (LD): It is only right that the first education debate since the recess should be on higher education. As we have heard from across the chamber, there is a considerable lack of consensus on the way forward. Liberal Democrat colleagues who have spoken have stated the Liberal Democrat position on the issue; there is no need for me to rehearse their comments.

In her opening speech, Liz Smith referred to Mike Russell's article in *Scotland on Sunday* about leading the debate. He was a little disingenuous—the SNP has been leading the debate in the same way as Cardigan led at Balaclava. It is clear that there have been opportunities during its period in government. The joint future thinking task force could easily have addressed, as part of its remit, some of the issues that we are debating today. However, for reasons best known to themselves, some of the universities and other participants in the task force decided that they did not want to do that, which is a disappointment. I hope that the green paper that the Government will produce, combined with the Browne review—the outcome of which we are all eagerly awaiting—will give us some indication of where the Government will take us.

Elaine Smith (Coatbridge and Chryston) (Lab): Presiding Officer, if we are all eagerly awaiting the Browne report, what is the objection to an independent review in Scotland? Could that not look at all sorts of issues, including barriers to education?

Hugh O'Donnell: I may have incorrectly picked up Elaine Smith, but I thought that her question was directed to the Presiding Officer. Is that the case?

The Deputy Presiding Officer: No, the member was speaking through the chair.

Hugh O'Donnell: Thank you for that clarification, Presiding Officer; I genuinely thought that her question was directed to you.

In my view, the combination of the forthcoming spending plans and general uncertainty about what the economic future will be makes it inappropriate at this stage to consider an independent review.

There have been many interesting speeches. Alex Johnstone's speech was well considered. Both he and Hugh Henry touched on many of the issues that we need to address. I know that all of those who have briefed us on the issue have a particular agenda to follow, and it is right that they should do that. However, I have a couple of thoughts about the barriers to accessing education that the less well-off face. The NUS's figures suggest that, generally, students are most concerned about day-to-day living. I wonder how much investigation and analysis has been done to determine why people from poorer backgrounds do not go to university. Are the barriers purely financial? Are there problems—Hugh Henry touched on this—with the pre-university education system in respect of literacy, numeracy and general academic achievement that we are not looking at and which may be a constituent part of not getting into university?

I was honestly a little disappointed by the Labour Party's apparent short-term memory problem in relation to where tuition fees began, and I was surprised by David McLetchie informing us that the Tories had never supported them—perhaps until now, although that remains to be seen. It is surprising that the Labour Party, which ostensibly stands up for sectors of the community that it has traditionally supported, introduced tuition fees, resisted their removal—until it was in coalition with the Liberal Democrats—and, if memory serves me right, voted in favour of the abolition of the graduate endowment tax during this session of Parliament. I am not sure where the Labour Party stands in relation to all that.

Not once in any of the contributions from Labour members did we hear a mea culpa. Plenty attacks have been made on the coalition at Westminster, and Labour members are quite entitled to do that, but there was no sense of balancing something like 130 days' responsibility against 13 years' responsibility in respect of the state of our country.

I look forward to seeing both the green paper and the Browne report. I particularly look forward to hearing Ken Macintosh's view, given that he says that he is an optimist. Goodness me, I would hate to know what his definition of a pessimist is if he is an optimist.

This has been an interesting debate with useful contributions and I thank all members for taking part.

11:17

Des McNulty (Clydebank and Milngavie) (Lab): I commend Elizabeth Smith for her approach to the debate, as the future of Scottish higher education is a serious matter that deserves a proper debate. Even though I disagree with some of the points that she and David McLetchie made, I think that their speeches highlighted many of the key issues that we now have to face.

Elizabeth Smith's motion suggests that there is an emerging consensus favouring a graduate contribution as the way forward but, as Claire Baker pointed out, there are significant differences in what people mean when they talk about a graduate contribution—their versions of the concept range from a permanent unhypothecated tax hike imposed on all graduates to what amounts to a deferred fees model.

Whether a graduate contribution would apply only to future entrants to higher education or whether it would affect those currently in the system or even those now out of the system who have benefited from higher education needs to be made clear. The acceptability of a graduate contribution model will depend not only on the form that it takes but on, among other things, the

rate at which it is set, the mechanisms for payment and the thresholds at which payment is triggered.

On the other side, universities have a strong interest not only in how much money will be made available to them as the result of the introduction of a graduate contribution but in how it will affect their business model—the prices they are permitted to charge per student for different courses, the number of students they can recruit and so on. Before I became a member of the Scottish Parliament, my job was to co-ordinate the strategy of Glasgow Caledonian University—authoring the strategic plan, modelling the impact of changes in provision on funding and vice versa, and managing change. For example, I was responsible for bringing into the university about 1,000 students from the nursing colleges in Glasgow. The funding arrangements for the nursing diploma students at the time were very different from those that applied to degree students, even nursing degrees students.

Like the other post-1992 universities, a significant proportion of Glasgow Caledonian's full-time equivalents are day-release, block-release or part-time students. The debate so far has taken little account of how any new system would affect the increasing proportion of students who are not school leavers on conventional four-year, full-time degree courses. I would refer also to Open University students, but our colleague from Tübingen is no longer with us.

Because the system is so complex, because people mean very different things when they refer to a graduate contribution as the way forward for university funding and because the system that we have is so different from the system that we might end up with if we move towards any of the graduate contribution options, a substantial amount of preparatory work is needed before any final choice can be made. We must build a consensus, because whatever we put in place has got to last for a long time. We cannot afford mistakes or misunderstandings and we must not introduce a system that has any serious flaws.

Mike Rumbles: Will the member give way?

Des McNulty: No.

Above all, we must not now allow anyone to think that the entire cost of higher education could or should be funded through a graduate contribution. There will be a continuing requirement for an Exchequer contribution and the ratio between what is raised from individual beneficiaries and what is contributed from general taxation is a crucial question.

It is because those questions are avoided by the Scottish Government that I am so critical of the approach that Mr Russell is taking. Even as the graduate endowment was being removed with a

great fanfare, it should have been obvious that we would end up returning to the Cubie principles. Before May 2007, the SNP made huge promises to students—the abolition of student debt and the perpetuation of free higher education—all of which it is unable to keep.

Mike Russell's amendment omits any reference to the unsustainability of the present funding structure and instead refers to the Scottish Government needing to respond to the outcomes of the Browne review. The Browne review will undoubtedly change the game, but let us be clear that the game has been a bogey for some time.

Scottish arrangements for the funding of higher education have compromised the effectiveness of our higher education institutions. The unsustainability of what we have does not date from whenever the Browne review is published; it is recognised by all the key groups to which the motion refers. What has been lacking has been any political will on the part of the SNP to allow these issues to be addressed.

Mr Russell and his predecessor set their face against an independent review and pretended that our universities were not facing severe financial difficulties, but they are. The Scottish Government set up a joint futures task force involving the universities but prohibited its members from addressing the funding issue. Mike Russell now wants to have a private chat with the principals to see whether he can come up with a "Scottish solution"—a kilt will not do it.

Let us be clear. Scottish universities and colleges must be involved in any deliberations, but surely the way forward is not private discussions, which Mr Russell has favoured up to now, nor a green paper, which is simply a device to kick the issue into the long grass beyond May 2011, but a systematic review that not only deals with funding for universities but addresses the equally important issue of student support. Any review must ask hard questions about how the sector can adapt to better meet the needs of students, to maintain its international competitiveness and to help to stimulate economic growth, together with addressing the important questions that Hugh Henry raised in his excellent speech.

Margo MacDonald: Will the member give way?

The Deputy Presiding Officer: Mr McNulty should be finishing now.

Des McNulty: An independent review could have been set up at any time in the past 18 months. The reality now is that our universities are on the brink of crisis. We have had three years of procrastination from the SNP and it is still refusing a proper review of funding arrangements. The spending review is due next month, but no ideas or plans have been put forward by the SNP. That

is a disgrace and it is time for the SNP to move over. If it is going to deny the issue, let us have a change of Government and have the issues properly addressed.

11:24

Michael Russell: I will deal with the Labour contribution—or lack of it—in the first part of my summing-up and I will then deal with those who were prepared to contribute positively to the debate, which seems to have been everybody else in the chamber. I exempt most of Hugh Henry's speech, because I thought that he, as a former education minister, addressed some of the crucial issues. Later in my speech, I will touch on the issue of the four-year degree, which he raised some very interesting points about.

In today's debate, Labour was the dog that did not bark. It yapped a lot, but it did not bark, and there was not a single—not one, zero, nada—policy contribution from Labour members. Indeed, what Labour said was not only dismal but factually wrong. For example, student support has not gone down; it has gone up in a variety of different ways. More is being provided in difficult times than Labour ever provided.

Claire Baker: Will the cabinet secretary give way?

Michael Russell: No, I will not. You have been wrong so far and I will tell you—I will tell Ms Baker how she is wrong. I was almost carried away, Presiding Officer.

Funding for universities is not down; it is up. We have provided a record £1.1 billion for our universities this year. Participation has gone up under the SNP; it went down under Labour. The sector supports the approach that I have taken; it does not reject it. Indeed, the NUS says so specifically in its briefing for the debate.

All the things that Mr McNulty said would not be in the green paper, I included in my opening remarks. If he had listened, he would have discovered that they are the key issues and are recognised as such.

Not only does Labour fail to listen to the sector, it does not even listen to its newly elected leader who, this week in Manchester, told the Labour Party that it was just not credible to approach everything on the basis of oppositionalism or demanding more money. He could have added that it is just not credible to oppose everything simply because the SNP says it. There is no new thinking. Everything is as usual. It is simple oppositionalism and inconsistency.

In a parliamentary answer to Claire Baker on 9 March, I laid out the procedure that I was going to follow to build a sustainable future for Scottish

higher education. I repeat once more the offer that I made in my opening speech: I would welcome Scottish Labour's contribution to that thinking. That offer remains on the table. It is regrettable that, throughout the debate, it has seemed that Labour has nothing to contribute.

Rhona Brankin: Will the cabinet secretary give way?

Michael Russell: No, I will not.

I come to the serious contributions to the debate. I commend Alex Johnstone first of all. He made a distinguished contribution to the thinking on the matter. There is a need to consider more broadly based, more flexible systems. Such a contribution needs to be made to the green paper and I would welcome it.

David McLetchie raised an interesting point. He spent half his speech trying to write history once more, in effect. He and I were at university together and I know that he has expertise in telling the story his way.

David McLetchie: Will the cabinet secretary give way?

Michael Russell: No, I am sorry. David McLetchie is right to raise the issue that the problems that the Browne review will pose are about substitution, not addition. That is a change from the position a year ago, when the expectation was that whatever review took place south of the border would provide additional resource. Real challenges now arise out of the situation and we will have to consider the Browne report carefully. That is one of the reasons why the timetable for what we are doing is driven externally. For the Labour Party to fail to understand those drivers is bizarre. It shows that it understands as little about higher education as it does about school education.

Mike Rumbles raised an interesting point about loans at non-commercial rates and the issue of Scots studying south of the border. I will consider those matters carefully. There is a place in the green paper to consider them because, as I indicated at the beginning of the debate, the paper will consider student support.

Margo MacDonald: Are the Scottish university principals panicking? Do they have time to wait until the cabinet secretary sorts the situation out, whether with a review or a green paper, or must he come up with the sort of mid-term solution that Hugh Henry suggested?

Michael Russell: That is an interesting point. I broadly agree with what Anton Muscatelli said last week. He said himself that his assessment of the timescale had been misquoted. We have about 12 months within which to put in place the solution, and it will have to be implemented over two or

three years, because some of it will not be immediate. However, there is an opportunity to do that.

The external factors that drive that timetable are of concern. We have to take into account the Browne review, the cuts by the coalition south of the border, which are going too far and too fast, and the incredible mess that Labour made of the public finances. However, Anton Muscatelli's timescale is about right. I am working to that timetable and working hard on it.

Elizabeth Smith mentioned the number of graduates. That is an interesting issue, which Hugh Henry also raised. There is nothing that should not be discussed in the debate, but let us focus on what Universities Scotland said about the matter in a letter that, I think, all spokespeople have had:

"According to the CBI and Bank of England, most growth in employment over the past 15 years has been at graduate level. ... the CBI's 2010 report on education and skills ... reported that the majority of employers were concerned about the ability to fill high-skill posts, and projected a 55% decline in demand for lower-level skills".

Most tellingly of all, the proportion of graduates in Scotland

"is low in comparison to many competitor economies and the equivalent figures are 31% for the USA and 24% for Australia."

We are rising from 21 per cent. It is not as simple as saying that we have too many or too few graduates, but there are issues.

Hugh Henry: I note what the cabinet secretary says, but the point that I was driving at is that many people come to the same conclusion—a degree—by different routes, such as through our FE colleges. Christopher Harvie also talked about the contribution of part-time degrees and other ways of achieving the same end result.

Michael Russell: That is true. Vocationally focused higher education, to which I referred in my opening speech, is important. Colleges deliver 20 per cent of higher education. We have to debate and discuss the issue. The articulation between colleges and universities is key for us all.

I commend that comment and Hugh Henry's view on the four-year degree. I make it clear that, as I said in my opening speech, the four-year degree is not the absolute answer to everything. However, I counterbalance the argument that there is something abnormal about the four-year degree by saying that it is actually the norm and that it plugs us well into the Bologna process. Flexibility is an issue: if a student wants to take two, three, five or seven years to complete a degree, I understand that. The universities have to be more flexible.

Although universities have a good record on efficient use of public money, I agree with the speakers who said that transparency and restraint are important. Universities are individual independent institutions, but no university principal in Scotland is in doubt of my view about the need for restraint in what is, in essence, public sector pay and I would not support those who have gone too far. I commend the example set by the new principal of the University of Aberdeen, who has substantially reduced the overheads of his office since coming into office.

Gavin Brown's comment on variable fees was interesting. However, an up-front tuition fee and a deferred tuition fee are, in fact, the same thing. The Government does not support tuition fees.

Bill Wilson and other SNP speakers who made the point that independence would give flexibility of funding and better higher education are bang on. We should take that away from the debate.

11:32

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

The debate has been extremely useful and has helped us to understand the approaches that different political parties take to higher education funding, which is an important issue. However, anybody who watched it looking for solutions or substantial proposals would have been disappointed by the speeches other than those from Conservative members. Indeed, the other parties seemed to spend all their time attacking each other for not making any concrete proposals while having none of their own. I hope that the irony of that was not lost on them.

Let us be in no doubt that we face a serious situation in higher education. As we heard earlier from Gavin Brown, the principal of the University of Glasgow—Anton Muscatelli, who was well quoted throughout the debate—warned a fortnight ago that the university could run out of cash by 2013. That is only the latest in a series of comments that senior figures in higher education in Scotland have made about the unsustainability of the current funding model.

The Scottish Conservatives have been talking about that for years. We were always concerned that the Labour Government's introduction of top-up tuition fees in England would provide a substantial funding advantage to universities down south and that, if the cap—currently £3,000 per year—were lifted, it could have serious consequences for the Scottish universities. We await the outcome of the Browne review to discover what will happen with the cap or whether some alternative funding method such as a graduate tax—much loved by Vince Cable—will be

proposed. In the meantime, it is clear that, in Scotland, the status quo is simply not an option.

I welcome the fact that others have now joined the Scottish Conservatives in calling for a new approach. At the higher education conference that we ran last week, a diverse range of figures from across the political spectrum called for a new approach to university funding. They ranged from John McTernan, a former adviser to Tony Blair and Jim Murphy, to Liam Burns of NUS Scotland.

I pay tribute to NUS Scotland for the mature approach that it has taken to the issue. I understand the pressure that its leadership is under from its members, who say that it must support free education and nothing less, but at least the leadership is realistic enough to understand that the debate is now not about whether there should be a graduate contribution but about what form it should take.

Let me address the important issue of access for people from deprived backgrounds. Margaret Smith mentioned the NUS Scotland briefing for the debate, which talks about the Australian model. However, the NUS briefing quoted selectively from one Australian study. In fact, numerous studies have confirmed that the participation rates in Australia of those from deprived backgrounds have not declined since the introduction of deferred fees. Indeed, as I pointed out earlier to Margaret Smith, we in Scotland—alone of the four home nations—have so-called free education, but that has been coupled with a poorer rate of participation of those from deprived backgrounds than in England, Wales and Northern Ireland. As Gavin Brown said, even the NUS accepts in its briefing that participation in England has gone up following the introduction of top-up fees, albeit by a modest amount. However, that is completely the opposite of what the NUS warned prior to the introduction of top-up fees, when it said that levels would be decimated.

We do not support up-front tuition fees and never have done. We need to base the debate on facts and evidence and not on assertion.

Margo MacDonald: Will the member give way?

Murdo Fraser: I am sorry. I will not.

For the past four years, the Scottish Conservatives have been calling for an independently chaired review of higher education to consider a range of issues, not least funding. We still believe that an independent review would be useful but the funding issue has become so urgent that it is incumbent on all political parties to bring forward their proposals. We should not, as Karen Whitefield did, use calls for an independent review as a cover for having no positive ideas of our own.

I welcome Mike Russell's announcement that there will be a green paper from the Scottish Government later this year. I look forward with great interest to reading what he says, although, having heard the contributions from SNP back benchers such as Ian McKee and Bob Doris, I seriously wonder what options are left open to him.

All political parties should come forward with their own proposals and we must strive to find a consensus on the best idea to safeguard the quality of Scottish higher education, while ensuring that we do not put an unreasonable burden on new graduates or deter new students from non-traditional backgrounds and poorer families. We believe that up-front tuition fees have failed that test, and we are happy to restate our opposition to that model. As David McLetchie reminded us, we have consistently opposed it since the Parliament was established. We are sceptical about proposals for a graduate tax, not least because it could mean some graduates paying back many more times the cost of their education. Our preference has been set out in this debate in the form of deferred fees with income-contingent loans, based on a model that already exists in countries such as New Zealand. We appreciate that others will take a different view, but it is up to all parties to come forward with their proposals and to contribute to the debate—a debate that we have been proud to lead until now. For the sake of our universities, doing nothing is no longer an option.

I listened to the contributions from the other parties and was disappointed that Claire Baker for Labour had nothing concrete to offer. I understand the Labour strategy in the run-up to the election is to refuse to be pinned down on the basis of any policies or to fall out with NUS Scotland, but for a party aspiring to be in government within seven months, it is not good enough to have nothing concrete to say on such an important issue.

Ken Macintosh: Does Murdo Fraser recognise that the only party that has ever done anything concrete about the issue is the Labour Party? Whether he likes it or not, we introduced tuition fees and a graduate endowment in Scotland. That was an attempt to find a sustainable way forward. All that the other parties, apart from the Conservatives, can do is find reasons to decry what has been done and say what they are against rather than what they are for.

Murdo Fraser: If the Labour Party wants to hang its hat on the proud introduction of tuition fees in Scotland, I will leave that to the Labour Party to celebrate. Today, however, it has nothing concrete to say on the issue. The only exception to that was Hugh Henry, who made some positive comments.

I turn to the Liberal Democrats, as I fear I must. Margaret Smith had no new ideas—indeed, no ideas of any kind. When it came to Mike Rumbles, his idea was to increase income tax. It does not seem so long ago that the Liberal Democrats in this Parliament proposed cutting income tax by 3p in the pound. Now, it seems, they want to increase it.

Mike Rumbles: Will the member take an intervention?

The Presiding Officer (Alex Fergusson): No. The member is concluding.

Murdo Fraser: Sorry. I do not have time.

Has Mike Rumbles asked Mr Clegg or Danny Alexander? Thank goodness—

Mike Rumbles: On a point of order, Presiding Officer. The member knows that he is misinforming Parliament about what I said—

The Presiding Officer: Mr Rumbles, that is not a point of order.

Murdo Fraser: Thank goodness the resident Liberal Democrat intellectual pygmies are overshadowed by the towering intellectual colossus that is Vince Cable, a man who supports a graduate contribution.

Scottish Executive Question Time

General Questions

11:40

Education (Performance)

1. Des McNulty (Clydebank and Milngavie)

(Lab): To ask the Scottish Executive how it will benchmark the attainment of Scottish school pupils and the performance of the school education system against those of other countries. (S3O-11509)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): The Scottish Government participates in the programme for international student assessment—or PISA—survey run by the Organisation for Economic Co-operation and Development. The survey provides comparative information on the performance of Scotland's 15-year-olds in reading, mathematics and science.

Des McNulty: Does the cabinet secretary agree that it is deeply regrettable that there is no benchmarking at primary 5 or secondary 2 and in other areas where there has been benchmarking in the past, and that he is leaving international benchmarking to the end of the school process rather than having it right the way through?

Michael Russell: That is not uncommon, although in fact it is not what we are doing. International comparisons are important, but I have a responsibility to reduce the burden of surveys on teachers and pupils. Taking Scotland out of the TIMSS and PIRLS—the trends in international mathematics and science study and the progress in international reading literacy study—removes the burden from 12,000 pupils and 450 schools, and directly saves the public purse more than £850,000.

Information about how our schools perform is available through Her Majesty's Inspectorate of Education and the planned streamlined set of key statistical products covering areas such as attainment, leaver destinations, absences and school buildings. There is a wide variety of reports at local and national level. There is also the examination system and reports back by teachers themselves. We will drive up standards by ensuring that the curriculum for excellence succeeds and by putting money on the front line as opposed to putting it elsewhere. PISA is the gold standard of assessment surveys, and it is entirely consistent that we would maintain that. We are taking Scotland forward in a proportional and affordable way.

Christina McKelvie (Central Scotland) (SNP):

Will the cabinet secretary tell us what reaction he has had from teachers and teaching unions on the issue?

Michael Russell: Classroom teachers and most of the teaching unions find this a positive step forward. Since the start of devolution, we have had a commitment to tackle the burden on schools of overassessment, overproduction of statistics and too much bureaucracy. I am pleased that we are moving forward on that commitment, which my predecessors who served in the Scottish Executive between 1999 and 2007 also made but did nothing about. I am glad that progress will now be made.

Rosyth Passenger Ferry Service

2. Jim Tolson (Dunfermline West) (LD): To ask the Scottish Executive whether it has received representations from bodies seeking to re-establish a passenger ferry link between Rosyth and continental Europe. (S3O-11561)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): We have not received any representations from bodies seeking to re-establish a passenger ferry link between Rosyth and continental Europe, but we continue our work with DFDS and will continue to urge the company to keep under review its decision to stop the passenger element of its Rosyth to Zeebrugge ferry service at the end of this year.

Jim Tolson: The cabinet secretary is no doubt aware that the loss of the one and only passenger ferry link between Scotland and the continent is a great blow. Will he tell us how the Scottish Government will re-establish a link between Rosyth and the continent, and what action has been taken so far, not just with DFDS but with other operators?

John Swinney: I understand Mr Tolson's interest in the issue and share his disappointment about DFDS's proposal to discontinue the passenger element of its service at the end of this year. As I said in my first answer, the Government will continue to work with DFDS to try to encourage the company to take a different view and to reconsider its stance. If that is unsuccessful, the Government will continue its efforts to encourage other players to become involved in the service. However, at this stage we are concentrating on working with DFDS to deliver a different outcome.

Ted Brocklebank (Mid Scotland and Fife) (Con): Does the cabinet secretary agree that any successor operator should address the key problem of the journey time and the late morning arrival in Zeebrugge, which means the loss of half

a day's driving time on the continent for truckers and tourists alike?

John Swinney: Mr Brocklebank has raised a practical point. Any service such as the Rosyth to Zeebrugge link must meet customer demand and expectation. When I travelled to Shetland by ferry at the weekend, it was made clear to me how important it is that connection times are of use and value to commercial users, families and other passengers. Mr Brocklebank's point is well made and it will feature in any discussions that we have about the operation of the service.

Poverty

3. Joe FitzPatrick (Dundee West) (SNP): To ask the Scottish Government what steps are being taken to tackle poverty. (S3O-11528)

The Minister for Housing and Communities (Alex Neil): A wide range of actions is being undertaken by the Scottish Government and partners to reduce poverty in Scotland. Our approach is set out in the three interlinked policy frameworks "Achieving Our Potential", "The Early Years Framework", and "Equally Well", which we have published jointly with the Convention of Scottish Local Authorities.

We are taking steps to tackle poverty and income inequality in Scotland through measures such as our energy assistance programme, the provision of free school meals and the abolition of prescription charges. We also invest in income maximisation projects and the promotion of supported employment for people with multiple and complex needs. Those actions link with other relevant policy frameworks that promote the employability, education and life chances of adults and young people, such as workforce plus, more choices more chances and curriculum for excellence.

We ensured that Scotland was covered by the United Kingdom Child Poverty Act 2010 and we are developing a child poverty strategy in line with that act that will be published in spring 2011.

Joe FitzPatrick: The recent Joseph Rowntree Foundation report highlights the fact that, for all the positive action taken by the Scottish Government and previous Administrations, our efforts to tackle poverty are hampered by the Scottish Parliament's limited powers. As a direct result of the one-size-fits-all approach taken to economic and social policy by successive Westminster Governments, Scotland has been left with the three most deprived constituencies in the UK. Does the minister agree that, to tackle poverty in Scotland effectively, we must have powers over areas such as tax, the benefits system and employment practices?

Alex Neil: I entirely agree with Joe FitzPatrick's analysis. The Joseph Rowntree Foundation report pointed out that the main contributing factors to poverty and deprivation in Scotland are caused by policies for which we have no responsibility. One would expect poverty in Scotland and in the rest of the United Kingdom to be much lower at the end of 13 years of a Labour Government at Westminster than it was at the beginning of that time. However, as we all know, Labour presided over a set of Tory policies that made poverty and inequality worse in this country and in the rest of the UK.

Stornoway to Ullapool Ferry Service (Consultation)

4. Alasdair Allan (Western Isles) (SNP): To ask the Scottish Government what consultation it will have with people in Lewis and Harris concerning whether there should be one or two replacement vessels on the Stornoway to Ullapool ferry route in the future. (S3O-11521)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): Caledonian Maritime Assets Ltd and CalMac Ferries Ltd, on behalf of Scottish ministers, are fully exploring the future vessel options for the Stornoway to Ullapool route. However, no decisions on vessel replacement will be taken before the United Kingdom and Scottish Government spending reviews are complete. I assure the member that appropriate consultation will be undertaken when affordable options have been identified.

Alasdair Allan: The cabinet secretary will be aware of the community's on-going interest in this question and of the debate around whether two vessels rather than one might allow better breakdown cover for all island routes. The current cargo vessel, MV Muirneag, is approaching the end of her useful life. Will the minister commit to ensuring a direct voice for the population of the islands in any consultation on the shape of future vessel provision on the route?

John Swinney: The Government will engage with the local communities that are affected. Comhairle nan Eilean Siar has been kept informed of progress on developing the analysis of affordable options and there will be wide consultation with local communities on any decision that the Government arrives at.

Different options are available, such as whether we take a two-vessel or a single-vessel approach. The Government will have to consider a number of issues as part of the assessment process, particularly breakdown cover, which Dr Allan mentioned.

Jamie McGrigor (Highlands and Islands)

(Con): I am sure that the minister is aware that most local people see the option of two replacement vessels as being the most flexible. Whatever successor service is put in place on that vital route, will the minister ensure that flexibility is a key priority, and that a service that accepts unaccompanied vehicles and goods as well as commercial vehicles will be retained?

John Swinney: Mr McGrigor's point about unaccompanied vehicles is a strong one. That was illustrated to me on the NorthLink ferry to Shetland on Sunday evening. A substantial number of unaccompanied vehicles were travelling on that route, which is an efficient way of travel for the operator and those who transport goods. That is clearly a major factor to be considered as part of the analysis that we will undertake, and I assure Mr McGrigor that that, along with many other issues, will be considered. I know that the point about flexibility is also significant to the island communities.

Councillors (Salaries and Allowances)

5. Bill Aitken (Glasgow) (Con): To ask the Scottish Executive what total annual amount was paid to councillors in salaries and allowances in the three years prior to 2007, and how much has been paid in each year since 2007. (S3O-11475)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): Councils are required to publish on their websites each year information on councillors' salaries, allowances and expenses for the immediately preceding financial year. As a result, the Scottish Government does not hold that information centrally.

Bill Aitken: I would have thought that the Scottish Government might have wanted to make the appropriate inquiries.

Does the cabinet secretary think that it is acceptable that in councils nowadays not only are substantial salaries paid, but so many allowances are made to so-called executive members and committee chairs that being involved in local government service, which was once voluntary, is in many cases a very lucrative profession?

John Swinney: I am not sure whether that was an expression of regret that Bill Aitken has missed out on the opportunity, but it would be beneath me to suggest that in the Parliament this morning.

Mr Aitken's point is about the importance of ensuring that all remuneration and allowances schemes, whether at local or national level, are appropriate and that costs are controlled. That is why we have the Scottish local authority remuneration committee, with which I have regular dialogue about issues in connection with councillor

remuneration. None of us wants to see a situation in which individuals who want to make a contribution to public life and public service at a local level are debarred from doing so because they do not have the financial means to support and sustain that contribution. However, I stress the importance, particularly in these financial times, of keeping salaries, allowances and expenses arrangements under strict control.

Literacy

6. Murdo Fraser (Mid Scotland and Fife)

(Con): To ask the Scottish Executive what steps it is taking to improve standards of literacy. (S3O-11469)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): The Scottish Government is committed to improving literacy for everyone in Scotland. In particular, curriculum for excellence has literacy at its heart and all teachers have responsibility for its development. Our ambition to improve literacy skills extends beyond schools: our focus starts in the early years and continues right through to lifelong learning. I will shortly be launching a literacy action plan, which will set out our vision to improve literacy for all, from the early years to adulthood, and the actions that we will take to deliver it.

Murdo Fraser: I hope that the minister will agree that when it comes to literacy standards and good English, the Scottish Government and its agencies should be setting a good example. Driving home the other night on the M90, I was horrified to see an illuminated sign with the message, "Fuller cars less queues". We know that the Scottish National Party has form for incorrectly using "less" instead of "fewer", but that is no excuse for the Scottish Government to do the same. How can we expect our young people to have a good standard of English when this Government sets such a shockingly bad example?

Michael Russell: I thought the old fogey tendency in the Tories had died away, but clearly it is alive and well and young in the Scottish Conservative party. I, too, noticed the sign and had the same initial reaction. I then gave it a moment's thought, something that I commend to Murdo Fraser. In order to include the full and proper grammar, a notice board would need to have been built that was wider than the entire motorway. Perhaps Murdo Fraser will consider the public spending implications of that and reflect accordingly.

Ken Macintosh (Eastwood) (Lab): I was pleased to hear the minister say that the much-heralded literacy action plan that we were promised before the summer is due to be published shortly. When exactly will that be? Will it

be before Christmas? Will any of the measures in the literacy action plan be in place before May 2011?

Michael Russell: I have been working very hard with officials and members of the literacy commission to ensure that the literacy action plan is comprehensive, can be taken forward quickly and fulfils the ambitions of Scotland. The situation in Scotland is essentially the same as that in most other developed countries. That said, we need to improve literacy as quickly as we can. I am focused on that. The plan will be delivered shortly. I am happy to say that it will be not a Christmas present but perhaps an autumn bonus.

Achbuie Respite Unit

7. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive what discussions it has had with Aberdeen City Council, Moray Council and Aberdeenshire Council regarding the closure of the Achbuie respite unit in Alford. (S3O-11556)

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): It is for local authorities to make decisions about the provision of respite, having regard to a range of factors including assessed need, alternative options for respite provision and the availability of resources. However, my officials have had a discussion with one of the councils concerned with Achbuie in order to get an appreciation of the current position.

Mike Rumbles: The cabinet secretary will be aware that Aberdeenshire Council has received its worst-ever share of Scottish Government grant this year at only 87 per cent of the average per head of population. While Moray Council can keep its centre open, the proposed closure of Achbuie is a direct consequence of Aberdeenshire Council's underfunding. What can the cabinet secretary do, as part of the Scottish Executive and even at this late stage, to help to maintain this essential service in Afford in my constituency?

Nicola Sturgeon: Mike Rumbles will be aware of the record resources that we are making available to local authorities. The matter is one for local authorities, and I recounted the discussion that my officials have had with one of them. Of course, one achievement of this Government over the past three years has been to work with local authorities to increase the provision of respite care. This week saw the release of statistics that show the success of that work. The Government will continue to work constructively with local authorities across Scotland to ensure that we provide adequate respite for those who use it and for their carers.

Maureen Watt (North East Scotland) (SNP):

Given that Moray Council has taken into in-house operation a similar respite unit in Forres that was also run by Grampian Living Options, does the cabinet secretary believe that, instead of attacking the Scottish Government, Mr Rumbles's time might be better served in pressurising his Liberal Democrat colleagues on Aberdeenshire Council to follow suit and take in house the Achbuie centre? Recent figures show that the SNP Government has delivered its manifesto commitment to provide 10,000 additional respite weeks. Aberdeenshire needs some of those.

Nicola Sturgeon: Maureen Watt is absolutely correct to point out, as I did, the success of the Government in working with local authorities to deliver the 10,000 extra respite weeks. She makes a valid point. It is not for me to dictate to Aberdeenshire Council the steps that it should take. That said, as Maureen Watt pointed out, there are examples in other areas of these issues being resolved successfully. I am sure that Mike Rumbles will want to have constructive discussions with his colleagues on Aberdeenshire Council on what might be possible in the circumstances.

Construction Industry

8. Mary Mulligan (Linlithgow) (Lab): To ask the Scottish Executive what plans it has to assist the construction industry. (S3O-11510)

The Minister for Enterprise, Energy and Tourism (Jim Mather): The Scottish Government recognises that our construction industry plays a vital role in employment and the development of the Scottish economy. That is why we are supporting it through these challenging times. Last year, we committed a record £3.8 billion capital spending to accelerate a range of programmes across Scotland. We continue to invest in infrastructure, social housing and skills and training. There are encouraging signs that that is working, with Scottish construction output rising in the first half of this year. We will continue to liaise closely with all parts of the sector through the Scottish Construction Forum.

Mary Mulligan: Representatives of many organisations, including Homes for Scotland and the Scottish Building Federation, have mentioned funding for infrastructure. I have raised the issue of an infrastructure fund with ministers on a number of occasions and received a positive response, but nothing has happened. What is the Scottish Government doing about establishing a fund to support infrastructure, particularly in relation to house building?

Jim Mather: I thank the member for that question and ask her to recognise the money that has been brought forward in the economic

recovery plan and the 7,000 affordable homes that are planned for Scotland. There is much happening here. I invite the member to come and join us in the debate and to give me her views on it. I will make the time that I cannot make now to have a discussion with her on that.

First Minister's Question Time

12:00

Engagements

1. Iain Gray (East Lothian) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S3F-2598)

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

Iain Gray: It was one of those clear autumn mornings this morning when we feel like we can see for miles. Where should we look for the First Minister's arc of prosperity today: Australia, New Zealand, Spain, Iceland or Ireland?

The First Minister: I think that we should take a variety of international examples in following best practice in Scotland. As Iain Gray knows, I recently visited Norway and made a number of announcements about renewable energy and collaboration in Scotland. One thing that particularly impressed me as I visited Norway was the £200 billion oil fund that that country has accumulated by having access to its own natural resources. Would that Scotland had been in the same position over the past 30 years.

Iain Gray: The fact of the matter, of course, is that Norway's oil fund has been built up because Norway—

Members: Is independent.

The Presiding Officer (Alex Fergusson): Order.

Iain Gray: It is because the Norwegian state still owns its oil and gas industry. If the First Minister is proposing to nationalise the oil and gas industry, he should probably tell us. [*Interruption.*]

The Presiding Officer: Order.

Iain Gray: It is no surprise that when the First Minister is asked about Ireland nowadays, he talks about Norway. The First Minister once said:

"I am sure that most of Europe's Finance Ministers would give at least one limb—possibly more—to have Ireland's problems".

Today, the cost for Ireland of bailing out the Anglo Irish Bank reached €34 billion. The finance minister warned that its failure would destroy Ireland's economy.

Which limb would the First Minister give to have that problem?

The First Minister: Iain Gray will forgive me if I correct him on his understanding of the Norwegian oil fund. The Norwegian oil fund was built up from

revenues from oil—not just from Statoil, the Norwegian state oil company, but from all the major oil companies exploiting oil in the Norwegian sector. It is unbelievable! I thought hitherto that Iain Gray opposed the concept of Scotland benefiting from its own natural resources because he wanted Westminster to have them. I now realise that it is because he did not even understand the proposition. I will send Iain Gray a paper on the Norwegian oil fund. Given that so much is changing in Labour and given that new Labour is buried, despite Iain Gray's attachment to it, if all the policies are changing, who knows, maybe Labour will be in favour of an oil fund before long.

I point out two things to Iain Gray. First, on direct capital investment in the Scottish banks, currently the Treasury is making a profit, given the current share price of Lloyds and the Royal Bank of Scotland. *[Interruption.]* That is a fact nonetheless. Secondly, Ireland, like many countries, has substantial economic problems at present, but I note that its wealth per head is actually higher than that of the United Kingdom.

Iain Gray: It was an Irishman who said that there are none so blind as those who will not see. Ireland is teetering on the edge of collapse, and Scotland's banking sector is 10 times the size of Ireland's. The Royal Bank of Scotland alone had a balance sheet 15 times the size of the Scottish economy. The investment in saving those banks was £470 billion. Will the First Minister admit that, in an independent Scotland, RBS and HBOS would have collapsed and the Scottish economy would have collapsed with them?

The First Minister: Just as Iain Gray confused Statoil with the Norwegian oil fund, he is confusing capital injections into banks with general support for the financial and monetary system. The capital injection into the Scottish banks is now making a paper profit for the UK Treasury.

Iain Gray says that the Irish economy is on the brink of collapse. Judging from Labour's conference, I thought that it was the UK economy that was on the brink of collapse. The Labour Party has argued, with some justification, that the UK Government is risking a double-dip recession because of an approach to an austerity programme that goes too far and too fast in its cuts in public spending. I agree with that proposition on the basis of the evidence from Ireland. If that is the argument that Iain Gray is putting forward—that, unless an alternative policy programme is agreed, the UK risks moving into a double-dip recession—does that not support the argument that we should look to European countries such as Norway, which have avoided that by mobilising their natural resources to power

their economy forward? I would that we could do the same in Scotland.

Iain Gray: Support for the Scottish banks was £470 billion—£70 billion capital injection, £100 billion special liquidity scheme, £100 billion credit guarantee, £200 billion asset protection scheme and £10 billion in fees. The Government may get some of that back, but if it had not had it at the time when it was needed, we would have suffered the consequences. Everyone in Scotland knows that, in a separate Scotland, our two biggest banks would have gone and, with them, all the jobs, savings, pensions, mortgages and salaries. Everyone in Scotland knows that we would have tipped over the edge on which Ireland teeters today. Is Alex Salmond the last man in Scotland who does not realise that his personal obsession with independence is daft, deluded, deranged and downright dangerous for this country?

The First Minister: Alex Salmond realises that it is only with economic powers for this Parliament and this Government—the economic powers that would be delivered by independence—that we will have an alternative to 10 years of despair and public spending cutbacks in the United Kingdom.

As they also say in Ireland, if I was going there, I would not start from here. That applies to Iain Gray's questions. He has confused the capital injection into the banking sector that is taking place in Ireland at the moment with general financial support for a monetary system. The two things are entirely different. It is not me who claims that there is a profit to be gained from the capital injection into Lloyds and RBS; that is in the Treasury documents—not just the Treasury documents of the new coalition, but the Treasury documents that were produced by Iain Gray's old boss, Alistair Darling.

Ed Miliband evoked a new atmosphere of consensus at the Labour conference when he said that he would not attack policies to restrict short-term sentences and say that people were being soft on crime. As Ed Miliband moves in a sensible political direction and supports the SNP Government's policy on crime, which has been so successful, will not Iain Gray eventually realise, in that changing atmosphere, the obvious, inarguable point that only in our having economic powers and growing the Scottish economy is there any alternative to being at the mercy of coalition cutbacks, two thirds of which were started by his own party?

Prime Minister (Meetings)

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

To ask the First Minister when he will next meet the Prime Minister. (S3F-2599)

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

Annabel Goldie: This morning, we received an independent report on health services at Stracathro hospital, which the Scottish Government commissioned. That report contains the disturbing comment that the option of the continued use of the independent sector could not be looked at because

“this is not reflective of current Scottish Government policy”.

The Cabinet Secretary for Health and Wellbeing has said to the British Medical Association:

“NHS Scotland is, and in my view always should be, a service that is publicly owned and delivered.”

For the record, can the First Minister confirm that, under his Scottish National Party Government, the independent sector is banned from delivering national health service health care in Scotland?

The First Minister: I will come to SNP policy in a moment.

I am not certain from Annabel Goldie’s question that she is aware that the private operator at Stracathro hospital made it clear that it did not want to continue the contract. It is true, as she indicates, that our position is that the Scottish national health service should be a public service, and that we think, as the report indicates, that delivery within the health service is every bit as good as delivery from elsewhere. That position holds substantial merit.

As Annabel Goldie will have seen, the latest surveys of health service users—the consumers—show that, for the first time since the surveys started, more people in Scotland are satisfied with the national health service than otherwise. Surely the test of how a national health service is operating is public satisfaction with it, and public satisfaction with a national health service is a tribute to the staff who work in it. Public satisfaction with the national health service in Scotland is at an all-time high.

Annabel Goldie: The First Minister has either inadvertently or wilfully missed the point that I am making. His position, as just articulated, is incoherent, incomprehensible and ludicrous. He bans the independent sector from one part of the NHS and completely ignores its vital role in other parts of it. It is a dog’s breakfast of dogma. The First Minister must either allow the independent sector to bid for contracts such as the Stracathro contract, or he must nationalise our dentists, pharmacists and opticians. Even Alex Salmond cannot have it both ways, so which is it to be?

The First Minister: I do not know what is incomprehensible about saying that the independent provider that Annabel Goldie is

talking about did not want to bid for a renewal of the contract. That seems to me to be an uncomfortable fact for her.

Annabel Goldie should cast her mind back to when the Labour-Liberal coalition introduced the independent contractor into Stracathro hospital. The aim was to reduce the waiting lists in the health service. That is a laudable aim, but Annabel Goldie must now accept that the reduction in waiting lists has been the most successful in Scottish history. We now have waiting lists that are at an all-time low, and that has been delivered by a public national health service in Scotland.

Secretary of State for Scotland (Meetings)

3. Tavish Scott (Shetland) (LD): To ask the First Minister when he will next meet the Secretary of State for Scotland. (S3F-2600)

The First Minister (Alex Salmond): I met the Secretary of State for Scotland recently, and I expect to see him tomorrow, along with Tavish Scott, at a meeting in London. I have no other plans to meet him in the near future.

Tavish Scott: The First Minister lost hundreds of thousands of pounds of taxpayers’ money on the gathering, which was the flagship for homecoming 2009. More than 100 private businesses are in court trying to get their money back. Today, we find that one financial disaster was not enough for him. He was, and is, actively canvassing for a second event, using even more taxpayers’ money. What reason is there for him to refuse to appear in front of Parliament’s Public Audit Committee to answer questions about his role in the gathering and the shabby way in which he has treated those Scottish businesses?

The First Minister: I take an old-fashioned view of these things. As First Minister, I am here every Thursday to answer whatever questions members want to fling at me. I have answered four questions on the gathering. Perhaps I could bring Tavish Scott up to date. The Scottish Parliament rules of engagement for committees are quite clear: the Government will put forward ministers. I had thought that the Public Audit Committee wanted to inquire into the circumstances of the loan of cash flow that was offered to ensure that the gathering took place. The Auditor General for Scotland’s view was that making the offer was a “not unreasonable” thing to do, as Tavish Scott might remember. That was the responsibility of Mr Russell, and it was a decision that I fully supported.

I understand that people perhaps now want to talk about attempts to rescue the event and secure it for the future. I was involved in such attempts, as has been known since June, because that is specified in a timetable in the Auditor General’s

report. I have made it clear to the committee this morning that if, after meeting Mr Russell and asking him questions on the first issue into which it wants to inquire, the committee wants to inquire with me as to why I wanted to save the event for the future, I will be delighted to turn up at the committee and say why we wanted to secure an event that generated £10 million for the Scottish economy.

Tavish Scott: I think that that meant that the First Minister is going to appear before the Parliament's Public Audit Committee. If that is the case, all members will welcome that. The first gathering event took a £180,000 loan from the Government and lost it, losing the money of 102 businesses; now we find that the First Minister wants to start a second gathering event with another £380,000 of taxpayers' money, before he has cleared up the mess from the first.

When I asked the First Minister about the mess in June, he asked me:

"how on earth could we have known ... that the company would become insolvent?"—[*Official Report*, 24 June 2010; c 27719.]

He knows now, but he is still offering money for a repeat event. Now that he is prepared to meet the Public Audit Committee, will he also agree to meet the small businesses who have lost money and answer to them?

The First Minister: Tavish Scott might regret that line of questioning, because I am now able to do as I will do with the committee and go exactly into the circumstances whereby an indication was made of future support for a future event. That is, that the City of Edinburgh Council held to the agreement that it had announced, whereby it would take over the private sector liabilities of the gathering and the Scottish Government would roll up the public sector liabilities of the gathering, which would enable every one of the creditors whom Tavish Scott is talking about to be paid.

I thought that that was an excellent proposal from the council, because it would have secured an event again for Edinburgh that would have generated £8 million for the local economy and £10 million for the national economy. It is of great regret that the leader of the City of Edinburgh Council, Jenny Geddes—

Members: No!

The Presiding Officer: Order.

The First Minister: I had an image of Jenny Gilmour flinging a stool across the city chambers. Jenny Gilmour decided not to—[*Interruption*.]

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): He is losing the plot.

The Presiding Officer: Order. I think that the message is getting through.

The First Minister: I have great pleasure in revealing that I have finally got the name of the leader of City of Edinburgh Council, Jenny Dawe. [*Laughter*.]

It is of great regret that Jenny did not decide to proceed with that particular proposition. Before Tavish Scott starts weeping crocodile tears for the people who supplied to the gathering, he should ask his party colleague why they did not go forward with what I thought was a sensible arrangement to secure the creditors and the future of an important event for Edinburgh and Scotland.

Hugh Henry (Paisley South) (Lab): I will not talk about the detail of what the Public Audit Committee will consider if and when the First Minister comes, but I will comment on the process. In my role as convener of the committee, I have written to the First Minister—[*Interruption*.]

The Presiding Officer: Order.

Hugh Henry: I will come to the question, if members will please allow me to frame it. I have written to the First Minister to indicate that it will be for the committee to decide when witnesses appear and to remind him of the powers that are available to the committee to compel witnesses. Does the First Minister accept that the committee has the right to make its own decisions?

The First Minister: Of course I accept that the committee has the right to make its own decisions—I am puzzled as to why the committee's convener seems to be deciding before the committee has had a chance to do so.

As the convener of the Public Audit Committee well knows, the arrangement between the Government and committees has been that the Government decides which minister will go before a committee. I understood that the Public Audit Committee wanted to inquire into the circumstances of the loan that was authorised by Mr Russell and most certainly approved by me.

This morning, I wrote to the convener of the Public Audit Committee to inform him that, if the committee wants to inquire into the circumstances of the attempts to save the event for the future—which I was most certainly involved in—I would be delighted to appear before it, because I think that it is right and proper that the First Minister should try to save an event for the future that generated so much income and so many jobs for Edinburgh and for Scotland. I would be delighted to come before his committee and say why this Government is involved in attempts to save jobs and, incidentally, help the creditors about whom Tavish Scott says he is so worried.

I hope to see the convener of the Public Audit Committee—and its members, if this time the convener chooses to consult them on the way forward.

Patrick Harvie (Glasgow) (Green): Next week, the European Parliament is expected to vote on a moratorium on deep water oil drilling following the appalling events in the Gulf of Mexico. However, the UK Government seems set—perhaps as early as today—to make a decision to back deep water drilling off Shetland. Does the First Minister agree that that environmentally and economically reckless action would commit us to another generation of oil addiction? Will he call on the European Parliament to back the moratorium?

The First Minister: I will not do that. There are significant differences between the safety regime that applies in the waters around Scotland and that which applies in the Gulf of Mexico. There are important lessons to be learned from the events in the Gulf of Mexico, and they should be identified and scrutinised. However, at the present moment, I do not think that it is justifiable for the member to call for a moratorium without saying why he believes that, given all the experience that we have had in the waters around Scotland, deep water drilling is dangerous.

We should learn the lessons from the Gulf of Mexico, but we should recognise the excellence of the record of drilling around the coast of Scotland, and go forward on that basis.

Obesity

4. Nigel Don (North East Scotland) (SNP): To ask the First Minister what action the Scottish Government is taking to combat obesity in the adult population. (S3F-2616)

The First Minister (Alex Salmond): I welcome the Scottish health survey results that were published earlier this week. The number of people who have an unhealthy body mass index has reduced for the first time since the survey began. However, although the results are very encouraging, there is still more work to do to combat obesity in Scotland.

Nigel Don: I share the First Minister's enthusiasm for the statistics, which are slightly surprisingly good. Does the First Minister agree that prevention is better than cure? If I compare the population's understanding of the effects of being overweight with its understanding of the effects of smoking, it seems to me that, by and large, the population does not yet understand the former fully. Is the Government doing enough to educate the Scottish people so that our society can make the kind of progress that we need it to?

The First Minister: I agree that a small change in lifestyle can make a big difference. We have

been promoting that message through the take life on campaign and other activities. As the Scottish health survey suggests, that message is getting through.

In addition, we have invested more than £3 million to deliver the counterweight programme in health boards in Scotland. That is an evidence-based approach in primary care that lets obese patients achieve a healthier lifestyle.

It was particularly satisfying that the Scottish health survey shows that the most significant progress in those statistics has been made by the younger people in Scotland. That is a matter of some satisfaction, but no complacency.

Helen Eadie (Dunfermline East) (Lab): The Press Association established through a freedom of information request that NHS Scotland has spent more than £154,000 on buying bariatric beds, with yet more money being spent on hiring such beds. The beds are capable of taking weights of up to 60 or 70 stone. That is an indicator that the Government's public health messages are not at an all-time high. For what reasons are the Government's obesity programmes failing so spectacularly, and what does the First Minister propose to do about it?

The First Minister: There are some subjects that we should be capable of tackling as a Parliament. We have to deal with situations as we find them. The beds that were acquired were for patients whose problems in that regard rather predated this particular Government. I am not saying anything other than that there is a significant problem in Scotland. For the first time, we have seen statistics that indicate a change in trend, particularly among young people. I am not saying that that is due only to the initiatives that have been launched—other lifestyle issues might be prevailing, too. However, for goodness' sake, on an issue such as this, can we not just say that we want to tackle the problem that we all recognise exists and that the initiatives that are being taken deserve cross-party support in this Parliament?

The health service has a bounded duty to treat patients as it finds them. That is the duty of the health service, just as it is the duty of Parliament and the Government to try to change the circumstances of the people.

Ross Finnie (West of Scotland) (LD): Given that the authors of the health survey describe the adult obesity figures as showing no significant change and the trend in children's BMI as "unusual", is the First Minister concerned that, with 30 per cent of children having an unhealthy BMI, Scotland still faces a major, long-term problem with obesity?

The First Minister: Yes, we face a major, long-term problem, but Ross Finnie should acknowledge that the survey shows a change in trend for the population as a whole. There is not nearly enough improvement, but these things will take a substantial time. However, there is a change in trend. It may well be that the statistics for young people were described as “unusual”, but the “unusual” actually meant that there was a sharp drop in the position of young people. That is a subject for satisfaction.

Obviously, the survey will continue and we will have other information that comes in. The member asks whether I acknowledge that there is a continuing problem. Of course there is a continuing problem, but I hope that Ross Finnie has the grace to acknowledge that there is some cause for hope in the figures that have been published.

Hospitals (Cleanliness)

5. Jackie Baillie (Dumbarton) (Lab): To ask the First Minister what steps the Scottish Government will take to improve the cleanliness of hospitals in view of the findings of NHS Quality Improvement Scotland's health care environment inspectorate. (S3F-2608)

The First Minister (Alex Salmond): Hospital cleanliness is a top priority in tackling health care associated infection. The latest quarterly figures, which were published by Health Facilities Scotland on 13 September, show that all national health service boards continue to achieve high cleaning standards, with national compliance for the period April to June 2010 standing at 95.6 per cent. This year, just over £20 million is being invested in tackling health care associated infections. The Scottish Government has provided more than £5 million for additional domestic staff across the NHS on top of the additional funding of £3.5 million for cleaners last year.

Jackie Baillie: The First Minister will be aware that the report highlighted specific problems with cleanliness, overcrowding of wards and insufficient staffing levels, all of which risk the development of infection. What action will he take to tackle the problem? Does he believe that the SNP's current approach, cutting 1,500 nurses from the NHS and cutting cleaning hours in some health boards, puts patient care at risk and will do nothing to improve the situation?

The First Minister: Jackie Baillie should acknowledge that we set up the inspectorate that is giving us this valuable information. If we had not done that, we would not even be able to identify the extent of problems. In the same respect, let us acknowledge that it is perhaps something to do with the actions that have been taken by the Cabinet Secretary for Health and Wellbeing that

we see a decline in hospital-acquired infections in Scotland. Cases of *C difficile* are down by 44 per cent on the same period last year, and cases of MRSA are down by 31 per cent. That still means that there is a significant number of cases, but again, the statistics show that things are moving in the right direction. Even Jackie Baillie might find it in her heart to say that that might have something to do with the initiatives that have been taken by the health secretary.

Nanette Milne (North East Scotland) (Con): In light of the success of the electronic bed management system that was secured by the Scottish Conservatives and which has been piloted in NHS Grampian as a means of reducing the incidence of hospital-acquired infections, can the First Minister give me up-to-date information on how the roll-out of the system across Scotland is progressing and what impact it is having?

The First Minister: I am delighted to say that we intend to roll out the initiative across Scotland. Indeed, Nanette Milne's colleague Murdo Fraser was at the launch event for the roll-out. I am sure that a consultation with him on that aspect will confirm that that is the intention. It is an excellent initiative that has proved its worth. Let us hope that the roll-out across Scotland has similar results to what has been achieved in Grampian.

Commonwealth Games 2014

6. Bill Aitken (Glasgow) (Con): To ask the First Minister whether the Scottish Government remains confident that the cost to the public purse of the 2014 Commonwealth games will be within budget. (S3F-2605)

The First Minister (Alex Salmond): I am sure that everyone in the chamber is delighted that the games in Delhi are set to go ahead and that they will showcase the excellence of athletes and the good will of people across the Commonwealth. In four years' time, Glasgow will host the games and that looks set to be a triumph—as we intend it to be—for the city and for Scottish hospitality. It will be the largest sporting event ever hosted in our country.

Seventy per cent of the games venues are already in place and the capital risk is much lower than for any comparable event. The fact that the budget was comprehensively reviewed last autumn to the satisfaction of all parties will ensure that the contribution to the cost of the games from the public purse is well managed. We all support the games in Glasgow, not just for the spectacle, but for the lasting legacy of investment and facilities in the city.

Bill Aitken: I am grateful for that response, and I certainly concur with the First Minister that the games are being looked forward to with a

considerable sense of anticipation. They must not give rise to a situation that leaves Glasgow with a significant financial deficit, and I am pleased to accept his assurance on that.

However, in the circumstances, is it not somewhat strange that Glasgow City Council—which, out of necessity, is having to compulsorily purchase properties—should have offered Mrs Margaret Jaconelli, a resident in Dalmarnock, compensation of £30,000 for a flat that was valued at £95,000?

The First Minister: The compulsory purchase powers for the games were agreed to unanimously by this Parliament. It is up to the council to invoke them, if necessary and if all else fails, as it has done.

As Bill Aitken knows, compulsory purchase throws up many difficult cases, and I note that the Public Petitions Committee recently congratulated the Government on our initiative to see whether the compulsory purchase order process can be improved. Given that compulsory purchase includes independent valuation, I do not think that Bill Aitken should give the impression that Glasgow City Council has moved outside the proper process, as I see no evidence of that.

12:32

Meeting suspended until 14:15.

14:15

On resuming—

Scottish Executive Question Time

Justice and Law Officers

Scottish Policing Board (Structural Reforms)

1. Iain Smith (North East Fife) (LD): To ask the Scottish Executive what its position is on the work being undertaken by the Scottish policing board to examine structural reform options. (S3O-11557)

The Cabinet Secretary for Justice (Kenny MacAskill): Papers presented to the last meeting of the Scottish policing board on 13 September by the Association of Chief Police Officers in Scotland showed that efficiency savings alone are unlikely to be sufficient to meet the scale of financial challenges beyond 2012-13 and recommended further work to explore other options to release additional savings. I welcome that work, which will be taken forward with the Convention of Scottish Local Authorities and policing partners, and I look forward to hearing the initial findings at the board's next meeting on 6 December.

Iain Smith: The cabinet secretary's actions appear to have prejudged the outcome of that work, in that he has already written to police authorities to instruct them that, given the current context of financial pressures, they should discuss upcoming chief officer vacancies with the Scottish Government before initiating a recruitment process. That effectively gives the cabinet secretary a veto on the appointment of chief police officers.

Does the cabinet secretary think that he has the power to stop police authorities fulfilling their responsibilities to appoint chief police officers? Will he assure us that, before any decisions are taken about any restructuring of police authorities, there will be a full public consultation, with the final decision taken by the Parliament, not the Scottish ministers?

Kenny MacAskill: I do not have that power. The letter to police board conveners points out that it would perhaps be more appropriate to have contracts for periods of three years rather than five years, as has been the norm. My interpretation of the letter is not the same as Mr Smith's.

We were faced with a report from ACPOS indicating that 25 per cent of police expenditure goes on the eight force headquarters. Given the financial pressures that we face, it is hard to argue that that is sustainable, and the situation requires

to be investigated. The Administration has formed no view on the matter but, with the support of the Scottish policing board, we are proceeding to consider it in greater detail. I advise Mr Smith that COSLA gave its approval—and Jenny Dawe was present at the meeting that I attended on Monday.

Methadone (Prisoners)

2. Jamie McGrigor (Highlands and Islands)

(Con): To ask the Scottish Executive what action it is taking to reduce methadone dependence among prisoners. (S3O-11470)

The Minister for Community Safety (Fergus Ewing): The Scottish Prison Service substance misuse strategy, which was published in July this year, focuses on recovery, in line with Scottish Government policy. One in five prisoners is prescribed methadone, and in the vast majority of those cases—85 per cent—there is a continuity of prescriptions that were initiated in the community. According to the 2009 prisoner survey, 23 per cent of prisoners who are on methadone are on a reducing dose as part of their recovery programme.

Jamie McGrigor: Does the minister think that that percentage is big enough? He will be aware of the recent figures showing that just 157 of the 777 participating prisoners are on a reducing dose. Does he share the widespread concern over the revelation that 80 per cent of the prisoners concerned are essentially being parked on methadone and forgotten about? What action will he take to improve the continual monitoring of prisoners on methadone, with as many of the prisoners as possible given appropriate support to reduce their methadone dosage with a view to coming off methadone altogether?

Fergus Ewing: Methadone is a drug for which there is a very legitimate use, and all the evidence confirms it—that is the fact of the matter.

It is a bit unfair to all the people who work in the Prison Service to say that they are doing nothing to assist people who are “parked on methadone”. That is simply not the case as I see it. I praise the work that has been done at Saughton, for example. I visited the addiction support wing there, which is an eminently sensible initiative. That is one of a wide range of measures that we are taking in conjunction with the Scottish Prison Service to get more prisoners on the road to recovery. I fully support the work that our excellent prison officers and staff are doing in that regard. I hope that all members will back that sentiment.

James Kelly (Glasgow Rutherglen) (Lab): Does the minister share my concern about the problem of drug use in prisons, which was highlighted in last week’s report from Her Majesty’s chief inspector of prisons? The report

showed that 17.5 per cent of prisoners tested positive for drugs on leaving jail, and came on the back of the revelation that there were 1,800 drug finds in prison, which is clearly a serious concern. What steps is the Government taking to address the situation?

Fergus Ewing: Of course we acknowledge that concern. Indeed, we recently debated the issue thoroughly in an excellent debate, in which there was an acknowledgement across the board of this huge and difficult problem. However, there has not been a recognition of all the work that has been done in prisons. I will refer to some of that work. Last year, the Scottish Prison Service undertook 19,650 tests on 23,122 admissions. I say that to provide a little bit of perspective and to put the other side of the case about the work that is done day and daily by those in our Prison Service who work on the health side, the prison officers and the governors, who are all doing great things. It is very difficult to provide comprehensive treatment for those on short sentences, because there ain’t enough time to provide the structured programme of support that is required. Therefore, the more that people who are currently given short sentences instead do more suitable community payback, the more effectively we will be able to tackle drug addiction problems in Scotland.

Gil Paterson (West of Scotland) (SNP): In the very informative debate on the Scottish Government’s drugs strategy, the minister outlined the vital role that naloxone plays in saving the lives of heroin addicts. What role does he believe that naloxone can play for prisoners both inside prison and on their release?

Fergus Ewing: Gil Paterson is entirely correct. The Scottish Government is starting with the Scottish prisons naloxone programme. The pilots that preceded the rolling out of that programme showed that there were 55 instances where naloxone—an opiate antidote—was used to bring people back from drug overdoses. That means that potentially 55 lives in Scotland have been saved.

There is a particular risk of overdose for prisoners on their release from prison. That is why we have decided to commence the programme with those in the Scottish Prison Service. I very much appreciated the support across the chamber that I gather we had for that good programme. I am very pleased that the Scottish Government is able to act in that way.

European Convention on Human Rights

3. Pauline McNeill (Glasgow Kelvin) (Lab): To ask the Scottish Executive whether it is reviewing any aspect of Scots law in relation to the European convention on human rights. (S3O-11508)

The Cabinet Secretary for Justice (Kenny MacAskill): The ECHR has been incorporated into Scots law, and the Scottish Government therefore takes it into account in considering any possible changes to the law. Any question as to whether a specific provision of Scots law is incompatible with the ECHR would be for the courts to determine.

Pauline McNeill: Will the minister explain why the Lord Advocate has issued guidelines in relation to police questioning of suspects? Does the Scottish Government have any plans to change its programmes in relation to any matter concerning human rights?

Kenny MacAskill: As Ms McNeill may be aware, the position regarding the Lord Advocate's guidelines goes back to the case of Cadder v HMA, which raises an ECHR matter relating to the case of Salduz. It is a matter of great concern. The difficulty for this Government is that we do not have the protection that other Governments have, whether south of the border or elsewhere, because of the incorporation of the ECHR into the Scotland Act 1998.

The matter is going through the Supreme Court, whose decision we require to accept. No decision has been made yet, but we have to prepare for any eventuality. The Government is taking action in consultation with the Lord Advocate and in conjunction with senior police officers, the Law Society of Scotland and other lawyers' representatives. We are taking steps to prepare for what the decision might be, which might require emergency legislation. We will discuss that with the members in the chamber and others. At present, the Lord Advocate's guidelines ensure that we are compatible with the ECHR and with any stricture that might be laid down, and any interpretation that might be given, by the Supreme Court.

Antisocial Behaviour Notices (Landlords)

4. Sarah Boyack (Edinburgh Central) (Lab): To ask the Scottish Executive what discussions the Minister for Community Safety has had with the Minister for Housing and Communities regarding the introduction of a statutory instrument to ensure that landlords of short-term lets can be issued with an antisocial behaviour notice. (S3O-11485)

The Minister for Community Safety (Fergus Ewing): I am grateful for Sarah Boyack's continued interest in that area and the proposals that she discussed with the Minister for Housing and Communities on 2 June. I met the minister on 1 July to discuss those proposals further, and since then I have taken an on-going interest.

As Sarah Boyack is aware, we intend to introduce a Scottish statutory instrument by the end of this session of Parliament that will amend part 7 of the Antisocial Behaviour etc (Scotland) Act 2004 to make it easier for local authorities to issue antisocial behaviour notices to owners of party flats and to bring a case to court with the prospect of a successful verdict.

Sarah Boyack: I welcome the minister's answer and his acknowledgement of my interest in the issue, but my constituents still suffer the impact of relentless partying and antisocial behaviour while landlords sleep easy at night and rake in the money.

Does the minister agree that, by amending the legislation to target short-term lets, the Parliament will send a clear message to irresponsible landlords that they are not beyond the grasp of the law on antisocial behaviour? Will he reassure us that, in the meantime, he will urge local authorities and agencies to persist in using the tools that are currently available to tackle the problem?

Fergus Ewing: I acknowledge Sarah Boyack's interest, and I know that Shirley-Anne Somerville and Malcolm Chisholm have also been pursuing the matter. It is a serious issue, and I accept that all existing powers should be used in the way that Sarah Boyack describes.

I am pleased that we are able to act on a cross-party basis to introduce the necessary legal measures to deal with the relatively few, but significant, cases that would benefit from those measures.

Partying in Scotland did not begin in 2007 when the Scottish National Party came to power; it has been part of the warp and weft—as far as I have seen from my limited participation in such events—of Scottish life for some considerable time. We are not, as a party or a Government, anti-party, but we hope that people behave with proper decorum, especially in the capital city.

The Deputy Presiding Officer (Trish Godman): Question 5 has been withdrawn.

Prisons (North-east Scotland)

6. Richard Baker (North East Scotland) (Lab): To ask the Scottish Executive what stage has been reached in its plans to construct HMP Grampian and close Craiginches prison in Aberdeen. (S3O-11483)

The Cabinet Secretary for Justice (Kenny MacAskill): As part of the formal planning process, a pre-application screening notice was submitted in August 2010. Public consultation will take place with community groups on 20 October and an open public presentation will be made on 21 October.

The Scottish Prison Service aims to submit an application for planning permission in principle in November 2010 and, subject to securing that permission, it anticipates awarding a construction contract in around 2011, with a view to opening the new prison in 2014. HMP Aberdeen will close following the opening of HMP Grampian.

Richard Baker: According to reports, 150 prisoners from Peterhead prison are being moved to Glenochil prison. Why is that happening now, when planning permission has not yet been granted for HMP Grampian, which—as the cabinet secretary said—is not due for completion until 2014?

What consultation—not only with prison authorities, but with other interested parties, such as prison visiting committees—took place on that decision, particularly given that the plans include the flawed proposal to close Craiginchies prison?

Kenny MacAskill: There are two aspects to what is happening: the Peterhead aspect and the Aberdeen aspect. I will deal with the Peterhead aspect first.

The plans concern operational matters, and the SPS must ensure the safety of prisoners and the security of the staff who work with them. It is appropriate that steps are taken to wind down Peterhead prison; it would be inappropriate to leave that to the very last moment.

Given the nature of the offenders involved—the prison houses serious sex offenders, who are some of the most dangerous offenders in Scotland—the matter is better dealt with operationally by the SPS than by any other body. It is appropriate that the SPS begins the process early to ensure the security of staff and prisoners, and of the communities in which the prisoners are placed.

I make no apology for saying that the plans are an operational matter for the SPS, but I can tell members that the SPS discussed the plans with me, and I fully support them.

On Craiginchies prison, we hear Richard Baker yet again requesting a spending commitment. We can build as many prisons as he likes, but if we do so we cannot build houses, hospitals and schools. The Government's priority is to replace Peterhead and Aberdeen prisons with HMP Grampian. Beyond that, we will look after honest, law-abiding citizens and deal with their needs.

Maureen Watt (North East Scotland) (SNP): Given the successful partial relocation of some women offenders back to Craiginchies prison, is it not more important that we now have a community prison that serves all types of prisoners in the north-east?

Kenny MacAskill: Absolutely. I welcomed the invitation from the governor of Craiginchies to meet some of the women prisoners who were on training for freedom to try to break the cycle of reoffending that so blights Scotland. The whole purpose of HMP Grampian is to have a community-facing prison so that women are not uniformly sent to Cornton Vale and young offenders to Polmont and to ensure that those who have to be incarcerated because of the offences that they have committed and the danger that they pose are located closer to their communities and families in an attempt to break the cycle of reoffending. We all know that what breaks that cycle for offenders is, in the main, having the opportunity to go back to a home, maintain contact with family and reintegrate into the community that they left.

Lewis Macdonald (Aberdeen Central) (Lab): The cabinet secretary said that he expected the contract to be awarded in around 2011. Can he be more specific?

Kenny MacAskill: No, I cannot. Awarding contracts usually means going through formal tendering procedures. It would be entirely inappropriate for the Cabinet Secretary for Justice to go into quasi-legal and commercial matters that are best dealt with under planning and commercial contracts legislation.

Open Prisons

7. Robert Brown (Glasgow) (LD): To ask the Scottish Executive what action it is taking to ensure that best use is made of the open prison estate. (S3O-11548)

The Cabinet Secretary for Justice (Kenny MacAskill): Scottish Prison Service staff in the closed and open estate work closely together to ensure that all those prisoners who meet the criteria for open conditions and who would benefit from the open estate regime are located there at the most appropriate point of their sentence.

Robert Brown: Earlier, the cabinet secretary mentioned training for freedom. Does he accept that we are now in a rather unhelpful and wasteful situation in which the open estate, which is very much focused on training for freedom, is operating at about 60 per cent capacity whereas the closed estate remains substantially overcrowded? Given that most of the prisoners in the closed estate will be released at some point, does the cabinet secretary agree that the underuse of the open estate might result in greater risk to the public from prisoners who have committed serious crimes being released direct from the closed estate? Will he have a fresh look at the issue across the whole estate and take account of all the risks to the public?

Kenny MacAskill: I accept the spirit in which Mr Brown asks his question. We all recognise that there is underuse, and the figure of 60 per cent is correct. However, I think that the situation is the result of the Scottish Prison Service being a victim of its own success. Quite correctly, procedures have been tightened up. When I had to stand in this chamber and make a statement about Robert Foy, everyone was extremely concerned about which categories of prisoner were held in the open estate. It is not a question of the underuse of the open estate; it is a question of its appropriate use. We would like more use to be made of the open estate because when there is undercapacity it is clear that we are not getting the best benefit from it.

I think that Mr Brown will agree that we all learned from the consequences of the Robert Foy case. We have to ensure that prisoners who go to the open estate are capable of meeting the criteria. We cannot guarantee the safety, security or law-abiding actions of all such prisoners, but we must recognise that the criteria have been brought in to try to ensure public safety, and I do not think that they should be varied or reduced. If the Scottish Prison Service can increase the use of the open estate but keep the criteria to preserve public safety, I will be more than happy. I give an assurance that the matter is under constant review by the Scottish Prison Service. We welcome Mr Brown's support for the open estate but, as I said, we have to recognise that the criteria have been correctly tightened for reasons of public safety.

Angela Constance (Livingston) (SNP): Will the cabinet secretary comment further on the success of the reforms in cutting the number of abscondee?

Kenny MacAskill: There has been significant success, which again comes down to the action taken by the Scottish Prison Service. The Robert Foy incident was horrendous for the victim and the community and we had to take action. A review was requested, and it was carried out by Professor Alec Spencer.

I return to the point that I made to Robert Brown: to some extent, underuse is perhaps a perverse result of the Scottish Prison Service's success in reducing the number of absconds. That has come at a price, in that fewer people are going to the open estate. The reason for that is that people are not meeting the criteria, because it does not look as if they can be trusted, and public safety must be paramount. I welcome the results on absconds, although they have come at that price, and I assure the member that the Scottish Prison Service has always acted in such a way as to ensure that public safety is paramount.

The Deputy Presiding Officer: Question 8 has been withdrawn.

Court Processes

9. Johann Lamont (Glasgow Pollok) (Lab): To ask the Scottish Executive what steps are being taken to make court processes more efficient and better serve the needs of the victims of crime. (S3O-11499)

The Cabinet Secretary for Justice (Kenny MacAskill): Reforms of the High Court and summary justice have resulted in faster justice and many victims being spared the stress of giving evidence. A review of sheriff and jury procedures was recently completed by Sheriff Principal Bowen, who made proposals for achieving similar benefits. Although good progress has been made, there is scope to improve efficiency and effectiveness in the summary courts, and work is going on at national and local level.

The Government has also delivered higher police numbers, a falling crime rate and record investment in support services for victims and witnesses.

Johann Lamont: I think that from time to time all members meet constituents who have horrific stories to tell about their experiences in court as victims, when they felt that they were treated with a lack of compassion and a lack of understanding of their experience and interests. Such people have a strong feeling that nobody stands with them in court. I acknowledge that work has been done in the past in that regard.

The minister is perhaps aware of the case of my constituents the Porterfield family, who have described a catalogue of incidents that left them distraught and with no faith in the justice system. Will the minister agree to meet my constituents with me, so that by hearing about their experience he and the Parliament can ensure that the rights of victims are placed at the centre of the justice system and are not marginal to it?

Kenny MacAskill: I assure the member that that has always been the Government's direction of travel. We supported such an approach when we were in opposition. The issue cannot be tackled in one legislative measure; it is about changing not just laws but culture and attitudes. The Lord Advocate deserves great credit for her service to the current Administration and the previous Administration in that regard.

I cannot comment on a particular case but I am happy to assure the member that I will investigate the matter. If it is appropriate for us to meet, I will be happy to do so.

Rural Affairs and the Environment

Waste (North-east Scotland)

1. Lewis Macdonald (Aberdeen Central) (Lab): To ask the Scottish Executive what progress has been made in diverting waste from landfill in the north-east. (S3O-11503)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): Progress continues to be made in diverting waste from landfill in the north-east. For instance, two in-vessel composting facilities have recently opened, with the support of the Scottish Government and zero waste Scotland. Together with existing facilities, the new composting facilities divert food, garden and other organic waste from landfill, reducing climate change impacts, producing fertiliser or soil additives that are used on local farms and, in the case of anaerobic digestion, producing a biogas that can be used for renewable energy.

Lewis Macdonald: Can the cabinet secretary confirm that he has had to suspend the provisions that would have resulted in fines on Aberdeen City Council for failing to meet its diversion targets? Will he confirm that he does not intend to impose the fines retrospectively? Will he say what steps he has taken, as the responsible minister, to ensure that the council does not again find itself in the position of failing to meet its targets on diversion of waste from landfill?

Richard Lochhead: We agreed with all councils in Scotland that the penalties would be suspended, not cancelled, in the light of the need to work closely together during the next few years, as we have done in the past few years, to achieve Scotland's national targets.

We warmly welcome Aberdeen City Council's recently published waste strategy, which sets out many ambitious targets. I hope that the member agrees that it represents a big step forward. We must all work together to ensure that we go down the road towards a zero waste society.

Maureen Watt (North East Scotland) (SNP): Will the cabinet secretary join me in congratulating Keenan (Recycling) Ltd on its work in diverting food waste from landfill by picking it up from major oil companies, other firms and hotels and restaurants in Aberdeen and throughout the north-east? What steps does he think can be taken to increase the amount of food waste that can be diverted from landfill?

Richard Lochhead: I join the member in congratulating Keenan (Recycling), which has started commercial food waste collection in Aberdeen. That is a major step forward in collecting relevant waste from the commercial

sector for recycling and getting the benefits that I talked about in my response to Lewis Macdonald.

With regard to the larger issue of food waste, I launched this week Scotland's biggest anaerobic digester at Deerdykes in Cumbernauld, which will take 30,000 tonnes of food waste from that part of Scotland and beyond, from the national health service, local supermarkets, hotels and so on. It is great to see such progress in relation to tackling food waste, which is something that costs us all money and comes at a cost to the environment as well. We should get benefits from it and not treat it as waste. Of course, the Government's zero waste plan will roll forward more plans for segregated collection of food waste from homes and businesses in the years ahead.

The Deputy Presiding Officer: Question 2 was not lodged.

Flooding (Inverclyde)

3. Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the Scottish Executive how it will ensure that effective action is taken to address the recurring flooding problems in the Inverclyde area. (S3O-11507)

The Minister for Environment (Roseanna Cunningham): Through the Flood Risk Management (Scotland) Act 2009, the Scottish Government has introduced a more sustainable and modern approach to flood risk management, suited to the needs of the 21st century and to the impact of climate change. The act provides the framework within which Inverclyde Council, the Scottish Environment Protection Agency and Scottish Water, working together, have duties to assess, map and act to reduce flood risk in Inverclyde. I am sure that no council would wish to be in breach of that duty.

Duncan McNeil: The Scottish Government's contribution to the Inverclyde flood action plan for 2010-11 is just £60,000, compared with the £500,000 that Inverclyde Council has allocated from its own reserves. Although there is an IOU for more funding—whatever that means, in these times—from 2012 onwards, a conservative estimate is that the cost of dealing with Inverclyde flooding would be nearer £10 million. Given that SEPA has acknowledged that special recognition should be given to coastal communities such as Inverclyde, what progress has been made in ensuring that increased and appropriate funding is made available to the Inverclyde area and others?

Roseanna Cunningham: Duncan McNeil will be well aware that the arrangements for ensuring that flood protection money was made available to councils changed after 2007. I am surprised that he wants to go into this area because, from 1999 to 2007, an average of only £5.5 million a year

was spent on flooding, but in 2007-08, that sum rose to £32.4 million and, in 2008-10, the figure was £42 million.

Each of the local authorities was given an allocation that was in line with what they considered to be appropriate to pitch for at the time. It might well be that the Inverclyde proportion of that has now had to be reassessed. That reassessment will, of course, be taken into account in any future budget discussions.

Stuart McMillan (West of Scotland) (SNP):

The minister is well aware of my long-standing interest in flooding in Inverclyde. Can she provide any guidance to the council's current Labour-Conservative-independent administration that would force it into action, as opposed to the decades of inaction on the part of that administration and previous ones?

Roseanna Cunningham: I am well aware of Stuart McMillan's long-standing interest in the matter and, at his invitation, I visited the area last year to see the difficult problems that were beginning to be experienced. I hope that all local authorities will carefully examine the new duties that they must now comply with. It might be that many local authorities must bring themselves up to speed with regard to their understanding of the implications of the new legislation. It is difficult to see how much more any Government can do. The hammer of legislation is now in place and councils' duties are clear. I hope that no council—Inverclyde included—will wilfully ignore what it is now required to do.

The Deputy Presiding Officer: I call John Scott. Mr Scott, I remind you that this question is about Inverclyde.

John Scott (Ayr) (Con): The minister will be aware that the flooding problems of Inverclyde also similarly occur in several residential areas of Prestwick, particularly around Grangemuir Road, with repeated discharges of raw sewage onto streets and footpaths. However, Scottish Water, whose liability this is, is not currently funded to deal with external sewerage flooding. Will the minister consider what steps can be taken to deal with this situation in my constituency and, indeed, in Inverclyde, and with similar situations across Scotland, so that Prestwick residents and others no longer have to put up with raw sewage being discharged onto their streets?

The Deputy Presiding Officer: Good try. It is just as well that I am in a good mood.

Roseanna Cunningham: I congratulate John Scott on his good try. In fairness to him and to other members, I say that there is increasing awareness that pluvial flooding, as well as fluvial flooding, can bring major difficulties. Scottish Water is aware that it has to address many of its

responsibilities in respect of the sewerage system, which can cause problems—it has done so in many constituencies, including mine—that might not otherwise exist. We are actively addressing the issue and I hope that John Scott will not be disappointed in the future.

Scottish Food and Drink

4. James Kelly (Glasgow Rutherglen) (Lab):

To ask the Scottish Executive what action it is taking to promote Scottish food and drink. (S3O-11497)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): The Scottish Government has launched Scotland's national food and drink policy, through which we will work with a range of stakeholders including Scotland Food & Drink Ltd, our enterprise bodies, Scottish Development International and VisitScotland to grow Scotland's reputation as a land of food and drink.

James Kelly: Will the cabinet secretary join me in welcoming the recent announcement of 100 extra jobs at Vion Food Scotland Ltd's food processing plant in Cambuslang? It is a tremendous tribute to the workforce and the team that Vion put in that they have turned around the situation in which 144 jobs were lost last year. The announcement builds a tremendous platform, not only for Cambuslang, but for the wider Scottish economy.

Richard Lochhead: I join the member in warmly welcoming the additional jobs at the Vion food processing plant in Cambuslang. I also join him in paying tribute to the workforce, who have put some uncertainty behind them and turned it into good news. It is a sign of the confidence in Scotland's food sector, and particularly the meat processing sector, not only in the member's constituency but elsewhere, given that Vion has also provided good news in Coupar Angus, where it has a significant workforce. I also pay tribute to all the agencies that have been involved and point out that the Scottish Government has worked closely with the company in recent months and years. I am glad to see that its heavy investment in Scotland is paying dividends.

Rob Gibson (Highlands and Islands) (SNP): I will turn to Scotland's fish. What discussions has the cabinet secretary had with the European Commission and the United Kingdom Government on the mackerel dispute with Iceland and the Faroe Islands?

Richard Lochhead: The member raises an important issue for the future of many fishing communities in Scotland. The mackerel fishery is Scotland's most valuable fishery, which is why the Scottish Government is working with the UK and

other member states in Europe and treating the issue very seriously. The fact that the Icelanders and the Faroese have set no quotas poses a significant risk to a stock that has been sustainably managed for the past 10 years.

I requested to speak at the European fisheries council on Monday, when the matter was discussed at the Commission's request to find out the latest views from member states on future tactics, and we made our position clear. We were grateful to have the opportunity at long last to sit at the top table at the fisheries council to put the case on behalf of the Scottish industry. That case is clear: we must not reward irresponsible behaviour, we must ensure that those countries come back to the negotiating table, and we must get a fair and equitable deal.

Waste Processing Facilities

5. John Wilson (Central Scotland) (SNP): To ask the Scottish Executive what discussions it has had with local authorities regarding the joint commissioning of waste processing facilities. (S3O-11547)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): The Scottish Government has met a number of local authorities that are involved in the joint procurement of waste treatment facilities. The Scottish Futures Trust and zero waste Scotland, which provides expert advice and assistance on a number of waste issues on behalf of the Scottish Government, also regularly meet local authorities to discuss joint working and procurement matters.

John Wilson: The cabinet secretary said in his answer to an earlier question that he was at the official opening of the Deerdykes facility in Cumbernauld, which is in Central Scotland. I was also present at the opening of the facility, which is Scotland's largest organic recycling facility. Does the minister agree that, with a view to meeting the targets that are outlined in the zero waste plan, greater co-operation is needed between local authorities and public bodies if we are to deal with waste appropriately, as is the case at the Deerdykes facility, which not only processes garden waste and waste food but converts it to usable green energy and heat?

Richard Lochhead: I certainly hope that the fantastic project that was opened in Cumbernauld will be replicated throughout Scotland. That would play a major role in taking Scotland down the zero waste road.

I was delighted to see John Wilson at the official opening at the Deerdykes facility. He has made a good point: all kinds of agencies were represented there. It is important that local authorities were there too, and we must remember that we are

talking about a Scottish Water project. By working together across the board, the public sector—local government, Scottish Water and other public agencies—can certainly move Scotland forward in that regard.

Elaine Smith (Coatbridge and Chryston) (Lab): I presume that the cabinet secretary will be aware that the Scottish Futures Trust considers that much more investment is required in Scotland to meet waste management needs over the next 10 years. Does he agree that it would be better for Government to provide waste processing facilities directly, which would allow emphasis to be placed on local environmental justice, than to allow private profiteers to enrich themselves to the detriment of our communities?

Richard Lochhead: I am not sure whether the member is living in a parallel universe. She may be aware that the UK Government is about to impose massive budget cuts in Scotland, which we are doing our best to resist. It would be helpful to have her support in that—I am sure that she will provide it—so that, in the future, the capital funds are available, for local authorities in particular, to fund waste treatment facilities.

Of course the private sector must play a role. We are talking about a requirement for billions of pounds of investment in the coming years. I think—I am sure that many members will agree—that taking Scotland down the zero waste road is extremely important and takes priority. We need the private and public sectors to play a role. If Elaine Smith thinks that the funds will be available from the public purse to pay for all the facilities that are required to protect Scotland's environment, I am afraid that she is not on the same planet as I am.

Milk Prices

6. Mary Scanlon (Highlands and Islands) (Con): To ask the Scottish Executive what is being done to ensure that dairy farmers receive a fair price for their milk. (S3O-11564)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): Dairy farmers deserve a fair price for their milk. The Scottish Government is holding a further dairy summit in November and has supported dairy farmers with over £13 million of funding since 2007. In addition, Scottish dairy farmers have received £2.5 million from the European Union dairy fund in the past year to help those who have been severely affected by changes in demand and prices over the past year. Dairy prices are, of course, set by the market, and competition law prevents the Government from being involved directly. It is up to an individual milk producer to discuss pricing arrangements with its registered milk purchaser.

Mary Scanlon: I thank the cabinet secretary for his response. In 1998, there were 43 milk producers in the Highlands and Moray. Today, there are just 11. There is no doubt that dairy farmers in that area and across Scotland need a fairer price for their milk to ensure survival.

Does the cabinet secretary agree with the chair of NFU Scotland's milk committee that a greater share of the sale price should be passed back to our dairy farmers? Although I appreciate what has already been done, there seems to be an incredible amount of dissatisfaction in the sector. What will the cabinet secretary be doing in addition to what has already been done?

Richard Lochhead: The member has made a number of good points. It certainly appears to be the case that retailers' competition for market share is being funded to a degree by the low prices that are paid to producers. That is wholly unacceptable for the sustainability of the dairy sector in Scotland. It is vital that dairy farmers get a fair share of every pound that is spent on milk.

Milk is an extremely healthy product, but a situation in which the supermarkets, through competing with each other and other retailers, sell milk for less than the price of water is not healthy. Quite clearly, it is untenable and unsustainable for milk producers to be paid less than the cost of production for their product. I hope that retailers and others who are involved in the supply chain are listening closely to the views that are being expressed by MSPs and the Parliament.

Green Cities

7. Sandra White (Glasgow) (SNP): To ask the Scottish Government what progress has been made in encouraging the growth of green cities. (S3O-11545)

The Minister for Environment (Roseanna Cunningham): We are working with other organisations in a range of policy areas to encourage changes to our cities to make them greener places. Examples include the sustainable Glasgow project, which proposes a range of initiatives to reduce the city's carbon emissions and includes the creation of urban woodland on vacant land. Another is the central Scotland green network, which aims to achieve a step change in environmental quality in and around the cities and towns of the central belt. It is one of the largest green network initiatives, if not the largest, in Europe.

Sandra White: I thank the minister for her extremely comprehensive reply, in which she mentioned various projects. She will be aware of the project called grow your own in Glasgow—in particular, in the Anderston and Partick areas—which encourages local communities to take

ownership of derelict land to create gardens and allotments that can be enjoyed by all residents. Will that project be included in the green network? Will she consider visiting it?

Roseanna Cunningham: I am happy to visit any such project anywhere, including in Glasgow. In the near future, I will be in Drumchapel in Glasgow to look at some similar initiatives. I am aware of the project that the member mentioned. There are a great many such opportunities in cities, including Glasgow. They are extraordinarily important in bringing people to an understanding that green issues are not confined to rural Scotland but are part and parcel of urban Scotland, too. The people who run the project that Sandra White mentioned should get in touch with the CSGN, as they might find an open door and a willing ear to listen to what is happening in the inner city in Glasgow.

The Deputy Presiding Officer: Question 8 was not lodged.

Portencross Coast Site of Special Scientific Interest

9. Ross Finnie (West of Scotland) (LD): To ask the Scottish Executive when the renotification process for the Portencross coast site of special scientific interest will take place. (S3O-11549)

The Minister for Environment (Roseanna Cunningham): Scottish Natural Heritage has advised that it intends to await the outcome of the application by Ayrshire Power Ltd at Hunterston before it considers the renotification of the Portencross coast site of special scientific interest. However, SNH will review the position if the application is withdrawn or delayed significantly.

Ross Finnie: The difficulty with SNH's current position is that the public are entitled to know what are the boundaries of the SSSI that SNH, as the relevant statutory body, seeks to protect. SNH has not disclosed what the boundaries might be after the renotification, but it is nonetheless prepared to enter negotiations with a private developer and to disclose to it what the boundaries might be. I believe that to be unsatisfactory and not in the public interest.

Roseanna Cunningham: I would be in a slightly difficult position if I got into too open a discussion about what might be a commercial conversation—especially about just one half of the conversation that is being referred to. There is an existing SSSI, and the renotification does not change the duty to protect it. I take on board Ross Finnie's point about the currently available information on the existing boundaries. I cannot answer the question whether those boundaries would change under renotification, but I will have a conversation with Mr Finnie to discuss the issue

further, because there might be a way in which I can help to get that information.

The Deputy Presiding Officer: I will call question 10 if the minister and the member are very brief.

Johne's Disease

10. Nigel Don (North East Scotland) (SNP): To ask the Scottish Executive what action it is taking to combat Johne's disease in cattle. (S3O-11525)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): The Scottish Government contributed £0.25 million to a United Kingdom prevalence study, which reported in 2009 that Johne's was present in around a third of UK dairy herds.

We are taking a number of other actions, which I will not describe right now.

Nigel Don: I will be brief. Farmers in the north-east are facing problems tackling Johne's disease and bovine viral diarrhoea. What input may farmers in the north-east make to the activities that are going on?

Richard Lochhead: We have a range of inputs from farmers in the north-east and throughout Scotland on tackling Johne's disease, which costs the industry a great deal of money—a cost that could be avoided—and other animal diseases. That is certainly one way in which to increase profitability and to address other issues in the livestock sector in Scotland. I assure the member that the farming industry is working hand in hand with the Government on the issues.

Tribunal System Reform

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S3M-7116, in the name of Kenny MacAskill, on administrative justice and the future of tribunals.

14:59

The Cabinet Secretary for Justice (Kenny MacAskill): Today's debate is about tribunals and the wider landscape of administrative justice. It may seem a dry subject but it is an important one when we consider that more people appear at a tribunal than in court. This might not be the most riveting debate, but it certainly is fundamental, and I am grateful to all those who participate. I welcome the position taken by the Opposition, and I confirm that we will accept all the amendments.

Overall, tribunals deal with considerably more cases than the civil courts, and those who serve on and work for them do an excellent job. In some respects, tribunals have been the Cinderella of the justice system, with fragmented and inefficient administrative support, sometimes with inadequate training for members, and disjointed judicial leadership and authority.

I am announcing two important developments that allow tribunals to take their place at the centre of Scotland's justice system. First, I will outline the path that has led us to the announcements.

In 2001, the Leggatt review of United Kingdom tribunals found that too often tribunals were daunting to users, underresourced, inefficient and not sufficiently independent of Government sponsors. Sir Andrew Leggatt recommended that tribunals be brought together into an independent, coherent, professional, cost-effective and user-friendly system. Leggatt's report later led to the unification of UK tribunals into a single structure with a judicial senior president. That was a big step, but it did not deal with Scotland's devolved tribunals and took no account of our separate legal system.

In 2008, a group led by Lord Philip looked in more detail at tribunals in Scotland. The report concluded:

"The present tribunals system in Scotland is extremely complex and fragmented"

and it

"does not meet the key principles of independence and coherence".

Those conclusions were later endorsed by the Calman Commission on Scottish Devolution.

Options identified by Philip were considered by the Scottish committee of the Administrative

Justice and Tribunals Council. It recommended that Scottish tribunals should be brought together in an integrated structure. As a minimum, the support for Scottish devolved tribunals should be integrated and ideally, it suggested, there should be a new Scottish tribunals service to support tribunals that deal with both devolved and reserved matters.

I can announce that we have made substantial progress. On 1 December, we will establish a Scottish tribunals service as a delivery unit within the Scottish Government. It will initially bring together administrative support for five tribunals: the Mental Health Tribunal for Scotland, the Additional Support Needs Tribunals for Scotland, the private rented housing panel, the Pensions Appeal Tribunals for Scotland, and the Scottish charity appeals panel.

Robert Brown (Glasgow) (LD): I am interested in the phrase that the cabinet secretary used—a delivery unit within the Scottish Government. Will he elaborate on how that meets the Philip objective of independence of Government?

Kenny MacAskill: I will come to that. Obviously, Mr Brown's point is correct—there is supposed to be a separation of powers. We are simply getting the procedure right, and I take on board the caveat that he adds.

The change will save money through more efficient use of staff offices and tribunal venues. It will also improve the service to smaller tribunals, with better information technology and financial management systems as well as enhanced administrative support. We know that it is just the first small step on a big journey. The real prize is for all tribunals in Scotland to form an integral part of the Scottish justice system. That will take several years, but we now have a golden opportunity to make it happen.

Kenneth Clarke, the Lord Chancellor, recently announced plans to create a unified judicial structure for England and Wales. He said in his statement that he was entering into discussions with the Lord President and me about the prospect of the responsibility for judicial leadership of tribunals transferring to the Lord President. That proposal also raises the question of the administration of reserved tribunals transferring to the Scottish ministers.

We believe that that should happen. The independence of the Scottish legal system is not even a matter of devolution: our courts have been separate and distinct from the time of the union, whether dealing with Scots law or legislation made by the UK Parliament. With regard to Mr Brown's point, as a Parliament we have already endorsed positions that separate the judiciary. To an extent, we seek to replicate what the Lord Chancellor

seeks—correctly—to do down south. I assure Mr Brown that we do not seek to expand the justice directorate's empire.

Putting tribunals alongside the courts as a core part of the Scottish justice system is unfinished business that we now have the chance to complete. That is not just about giving more responsibility to Scotland—welcome though that is, as members would expect me to say. It is an opportunity to deliver better justice for the people who depend on tribunals to protect them.

For the first time, devolved and reserved tribunals can be part of a coherent Scottish system with clear judicial independence and leadership—I give Mr Brown that assurance. We hope that we can deliver significant efficiencies by bringing together the administrative support for the 40 or so tribunals that operate here. We can reform the appointments system and we can consider how civil courts and tribunals can work together and learn from each other.

I met the Lord Chancellor just a few weeks back and I made it clear that we welcome his approach. Our respective officials will work closely together to consider the details of how the change might be brought about. There are many complex issues to resolve and the UK Government will want to be reassured that having two tribunal structures will not lead to inconsistencies in the application of UK law.

I have no major concerns on that score—the Scottish courts have managed to apply UK law for 300 years without great problems arising. At recent question times, I have been asked about matters such as road traffic law. That involves UK law, but we have managed to apply that in two separate jurisdictions.

We will work closely with the Lord President to establish what form of judicial oversight is best for Scottish tribunals. Fortunately, the AJTC has undertaken the important work that Lord Philip initiated and is consulting on a detailed range of options for developing a Scottish tribunals service. Its thinking will be important and I look forward to seeing its report. I will be more than happy to share that with others, to ensure that we get the system right and that it is appropriate for Scotland in future years.

We will consider the work in the context of our response to Lord Gill's civil courts review, which we will publish later this year. Lord Gill did not specifically consider tribunals, but we need to look at the two issues together.

We are determined to preserve what is best about accessible, user-friendly and specialist tribunals. Tribunal hearings can be more inquisitorial and members can work with the parties to identify the issues that are at hand,

rather than oversee an adversarial contest between lawyers. Often, such an inquisitorial approach best suits the delivery of justice for our people.

Robert Brown: Does the cabinet secretary accept that in some tribunals, such as employment tribunals, legalisation of the process has produced a system that is worse than the courts for user-friendliness?

Kenny MacAskill: That point is valid. I know that Mr Brown has appeared before many tribunals, as have I. Some are legalistic; some are not. That is a matter of balance. Sometimes, the system must be legalistic. Mental health tribunals can have a significant impact on individuals' civil liberties and employment matters can involve significant costs. That is why we must be flexible and pragmatic. I welcome the support from around the chamber. We are on a journey that will take some time but will serve our people best.

Some aspirations have been difficult to maintain, as subjects such as employment law have become more complicated—Mr Brown commented on that. Tribunals exercise a judicial function and need to have the skills and authority to do that properly. The principles of accessibility and informality need to be preserved. Far from tribunals becoming like courts, I think that many in the Parliament believe that courts could in many instances become more like tribunals.

I will say a few words about the children's hearings system. It is a unique system and an important part of Scotland's integrated approach to child care and justice. Unlike most tribunals, children's panels do not have a legally qualified chair and, although the 2,500 panel members are specially selected, trained and monitored, they are lay and unpaid volunteers. The hearings system is the subject of legislation that is before the Parliament and is undergoing a specific programme of modernisation and reform, building on its undoubted strengths. In years to come, there may be opportunities for the Scottish tribunals service to work with the bodies that support children's hearings to deliver a more efficient or better service, but that is for another day. Nothing in the work that we are doing is intended to affect the provisions of the Children's Hearings (Scotland) Bill.

These reforms are part of a wider vision of a modern justice system that is fair, independent, efficient, timely and coherent. I ask the Parliament to support the motion in my name. I welcome the support that has been given and the nature of the debate that is taking place. The matter may be perceived as extremely dry—especially by members of the media, who are absent from the chamber—but it is of fundamental importance. We are embarking on a journey. The Government

does not view this as a political or ideological matter. We are happy to co-operate with all parties that are represented in the chamber, as we currently co-operate with the Lord Chancellor and the Lord President.

I move,

That the Parliament believes that justice delivered by tribunals is an integral part of the Scottish justice system; welcomes the Lord Chancellor's invitation to the Scottish Ministers to consider with him proposals to devolve responsibility for tribunals operating in Scotland, and further notes and welcomes moves to create an integrated Scottish tribunal service.

15:11

Richard Baker (North East Scotland) (Lab): We welcome this opportunity to debate the system of administrative justice in Scotland, especially the future of our system of tribunals. As MSPs, we know how important tribunals can be for the lives of many of our constituents. Tribunals have been set up for important areas such as asylum and immigration, employment, mental health and social security. Of course, we have our cherished children's hearings system, the legislative reform of which the Parliament is considering and to which the cabinet secretary referred specifically in his speech. I agree with his comments about the relationship between the work of the children's hearings system and this process.

Many members will have dealt with constituents who have had varying experiences of tribunals—from those who have won their case and feel that the system has worked for them, to those who have not been so successful or who, for whatever reason, have not been so satisfied with the process. However, it is beyond debate that tribunals in Scotland play a crucial role in resolving important issues and complaints. Given the significant developments that have taken place since the publication of the Franks report, which established important principles for the operation of tribunals throughout the UK, it is now right to review the operation of the tribunal system in Scotland, not least because a greater number of tribunals have been established here, both before and after devolution.

The administrative justice steering group has been reviewing our tribunal system. Its report on the future administration and supervision of tribunals in Scotland was published in October 2008, when the group was under the chairmanship of Lord Philip. That was supplemented by the report "Administrative Justice in Scotland—The Way Forward", which the group published in June last year.

After considering a number of potential options for the reform of the tribunal system, the group made clear that it saw a persuasive case for a

Scottish tribunals service to oversee all three categories of tribunal in Scotland: UK tribunals in Scotland, Scottish tribunals that existed before devolution and the new devolved Scottish tribunals. The group suggests that there is a strong argument in favour of such a solution from a purely legal perspective, because justice is almost entirely a devolved matter in Scotland.

When I see a motion from this Government, with its stated nationalist aims of seeking ever greater devolution of power for its own sake, calling for further devolution, the cynic in me is immediately suspicious. However, it is right that we welcome the Lord Chancellor's invitation to consider proposals to devolve responsibility for tribunals operating in Scotland. Indeed, that direction of travel for our tribunal system was outlined in 2005, in a concordat between the UK Government and the then Scottish Executive that talked of

"the possibility that at some future date the Scottish Ministers may wish to create a unified tribunal administration in Scotland embracing both central government and devolved tribunals."

Lord Philip's report found that there were strong arguments for such an arrangement. In its report, the Calman commission did not demur from his findings that there are inconsistencies in the system of appointment to tribunals in Scotland and that we lack a co-ordinating body for Scottish tribunals, which may lead to a narrowness of outlook, inhibiting the development of substantive and procedural law and creating inefficiencies and a lack of value for money. When such findings are made about the system of tribunals in Scotland, the only responsible thing to do is look to improve matters significantly.

We must also look at the wider context. We have not yet reformed our administration and governance of tribunals, whereas there has been significant reform in England and Wales through the Tribunals, Courts and Enforcement Act 2007. The motivations for the reform of the system in England and Wales are identified by Lord Philip as motivations for the reform of the system in Scotland. Those motivations are: to ensure that processes are independent and impartial, that there is a coherent system and that it is one that benefits from an independent and skilled judiciary.

Lord Philip identifies problems for the current system in Scotland in each of those areas. He points to evidence of a lack of independence in the operation of some tribunals. The administration of some devolved tribunals, although it is provided by an independent secretariat, is funded and sponsored by directorates within the Scottish Government. Most of those appointed to tribunals outwith the Tribunals Service are appointed by the Scottish ministers or by local authorities. Robert Brown's question to the cabinet secretary about

the new delivery unit raised the very good point, which needs to be addressed, of how the unit will be set up to be in tune with the issues outlined in Lord Philip's report. The report states that there is no consistent system for the appointment of tribunal members and chairs in Scotland.

As the cabinet secretary said, the report points to fragmentation in our tribunal system, with tribunals working in isolation and not sharing IT systems, administration and training programmes. It outlines a number of disadvantages resulting from that, including the concern that such fragmentation and lack of consistency can inhibit the development of substantive and administrative law.

There is a strong case to be considered for the establishment of a Scottish tribunals service with responsibility for all tribunals in Scotland. The report argues that that option should result in a much more joined-up system of administration than there is now, with all tribunals in Scotland being centrally administered by the same organisation, which would allow tribunals policy to be considered as a coherent aspect of devolved civil justice policy. However, the report points out that such reform could also create difficulties, as Scottish tribunals may no longer have the same access to shared resources, training and premises as UK tribunals. Such practical considerations require careful deliberation, which is why our amendment calls for a wide consultation on the reform of the tribunal system that should include those currently involved in the operation of tribunals as well as those who help to advise and represent people who take cases to tribunals, including Citizens Advice Scotland and, of course, trade unions.

Trade unions advise that they are concerned about issues such as the report's proposal that any new central administration of tribunals could be located within the Scottish Court Service. Unions fear that that might impact on the way in which tribunals are conducted, which, for good reason, is often very different from the way in which courts are conducted. As Robert Brown said, a tribunal is—not in every case, but often—a more inquisitorial process.

Trade unions are also concerned about the proposed timescale for implementing changes. As the cabinet secretary outlined, the single delivery unit for administering tribunals within the Scottish Government will be established by the end of the year. I understand that a second phase of work will begin in 2011 and a third in 2012. Those changes will have big impacts on our tribunal system, not least for the staff who currently work for tribunals. That is why proper consultation must be engaged in before changes are made. I accept that the first stage is some way down the line, but

that principle of consultation needs to be engaged with. After all, we are at the stage at which the Lord Chancellor has invited ministers to consider the devolution of responsibility for all tribunals in Scotland. We are discussing the issue at a point at which, although there has evidently been a great deal of thought and discussion, there is clearly some way to go.

We do not dispute the direction of travel, which is to provide a more coherent and improved structure for the tribunal system in Scotland. As tribunals play an important role in Scottish society, however, it is all the more important to ensure that whatever changes are made, they are the right ones.

Considering the practical issues that I raised and, indeed, the other issues to which the cabinet secretary referred, there are important questions that need to be given careful consideration to ensure that the changes are the right ones and that they are carried out in the most effective manner.

On that basis, we will support the motion. I am pleased to hear that the Government will support our amendment.

I move amendment S3M-7116.2, to insert at end:

“, and, in doing so, recognises that any forthcoming proposals from the Scottish Government for reform of the tribunals system should be consulted on widely, including with those currently involved in the operation of tribunals, as well as trade unions, Citizens Advice Scotland and other organisations that support those taking cases to tribunals.”

15:20

John Lamont (Roxburgh and Berwickshire) (Con): Although a debate on administrative justice and the future of tribunals may not be the most glamorous one that the chamber has ever witnessed, it is an important and timely topic. The issues at stake in tribunals are important to citizens who rely on their services and the remedies that they offer, so the effective operation of the tribunal system should be important to us all. I will examine how we have arrived at the current situation, the strengths and weaknesses of the current system, and the possible road ahead for administrative justice.

We should acknowledge the work that has already been done in this policy area—work that has gone a long way towards informing our debate. In particular, the administrative justice steering group, chaired by Lord Philip, contributed greatly to where we are today. Its remit was to provide advice on the administrative justice framework in Scotland and, in particular, the likely impact of the Tribunals, Courts and Enforcement

Act 2007. In the steering group's report, administrative justice is defined as

“initial decision-making by public bodies affecting citizens' rights and interests ...,”

and

“systems for resolving disputes relating to such decisions and for considering citizens grievances.”

We should keep that definition in mind, as it highlights just how significant the subject of our debate is to our society and the people whom we represent.

We should also acknowledge the role of voluntary groups, citizens advice bureaux and other independent advocates in representing people who have been unfairly dealt with. They are a valuable part of the administrative justice system and play an important role in our society.

The principle of tribunals is ancient. Indeed, Roman tribunes—from where the word “tribunal” originates—were elected to protect the rights of the people from arbitrary acts. The tribunal system as we know it grew up on an ad hoc basis during the 20th century. An important landmark was the 1957 Franks report into the abuse of executive authority and maladministration. Critically, it moved tribunals from an executive and administrative model towards a judicial footing, based on the three principles of openness, fairness and impartiality.

The Lord Chancellor, Kenneth Clarke, has outlined plans to create a unified judiciary in England and Wales under the overall leadership of the Lord Chief Justice. That would mean bringing together the administration of the courts and tribunals in England and Wales and would involve primary legislation, which the Lord Chancellor has indicated he is willing to introduce. However, it would also have implications in Scotland, as the senior president of tribunals is a statutory role that has jurisdiction here. The Lord Chancellor has made it clear that any transfer of the senior President's tribunal responsibilities to the Lord President in Scotland should preserve the benefits of the existing arrangements here. I am pleased that constructive discussions have taken place between the UK Ministry of Justice and the Scottish Government, and I hope that ministers will continue to keep members informed of the progress of those discussions.

Members will be aware from their constituency case loads that public bodies do not always get it right in the delivery of services or the upholding of rights. Indeed, the redress of grievances has been and continues to be one of the main roles of a politician, whether an MP, an MSP, an MEP or a councillor. Having regularly to represent constituents in seeking to redress grievances gives us a good background when it comes to

legislating to ensure that our system works most effectively.

As the Philip report highlighted, there should be three aims to administrative justice. First, our focus should be on ensuring that decisions that affect people's rights are correct first time. Secondly, tribunals exist to ensure that, when decisions are incorrect or the treatment of citizens is otherwise defective, there are effective redress mechanisms. Thirdly, public bodies should learn from their mistakes, so as to increase the likelihood of getting it right first time.

As the Lord Chancellor has indicated, the priority in any transfer of responsibilities should be that we retain the benefits of our system, but we should also seek to improve any areas of it that have been identified as having weaknesses.

Measured against the aims of the administrative justice system, the Philip report concluded that incorrect initial decisions and other administrative failings are more frequent than they should be. Those decisions affect people's lives, and it is therefore extremely important that as many of those decisions as possible are correct in the first instance.

On the issue of effective redress, the report concluded that the current system was operating "tolerably well", although it had "important deficiencies". It identified difficulties in individuals being able to access the means of redress on grounds of cost, lack of expertise and other confusion over the process of some complaints mechanisms.

Thirdly, the report stated that many organisations are not effective in gathering or implementing feedback that might inform their drive to efficient and correct decision making. Some organisations generate large numbers of complaints every year over a long period with little sign of improvement. That is unacceptable.

This is a useful debate. I hope that it will inform the future course of action regarding administrative justice. By redressing grievances, tribunals play an important role in our society, and it is right that we should consider ways to ensure that they continue to do so in future. The issues at stake in tribunals are often of great importance to individuals, so ensuring that the system is operating as effectively as possible should be of paramount importance to us.

As it says in my amendment, when those powers are devolved, we need to ensure that the best possible model is achieved, capturing the best of the existing system while dealing with any existing problems.

I move amendment S3M-7116.1, to insert at end:

“, and further notes that the Lord Chancellor has emphasised that any transfer of powers should seek to preserve the benefits of existing arrangements.”

15:26

Robert Brown (Glasgow) (LD): Traditional law, as most of us understand it, is based on rights held by individual citizens that can be vindicated in the courts: rights under property law, contract or delict; rights under family law or executries; and rights against infringement of personal safety or personal liberty. Rights of that kind are personal and, nowadays, lie within the framework of the European convention on human rights. Some tribunals also operate in that field; others are different.

When I was a law student, I was told that Britain did not have a proper system of administrative justice like that in other European countries. Scandinavian countries had a strange beast called an ombudsman who could haul public bodies over the coals. France had a whole separate system of administrative courts to which public bodies and their actions were accountable, culminating in the council of state. However, everyone knew that that was because European Governments were a wee bit despotic and that individual liberties were not well entrenched. Here in Britain, of course, we had the best civil service in the world, and the Crown and public authorities were in many respects accountable only through ministers in Parliament.

In reality, it turned out that citizens of other European countries were better protected against unlawful, incompetent or excessive acts of public bodies than we were. As John Lamont touched on, a range of tribunal-like bodies have been set up on an ad hoc basis to provide some form of redress to citizens with a complaint. The Philip report of 2009 reviewed the resulting clutter. Its key findings were, first, that many of the initial decisions made by public sector organisations in Scotland are unsound; and, secondly, that a rational and consistent system of tribunals needs to be put in place, to which people have effective access. The word "effective" is important here.

I stress that, as in any set-up, it is far better to have a system that gets the original decision right than simply to have an effective remedy to pick up the pieces afterwards. The Auditor General for Scotland, the Accounts Commission, Her Majesty's Inspectorate of Education and the other inspectorates are all increasingly focused on improving standards and getting public bodies in an efficient state to deliver the right decisions and the right services. However, I ask the minister why there is no audit of the extent to which public bodies comply with the ECHR, which it is their duty to comply with and which itself is a powerful analytical tool for proper decision making.

However, even the most effective body will make mistakes, so there must be a proper system of sorting things out. I am not a vast fan of complaints systems. I am concerned about getting the proper balance here. In ordinary life, if someone has a dispute with their partner, friend, neighbour or even their employer, they do not so much want redress, compensation or to be proved right as to have the issue sorted out, perhaps with an apology, and the restoration of harmony and goodwill. So it is with public bodies, too. In my experience, as a solicitor, a councillor and a parliamentarian, it is a bad idea to be too obsessed with getting one's pound of flesh. When we were elected in 1999—

The Minister for Community Safety (Fergus Ewing): Mr Brown referred to an audit to establish whether bodies comply with the ECHR. Plainly, the Scottish Government has a duty to comply. If Mr Brown wishes me to answer the point later, I wonder whether he would explain more about his concerns. Are there particular examples of non-compliance by tribunals or those that use them?

Robert Brown: That is not the point that I was trying to make to Mr Ewing, although I am grateful for his intervention. My point is really that the public bodies over which the tribunals have decision-making powers are subject to the ECHR, but there are no mechanisms in the work of the Auditor General, for example, to test whether they comply with those standards in the way in which they work. Human rights groups in Scotland have raised that issue with me and I have raised it with the Auditor General.

When I was elected to the Parliament in 1999—I dare say that this was the same for other members—there descended upon me a host of people who had dragged ancient and insoluble complaints around every agency and elected representative in Scotland, and who had written to the Queen, the Prime Minister and the Law Society for Scotland demanding instant redress under the ECHR. My point is that public bodies should be geared up to sort out problems rather than to enter into formal and sometimes unsatisfactory complaints procedures that are conducted in incomprehensible jargon. There should also be the concept of finality, so that, once an issue has been reviewed by a genuinely independent outside body, it cannot be dragged off again to all sorts of other bodies for further examination of the entrails.

If all attempts to resolve the issue fail, the tribunal system comes into play. I strongly support Lord Philip's recommendation that there should be a guarantee in statute on the independence of tribunals because some bodies are widely regarded as a rubber stamp for the local authority. As I said in my earlier intervention, because the

Scottish tribunals service is to be an agency within the Government, it is different from the Scottish Court Service, which we have recently made rather more independent.

There is probably agreement that there should be at least a Scottish tribunals service covering devolved tribunals, and the minister made an announcement about that just now. The question whether that service should also incorporate reserved tribunals is a bit more nicely balanced than the minister makes out. There have been some issues about the procedures in immigration law, for example, and whether they are comparable between England and Scotland, and what the standard United Kingdom legislation is on that. We are talking not just about the substantive law but about procedural law, and the discussions with the Lord Chancellor, which are very welcome, should test those issues.

Fergus Ewing: Will the member take another intervention?

Robert Brown: I need to make progress because of the timescale.

The Deputy Presiding Officer (Alasdair Morgan): It depends on how much more you have to say, Mr Brown.

Robert Brown: I have got a little bit more to say, Presiding Officer, so I will progress if I may and perhaps the minister can come back to the point during his response.

The Cabinet secretary talked about the children's hearings system and he has confirmed that the procedures in the Children's Hearings (Scotland) Bill that is currently before the Parliament will continue. However, there is a cautionary note to be sounded that the desire for uniformity, and for a simple and comprehensive structure of tribunals, important though it is, has to be careful not to casually dismantle bodies that work well and economically in their present form.

There are obvious and immediate advantages in moving to appoint tribunal members through the Judicial Appointments Board for Scotland, in sharing expertise with the tribunals across the UK, and in rationalising administrative support. But again we must be careful that uniform procedural rules are suited to the individual subject areas. We must also make sure that people can present their cases effectively. I have already touched on the question of the inquisitorial power of the tribunal being properly used.

I share the view that the size of the jurisdiction in Scotland might militate against a two-tier system of first and upper-tier tribunals, but any changes to jurisdiction should not repeat the constitutional outrage of SSI 2008/349, which restricted access to the Court of Session by statutory instrument.

Such matters must be fully considered by the Parliament.

Today's debate is on a hugely important, if fairly technical, subject, but it is a vital debate because it is about how the ordinary citizen can get redress against overbearing, incompetent or uncaring public services. We all depend on such services, but those at the bottom of the heap are more dependent than anyone else and therefore least empowered when the system fails. We must make sure we get it right in the details and in the principle.

15:34

Dave Thompson (Highlands and Islands)

(SNP): For too long we have been faced with an alarmingly confused guddle of tribunals, hearings, panels, committees, secretariats and commissioners when we have sought a legal ruling on any one of the many issues that are vital to a wide range of matters of importance to our lives. Some are administered by independent quangos here in Scotland, others by a Scottish offshoot of a UK body, some by local authorities and others by health boards. They cover matters as varied as licences for haulage companies, disciplinary hearings for children, workplace discipline, the ownership or tenancy of property, insolvency and social care provision, not forgetting the payment of parking fines and criminal injuries compensation. This confusing group of quasi-judicial bodies delivers what is known as administrative justice in Scotland.

Although the workings of the criminal and civil courts are conveniently overseen by the Scottish Court Service, responsibility for administrative justice is spread over a multitude of smaller organisations, several of which are retained under the control of UK-wide organisations—not all of which understand Scotland's unique legal system.

The situation in other parts of the UK was almost as confused as ours until Westminster passed the Tribunals, Courts and Enforcement Act 2007, which, among other things, sought to gather all tribunals in England and Wales under a single body, the UK Tribunals Service—although it covers only England and Wales, not the UK.

Last year, in its report "Administrative Justice in Scotland—The Way Forward", the administrative justice steering group, under the chairmanship of Lord Philip, highlighted a number of worrying weaknesses with the current system, and it proposed a series of potential solutions to correct them and to establish a system in Scotland that we can be confident in and proud of.

As regards the failings that were noted, the report contained a warning—to which John Lamont has already referred—that

"incorrect initial decisions and other administrative failings are more frequent than they should be".

The report also said that more needed to be done to improve systems for raising grievances about the outcome of initial hearings. The steering group noted, unsurprisingly, that members of the public are often "confused by the complexity" of the administrative justice system and struggle to initiate a complaint, particularly as they might be unable to use the process themselves, and the high cost of legal help can act as a barrier to starting an action. That led the group to conclude that

"The existing system does not, therefore, sufficiently meet the needs of users",

which is a good example of Scottish understatement. I have a great deal of sympathy for the people who have had to deal with the confusing array of quangos and quasi-quangos, and I am all for simplification of this highly complex system.

I spent many years as a trading standards officer, and I have personal experience of how arbitration can help to solve many problems without recourse to the courts. I was directly involved in setting up consumer advice and conciliation services, where local authority trading standards and consumer advice officers did all that they could to facilitate an agreement between disputing traders and consumers without the need to go to the civil or criminal courts.

Such services are hugely beneficial to consumers and honest businesses alike, but I recently found out that, unfortunately, 10 out of Scotland's 32 councils have now withdrawn those valuable services. That might save a small amount for the councils concerned, but it is a false saving for the community as a whole. I hope that common sense prevails, and that the services can be reinstated. If the councils do not look after their consumers and honest businesses, we might have to look elsewhere to get things done. Perhaps some other body that understands trading standards and consumer protection is the answer, and I think that we need to consider that.

Members will gather from my comments that I am very much in favour of easy, low-cost access to justice, and of simple, sensible solutions to problems. I am very much in favour of simplifying the current confused situation. I therefore welcome the justice secretary's announcement that a new Scottish tribunals service will be established on 1 December this year. The new service will bring together the administrative support for the Scottish tribunals into one organisation, which will create a more efficient and effective tribunal administration, and it can begin to tackle the widely criticised fragmentation and incoherence of the tribunals.

I warmly welcome the news that the Lord Chancellor has formally written to suggest that the Scottish Government and Whitehall officials develop detailed proposals for the devolution of tribunals. That would ensure that all tribunals in Scotland were part of the Scottish justice system, and it would help us to make our justice system as coherent as possible. The Lord Chancellor is to be congratulated on his common sense, and I am sure that we will soon see a streamlined tribunal system in Scotland that is fit for the 21st century. Oh that others in London—or even some of the unionists in our midst, especially Richard Baker—were equally enlightened! We might then get sensible proposals for further devolution—rather than the hotchpotch, minimalist, dangerous and damaging Calman proposals—or, better still, independence, so that such decisions would automatically be taken here in Scotland for the benefit of the people of Scotland.

15:40

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): As all speakers so far have said, tribunals play an integral part in Scotland's justice system; they are very important. For years, they have provided a more specialised function than that of an ordinary court of law and they are intended to provide an opportunity to hear cases in a less formal and less adversarial way. Their key principles are openness, fairness and impartiality. I know that all of us in the chamber want to continue to sign up to those principles.

However, tribunals have grown over the years and the current complex and disjointed system is causing concern, which needs to be addressed. I know that members across the parties want to deal with this matter.

Devolution has benefited the people of Scotland and will do so in future, but it has made the tribunal system complicated. Policy responsibility is split between the Scottish and UK Governments, which Lord Philip said in 2008 presents

“a lack of coherence and consistency.”

I expect that most members believe that it is important to reform the tribunal system, because we all agree that the status quo is no longer cohesive.

I view favourably the idea of devolving the responsibility of tribunals in Scotland, but I believe that we have to go further. To ensure the true independence of our tribunal system, it is paramount that the Scottish ministers loosen their grip on Scottish tribunals.

The administrative justice steering group is proposing five options and a case could be made

for most of them. However, if we are serious about reform and about establishing greater independence, the steering group's options 4 and 5 would certainly address those important criteria.

Option 4 focuses on establishing a new Scottish tribunals service that would co-ordinate the administration of all Scottish tribunals and provide support. Option 5, which has been dubbed the “radical extension” of the fourth option, would involve the proposed Scottish tribunals service overseeing all three categories of tribunals in Scotland. That option would provide the degree of impartiality needed, as long as the service was independent of the Scottish ministers.

The minister's words were welcome, but we have to consider further how the tribunals are resourced. We have looked in detail at the administration and organisation, but there is not much in the documents that I have read so far about the resources for tribunals and for people going to them. Organisations in my area have complained that not enough support is available for the individuals involved, which has to be addressed.

It is important that any consultation on how things might operate in future includes trade unions and third sector organisations, such as the Cumbernauld and Kilsyth unemployed workers centre. Last year in employment tribunals alone, the centre won tens of thousands of pounds for people throughout Lanarkshire and, importantly, helped people to return to their jobs. However, the centre tells me that there are difficulties for ordinary laypeople taking a case to tribunal. It tells me that, over the years, the system has become far more legalistic, which the minister recognised in his opening speech. People find it very difficult to present their own case. One of the intentions is that people should be able to present their own case at a tribunal, but that is becoming impossible.

Fergus Ewing: I want to raise a matter that I had hoped to raise with Robert Brown: the burden that is brought about by the massive increase in cases that relate to employment support allowances and benefit appeals, which Cathie Craigie rightly mentions. Is she concerned, as we are, that further changes to benefits law in the UK would inevitably mean that the existing huge workload in relation to benefits appeals would be significantly enhanced by a further significant increase in the number of such appeals?

Cathie Craigie: We—and many of the voluntary organisations in my constituency—have concerns about that, but those must be addressed by implementing a system that offers people the opportunity to go before a tribunal with confidence and to be able to cope with the process. When people go to tribunals just now, they feel as if they are going into an arena with one arm tied behind

their back. There is certainly not a level playing field at present, and we must ensure that there is.

I am told that legal aid may be available for preparatory work in complex cases and certain circumstances, but that happens rarely; in general, legal aid is not available. People can present their own case, as we have heard today but, when they are faced with the prospect of going up against a qualified lawyer, they feel that they are not equipped. Without the financial wherewithal to engage legal representation, they feel that the process is unfair.

Individuals are turning to voluntary groups for advice and assistance and for their advocacy skills at tribunals. Cumbernauld and Kilsyth unemployed workers centre provides a great service to local people but, like other voluntary organisations, it struggles financially and worries about what the future may hold, not only for the centre itself but for the people who it knows need representation.

If we want to continue to safeguard the differences between the ordinary civil courts and tribunals, and if we want dispute resolution to take place outwith the civil courts, we must find a way to properly resource people to access tribunals. That may be brought about through legal aid, or by an acknowledgement from the Government that it needs to directly resource the voluntary organisations that provide such support. I urge the minister to insist that that is part of the on-going consideration of tribunal reform in Scotland.

It is evident that the system needs reform to ensure that it becomes less complex and more independent and continues to operate at the highest levels as a specialist legal body. It is also clear that access to that specialist service must be properly resourced and available to all, regardless of their ability to pay.

15:47

Nigel Don (North East Scotland) (SNP): I will explain why I agree with Cathie Craigie on the need for low-cost access to tribunals, and why that will not necessarily cost anything.

Tribunals are courts of appeal for administrative decisions and are therefore not very different in their function from any other court of appeal. We need courts of appeal because people who make primary decisions are human, and human nature means that we make mistakes, act in ignorance, are occasionally lazy and are very occasionally biased.

I will reflect on the stage 1 consideration that the Justice Committee is currently undertaking of Bill Butler's Damages (Scotland) Bill because it is instructive. The fact that most members who are

present today are on that committee will add some flesh to that.

Administrative decisions, regardless of what they are about, essentially involve the application of rules to a set of facts. There are two models for applying rules—at the extremes, that is; members will recognise that there are many in between.

At one end we can have a set of rules that are so detailed and complete that they provide for every situation, even if in reality that is sometimes arbitrary and unjust. The decision maker simply uses an algorithm and comes up with the answer, rather like using a calculator. That application of rules in an administrative setting is very mechanical, but it will be done correctly so long as there is a court that can review it. If there is no court to review it, mistakes will be made and nobody will worry. However, in that context, the court does not have to be particularly swift or available because we know that, if somebody makes a mistake and it is challenged, it will be corrected. Should an error be made, there will always be an opportunity to challenge and correct it, so the system will work even if the judicial process is both slow and expensive.

Contrast that with the other end of the spectrum where, instead of having an algorithm whereby everything is laid down, the decision maker goes through a hierarchy of principles and tries to apply the facts to them. When errors are made in that system, a slow and expensive legal review system will fail. That is one of the things that we have discovered in our scrutiny of the Damages (Scotland) Bill. The courts have not sorted out some simple things to do with the award of damages for fatal accidents because it is too expensive and too uncertain to go there. However, had another court system been readily available, those things could have been sorted. If we try to make our decisions on principles, we will get a good system only if the appeals system is easily accessible and cheap enough so that we will go there to get a decision.

If someone has easy access to a good court of appeal, how many mistakes will be made? Very few, because the person making the decision realises that the decision will be appealed, that they will lose and that it will cost them one way or another, so they have an incentive to get it right. To go back to the beginning, if one has an absolute set of rules that one can follow like a computer, the system of appeals does not have to be good so long as it exists. If one applies principles, the system of appeals has to be good, swift and available; otherwise, errors would not be corrected because there would be too much risk involved in the correction process. That is what has emerged during consideration of the Damages (Scotland) Bill, where there is a risk that we will

end up including some arbitrary rules to overcome the problem of a bad judicial process, which means that it cannot be appealed properly.

It is plainly important to have good-quality folk on tribunals, good training and a sensible structure and I do not want to gainsay any of that, but the way to sort out administrative decisions is to have easy, low-cost access to tribunals. If there is such access, it is much more likely that the original decision will be correct. Low-cost access does not cost any more because most of the cases never happen because good decisions are made by the administrators in the first place. Above all, we need cheap, low-cost access to tribunals and then our administrators will do a good job.

15:53

Stewart Maxwell (West of Scotland) (SNP):

This is a welcome debate on what is sometimes a forgotten but nonetheless important part of the Scottish justice system. It is fair to say that administrative justice is a key but fragmented part of our justice system. Over the years, a number of seminal reports—others have mentioned the Franks, Leggatt and Philip reports—have looked at creating a coherent system that is fair, accessible, timely, efficient and inexpensive to use. However, what we have thus far is the result of the ad hoc development of tribunals over many decades.

Current oversight of the tribunal system is provided by the Administrative Justice and Tribunals Council, the Scottish committee of which is responsible for promoting good practice across all the tribunals operating in Scotland, regardless of whether they deal with reserved or devolved issues. It draws its membership from lawyers, academics, ombudsmen and lay people.

Most tribunals have been created by individual pieces of primary legislation, resulting in a complex variety of administrative arrangements that provide little coherence between tribunals.

The administrative justice steering group was tasked with reviewing the administrative justice system in Scotland, taking into account the impact of UK-wide reforms. Its interim report, "Options for the Future Administration and Supervision of Tribunals in Scotland", assessed the current system against the recommendations of the report "Tribunals for Users: One System, One Service". The steering group's recommendations are summarised under three headings: "Independent and impartial processes", "An independent and skilled judiciary" and "A coherent system".

Much of the thinking that underlies the interim report can be traced back to previous reports that examined tribunals. In 1957, the Franks committee identified the key characteristics of tribunals as

openness, fairness and impartiality, which continue to be the watchwords of tribunals today. The desire for those characteristics to remain at the heart of tribunals is reflected in the administrative justice steering group's report and recommendations.

The recommendations must be examined in the Scottish context. Bearing that in mind, it is clear that in seeking to create a coherent Scottish tribunal system a number of baseline points need to be established. First, we must always have at the front of our thinking the distinctiveness of the Scottish legal system and the requirement that tribunals fit within the system's overarching principles.

Secondly, it is necessary that tribunals, like other parts of the justice system, are able to act independently. I very much agree with what Robert Brown said in that regard.

Thirdly, although tribunals are part of the overall justice system, it is crucial that their distinctiveness is maintained. The differences between tribunals and the ordinary civil courts, and the benefits that those differences bring to service users, must be acknowledged and safeguarded. Tribunals are only one part of our administrative justice system and are intended to provide a more accessible and user-friendly forum for resolving disputes than is offered by the courts. Although many people might find the prospect of appearing before a tribunal daunting, I think that people usually find that more acceptable than having to go to court would be. It is therefore essential that we have an efficient and effective tribunal system that works properly for the people who need to use it.

With those principles in mind, the administrative justice steering group put forward five options for the future shape of tribunals in Scotland. Option 1 is to retain the status quo, but I do not think that many people support such an approach. Option 2 is to improve the mechanisms for co-operation between tribunals that are part of the Tribunals Service and devolved Scottish tribunals. Option 3 is to bring all Scottish tribunals within the remit of the Tribunals Service. Options 4 and 5, which I think are the only serious options are, respectively, to create a Scottish tribunals service to support all Scottish tribunals and to create a Scottish tribunals service to support all tribunals in Scotland, including those that are currently administered by the Tribunals Service.

After examining the five options, the Scottish committee of the administrative justice steering group concluded that the best option for users in Scotland would be a Scottish tribunals service that supported all tribunals that operate in Scotland. I listened with interest when Robert Brown said that he was not sure whether option 4 or option 5 would be the better one, but I think that it is self-

evident that option 5 would be better for the future of tribunals in Scotland, because it would provide the most clear-cut and efficient way of administering that part of our justice system. It would create a system that better met best-practice principles of justice by separating the administrative support for tribunals from the related policy area—that relates to a main criticism of the current arrangements.

In addition, it is clear that there are efficiencies to be gained from public sector simplification. The cost of cases varies widely between different tribunals, in ways that do not reflect the complexity of cases. Efficiencies can be generated through co-location, the sharing of information technology systems and best practice, and better governance and performance of corporate functions such as finance and contract management.

It has been estimated that in the first year of operation of a Scottish tribunals service, savings could be in the region of £50,000 to £100,000. Such savings on the current arrangements would be welcome, and should make us stop and think about the lessons that we can draw from and the impact on the public purse of changes to administrative and support services.

In that context, I make a wider point about what we can learn from the proposed changes to the tribunal system. At a time when we face unprecedented cuts to our budget, we need to look at all areas of expenditure, including the overall structure of the public sector. That is widely acknowledged. If it is true to say that the tribunal system in Scotland grew up over a long time and in an ad hoc fashion, it is equally true to say that the public sector has developed in a somewhat similar fashion. That is not a criticism but a statement of fact. No one ever sat down and designed the Scottish public sector in a co-ordinated and coherent fashion; the sector merely developed and changed at different times and in different ways.

That is clear when we consider something as simple—although often sensitive—as the huge variety of boundaries that operate in different parts of the public sector. Why do the boundaries of councils, health boards and the emergency services not line up? Do we need 32 councils, 14 health boards, eight police forces and eight fire and rescue services to cover a population of 5 million? If we can see the logic in bringing together the administration of tribunals in Scotland, what is the argument for having separate administration and support services, not just for eight police forces and eight fire brigades, but for the police and fire services? Should we not be considering the model that is proposed for the Scottish tribunals service as a possible option for a united

support service that would cover the police, fire and ambulance services, for example?

Any changes that are proposed in the coming months and years need to be considered with two things in mind: whether they would make the service more effective and efficient, and whether they would protect front-line services. I think that they will, in relation to the Scottish tribunals service, but if the answer to those questions in relation to the wider public sector is also yes, perhaps it is time that we made those changes. If the unification of support services saves money and means that we keep front-line firefighters, police officers and paramedics in place, that is what we should do. The lead that is being shown in relation to the Scottish tribunals service will have implications beyond simply the future administration of tribunals.

16:00

Bill Butler (Glasgow Anniesland) (Lab): I am tempted to comment on Nigel Don's thoughts on the Damages (Scotland) Bill, but that would not be appropriate, as the evidence-taking process at stage 1 has just been completed and the evidence is now in the hands of my colleagues on the Justice Committee, who are drafting what I hope will be a positive report.

This is a timely debate on a matter of some significance, with regard to the proper delivery of justice in Scotland. It is beyond dispute that the present tribunal system in Scotland is extremely complex and somewhat fragmented, with policy responsibility for tribunals that operate in Scotland being divided between the United Kingdom and Scottish Governments. Additionally, there are not insubstantial differences in the manner in which the various tribunals are managed and run. That is why Scottish Labour believes that it is sensible to consider the devolution of responsibility for tribunals that operate in Scotland, with the aim of making the tribunal system more effective.

There is no doubt that the current system is somewhat byzantine. As members know, a tripartite system for the administration of justice operates in Scotland. UK-wide tribunals for which responsibility lies with the Westminster Government are supported variously by the Tribunals Service and the Scottish Government, with the Lord President and the Scottish ministers retaining a significant role in relation to some reserved UK-wide tribunals. An additional complicating factor is that Scottish tribunals that were set up by UK legislation before 1998 are generally the responsibility of either the Scottish Government or local authorities, whereas policy responsibility for tribunals that were established after devolution falls solely to the Scottish Government.

Although the Tribunals Service was established in England and Wales in 2006 to provide administrative support to the judiciary who hear cases, there is not yet a fully developed Scottish equivalent that provides similar overarching support and co-ordination.

Given that Labour agrees with the Scottish Government that

“justice delivered by tribunals is an integral part of the Scottish justice system”,

it is now time to end the current labyrinthine approach.

The effective functioning of tribunals is a matter of real importance. The resolution of disputes according to law must be as comprehensible and effective as possible. Our constituents demand and expect no less.

On that point, the Calman commission noted—rightly—that the current system of tribunals in Scotland did not appear to be functioning in the best interests of the people of Scotland. Indeed, the difficulties that the arrangements have created are widely recognised and have been widely reflected in this debate. The Calman commission endorsed the direction of travel that was set out by the administrative justice steering group, chaired by Lord Phillip, which published its first report, “Options for the Future Administration and Supervision of Tribunals in Scotland”, in September 2008. That led to the publication of a discussion paper on options for the reform of tribunals in Scotland in June, to which members have referred.

The option that is being developed, I am glad to say, is option 5. That is because of the advice that the Scottish Government sought from the Scottish committee of the Administrative Justice and Tribunals Council in relation to three of the options. The committee’s advice was that anything short of option 5 would lead to two tribunal systems in Scotland, the first overseeing UK-wide tribunals and the second overseeing Scottish tribunals.

Option 5 proposed the establishment of a new Scottish tribunals service to support both UK-wide tribunals within Scotland and Scottish tribunals. The Scottish Government has gone down that path, with the phased implementation of a Scottish tribunals service, and I welcome the cabinet secretary’s announcement in that regard. The long-term aim of the option is to provide administrative support for all tribunals in Scotland whether they deal with devolved or reserved areas of law. That is a sensible, rational approach. We all wish to have a modernised, efficient system for the delivery of justice in Scotland, of which tribunals are an essential component.

Given that tribunals are relatively specialised in the subject matter with which they deal, that many of them combine legal with other special or professional expertise on the judging panel, and that they are delivered in a more informal and less adversarial setting compared with ordinary courts, I am glad that the Government agrees that it is imperative that in reforming the system, any changes are consulted on widely with those who are involved in the operation of tribunals as well as with trade unions—I say that as a committed trade unionist—citizens advice bureaux and other organisations.

On that basis. I will be content to support the Government’s motion, suitably amended, this evening.

16:07

Anne McLaughlin (Glasgow) (SNP): Justice is a tricky topic to nail down. We have our lawyers and our judiciary, who deal with justice every day, and many of my parliamentary colleagues likewise have a legal background. However, I venture that, as a Parliament, we would do well to avoid a narrow legalism. That might not be popular with the lawyers here, but I think that we can all agree that not all legal actions are just and that not all legal decisions that are carried out to the letter of the law are just. As we have heard, tribunals can be extremely important to individuals in overturning decisions and achieving justice.

The Gaelic for justice is *còir*. That word, as is the case with words in many other languages, is stretched and imbued with other meanings depending on the context. It also means our rights and our dignity as human beings. Likewise, it can mean the right course of action when we wonder how best to act. When we look at such definitions, it is easy to recognise that the quest for justice is at the heart of our work as MSPs, as others have said, whether that is dealing with constituents who are looking for our support or looking over legislation in committee and here in the debating chamber.

When a constituent comes to us and says that they are caught in a web of bureaucracy—or, to use the phrases that they often use, getting nowhere fast or banging their head against a brick wall—we can either retreat behind that web and insist on the ever-ready excuse of the proper channels or, as I hope we more often do, attempt to use whatever influence we have to ensure that the person’s case is given fresh and proper scrutiny and that their rights and circumstances are put at the heart of the procedure that is involved. Basically, I hope that a bit of compassion and a lot of common sense is applied.

Our constituents should not be contorted to fit bureaucracy. Legislation and bureaucracy should be flexible enough to meet the needs of the people whom they affect. As MSPs, we can all help to ensure that constituents are treated justly and with dignity as we represent their interests. Tribunals are one of the key ways in which individuals can challenge state decisions. Indeed, that is what the majority of tribunals of the type that we are discussing today do. By their nature, tribunals affect those who believe that they have not been treated fairly. That makes it all the more important that our system is coherent, easy to understand and use, and independent. As we have heard, concerns about the system were first raised some time ago in the Leggatt report.

Last night, I spoke in Jackie Baillie's members' business debate on the important see me campaign, which tries to break down the stigma around mental health. It is welcome that the Mental Health Tribunal for Scotland will be one of the first tribunals to be incorporated into the Scottish tribunals service. The Pensions Appeal Tribunals for Scotland will also go to the new body. Given the large number of deaths and casualties in recent years in the armed forces, many of us are very aware of the Pensions Appeal Tribunals for Scotland. As the daughter of a former member of the armed forces, I recall the worry about the dangers that my father might encounter. If anything had happened to him in the line of duty, I would have wanted to know that there was a just and easily accessible tribunals service should it have been needed.

I would very much like all tribunals to be brought under the banner of the Scottish tribunals service and be administered from Scotland. Cathie Craigie mentioned that the sharing of legal powers between the UK and Scotland makes the situation complicated, but everything becomes complicated when two countries try to make laws for one country. I look forward to Cathie Craigie supporting the most straightforward way of dealing with those complications, which is independence.

It was extremely sporting of Richard Baker and Bill Butler to agree that sometimes it is okay to devolve powers from the UK to Scotland.

Bill Butler: Does the member agree that it is self-evident that Labour has always agreed that it is important to devolve powers from the UK Government? That is why we are sitting here in this chamber.

The Deputy Presiding Officer: Perhaps we should not pursue that point too much in the debate.

Anne McLaughlin: I will not do so; I was just complimenting Richard Baker and Bill Butler on how awfully nice they were to us in saying that we

might be able to manage tribunals in this country by ourselves.

As many people know, I have a particular interest in the devolution of responsibility for immigration and asylum tribunals. It is particularly important that we have an accessible, easy-to-understand process for people who may not speak English, who have come from a very different legal system and who are often extremely vulnerable, having fled dangerous situations in their country of origin.

In welcoming the proposal, I will mention briefly, as others have done, mediation services, which are a hugely undervalued and therefore underused part of our justice system. Again, that might be something that the lawyers do not want to hear, but that might be because when mediation is used, it tends to have a high success rate of around 80 per cent. Successful mediation means that there is no need to consult lawyers, no need to go to tribunals and no need to go to court.

Mediation may not be particularly appealing to the legal profession, but not only is it quicker and therefore less stressful for all concerned, it is non-confrontational, in that the aim is to find a resolution that is to everyone's satisfaction and which enables the relationship to continue. In addition, it costs substantially less. Many users of the courts and tribunals services spend public money, and we are all keenly aware of how tight public finances are right now. I have made only brief mention of mediation, but I am confident that we will look at it more closely in future.

No bureaucratic processes are infallible, as every such process is designed by human beings. Tribunals offer a basis for scrutinising those decisions that affect individual citizens. For those reasons, the new Scottish tribunals service is indeed a welcome step towards simplification and tackling some of the issues that were raised in the Leggatt report, and it represents laudable progress towards that report's goals of coherence and user-friendliness.

16:12

Mike Pringle (Edinburgh South) (LD): As many members have said, the review of tribunals is the result of the Philip report—or the report of the administrative justice steering group—in 2009. The group was tasked with reviewing the administrative justice system in Scotland, taking into account the impact of UK reforms. Its interim report assessed the tribunal system against the recommendations of the "Tribunals for Users" report.

Like others, Liberal Democrats are concerned that many people may not be able to access justice due to the barriers that the group identified.

The 2009 Philip report stated that the current system did not meet the needs of users and that citizens' ability to access redress mechanisms was hindered by barriers such as cost, the low visibility of some complaints mechanisms and a lack of advice and assistance.

The tribunal landscape in Scotland is highly complex and there are a large range of tribunals, as Stewart Maxwell, Bill Butler and others pointed out. Let us look at but five kinds of tribunal. Each year, employment tribunals in Scotland deal with 22,000 cases, education appeals committees in Scotland receive more than 500 cases and the Pensions Appeal Tribunals for Scotland handle almost 300 cases. There are 32,500 social security and child support appeal cases in Scotland and children's hearings Scotland holds almost 43,000 hearings. Almost 100,000 cases are dealt with by those five kinds of tribunal every year, and that is just a few of the kinds of tribunal that exist. Someone who once worked on a tribunal said to me that the number of tribunal cases that are dealt with across Scotland every year is higher than the number of cases that appear in our courts. Perhaps we should reflect on that.

I think that everyone agrees that reform of tribunals in Scotland to bring them within a coherent, independent structure that sits in a clear governance framework is overdue.

Another key issue that was addressed was whether tribunals are sufficiently independent of Government. Therefore, we welcome the large amount of work that the administrative justice steering group and the Scottish committee of the Administrative Justice and Tribunals Council are carrying out to examine ways of improving the current situation.

In the past nine years, significant reform has already been made to the system that supports tribunals in England and Wales. That has included the creation of one organisation, the Tribunals Service, to provide administrative support to most tribunals that operate in England and Wales and those that operate on reserved matters in Scotland. There has also been legislation to overhaul the structure of tribunals and to introduce an independent appointments system for tribunal members. There is concern that those developments have not been matched in Scotland. A particular concern is that users of Scottish tribunals that deal with devolved matters might not receive the same level of service as users south of the border receive.

The interim report by Lord Philip in 2008 suggested five options for Scotland, the first of which was to retain the status quo. Like Stewart Maxwell and others, I do not think that anyone, anywhere thinks that that is an option, so I am not

sure why it was in the report. The option that has perhaps received most support is that of creating a Scottish tribunals service to support all tribunals in Scotland, including those that are currently administered by the Tribunals Service. That is the option that the minister and the Scottish Government have stated is their preference. Today, we are moving towards that. Like Bill Butler, I welcome the minister's comments about bringing together a number of tribunals and giving them a support service from December this year. We have heard that that is just the start of the way forward. It is a good way forward.

In 2009, the administrative justice steering group, or the Philip group, produced its final report, in which it examined administrative justice in Scotland a bit more broadly. The report states that the term "administrative justice" should be defined broadly to include, first,

"initial decision-making by public bodies affecting citizens' rights and interests including the substantive rules under which decisions are made and the procedures followed in making decisions".

Secondly, it should include

"systems for resolving disputes relating to such decisions and for considering citizens' grievances."

The key concern is to ensure that public bodies and tribunals get decisions right first time. Stewart Maxwell and Nigel Don made good points about that.

The Philip group made a considerable number of recommendations for public bodies about the point of contact for complainants. It recommended that better procedures be put in place and made several other recommendations with regard to other tribunals. The report concludes that there is considerable concern about citizens' ability to access and use tribunals and it notes that free services that offer advice and/or representation are not always available to everybody in all areas and that something needs to be done about that.

One recommendation is on the sharing of expertise and resources between the Scottish tribunals service and tribunals in other UK jurisdictions in relation to the training of tribunal members. I suggest that that would benefit Scotland in particular.

Another recommendation relates to ombudsmen. I am sure that all members will agree that our constituents are sometimes unhappy with decisions that ombudsmen make, or are unhappy that ombudsmen are not allowed to take up their complaints. One recommendation is that the presumption against ombudsmen investigating complaints in respect of which the complainant has a right of appeal should be relaxed to leave it more to ombudsmen to decide when to begin an investigation, especially when the remedy would

be in court, rather than at a tribunal. That is an excellent suggestion from the group. I hope that the minister will say whether he feels that it would be a positive measure and whether his Government could take it forward.

Following the recommendations of the Philip review, the Scottish committee of the AJTC has developed options for establishing a Scottish tribunals service. In June 2010, it published a discussion paper entitled "Options for Tribunal Reform in Scotland", which set out issues and sought views by September—I am not quite sure when in September, but obviously we are still just in it.

The Scottish committee has undertaken to provide advice to ministers on its findings by mid-December 2010, and I am sure we all look forward to learning what that advice is. I am glad that the minister has stated today that, as soon as he has them, he will share the findings with us all.

I am happy to support the motion.

The Presiding Officer (Alex Fergusson): I call Bill Aitken to wind up on behalf of the Scottish Conservatives. Mr Aitken, you have quite a long time.

16:20

Bill Aitken (Glasgow) (Con): Gee, thanks.

There is undoubtedly a value in the tribunal system. Its successes must be qualified to some extent, but let us accentuate the positive. I am pleased that the Scottish and UK Governments have clearly reached a consensus *ad idem* on the approach, because there has undoubtedly been a fragmentation of the existing system and a unified approach would be of much benefit. That said, I caution the Scottish Government to give some consideration to the likely implementation of quite a lot of the Gill report recommendations in the years ahead. Anything that is done with tribunals should be linked to some of the changes that will inevitably come about from that.

What is the value of the tribunal system? First, it is in theory less formal, and in that respect it generally succeeds. Secondly, it avoids a legalistic format that can be inhibiting to a citizen who is seeking to have a grievance redressed, who would much prefer an informal approach. Thirdly, it certainly saves money, although I am not totally convinced that a thorough and analytical piece of research would demonstrate that the money saving is significant. That is something that must be looked at, and I have no doubt that it will be looked at again in conjunction with Lord Gill's recommendations.

The problems seem to be many and varied. First, the operation of the tribunal system was

damned with faint praise in the Philip report. In particular—this must be a matter of concern—there appear to have been a fair number of cases in which the initial decision was wrong and there were administrative failings. I am not suggesting that courts do not get things wrong—of course they do—but I find it a little disturbing that the number of initial decisions that subsequently had to be set right judicially should be so high. The obvious resolution of that particular difficulty is to ensure that those who sit on tribunals get more appropriate advice and administrative back-up. Again, I am sure that the Government will address that point, but we must recognise that there will be a cost involved in that.

There must also be a fairly dramatic rationalisation. I do not think that it is appropriate that we should have the number of tribunals that we have. In many instances, the arguments and procedures are largely coterminous, so we should examine the number and scope of tribunals to see whether there is any way in which we can cut the administration costs and concentrate the minds of those who serve on them, giving proper training to the people who give up their time for them.

Cathie Craigie: Would the member welcome an intervention?

Bill Aitken: Certainly—I would be delighted.

Cathie Craigie: I am sure that Bill Aitken does not mean to worry us, but I am a bit concerned about what he has said. One of the main advantages of the tribunal system is the expertise that it can gather. I support the one unit, but I think that it is really important that we keep the expertise. What is the Scottish Tories' position on that?

Bill Aitken: Expertise is always particularly valuable—on this side of the chamber we demonstrate that repeatedly. [*Laughter.*]

I do not necessarily think that the expertise to which Mrs Craigie rightly refers would be lost. We would have to ensure that expertise moved sideways and that people who were particularly expert in one field of a tribunal's operation—mental health, for example—could extend their expertise to other tribunals, such as other health-based tribunals. That would not involve too much difficulty.

We must consider the consumer, if one can use that term to refer to people who take cases before tribunals. The fact is that some dissatisfaction exists. As all of us know from our constituency workloads, many people simply will not take no for an answer and many simply are not satisfied, no matter what any tribunal or MSP does—I see Robert Brown nodding with some vehemence and I know that everybody has the same experience. However, from what I can see, the general feeling

is that perhaps the tribunal system is not working for everybody in the way that it should. When we revamp the whole system—as I suspect will happen, albeit some years down the road—we will have to ensure that it works for people.

Mike Pringle was correct to point out the volume of work that tribunals undertake—they deal with a significant number of cases. Many people who are involved in such cases have had no contact with any quasi-judicial process or any other method of dispute resolution. It is important to get the system right, because people must have confidence in any system that exists. If they have no confidence, they will leave dissatisfied and will tell people about that. As a result, the system will fall into disrepute.

We must examine how tribunals are working. Of course, the story is not all bad news. I am attracted by the tribunal system's simplicity. As I said, my experience of it is limited. I was probably more intimately acquainted with it in my council days, when—for my sins—I chaired the personnel appeals committee that allowed people who had been the subject of disciplinary action to appeal to councillors. If those people disagreed with the committee's verdict, a subsequent appeal process took them to an employment tribunal.

In general, that arrangement worked reasonably well and usually arrived at the correct decisions. I did not find myself subject to judicial review, which seems to happen rather frequently here. Sometimes, an informal procedure benefits everyone who is concerned. We can reach the truth more simply and people are less inhibited in speaking.

We certainly must retain the tribunal system, but we must take measures to improve it.

16:28

James Kelly (Glasgow Rutherglen) (Lab): I welcome the opportunity to wind up on tribunals. As several members have said, in the *Business Bulletin*, the debate did not appear to be the most exciting. However, I always find that such debates allow members across the parties to present their experiences and make relevant speeches so that, when somebody sums up, important points have been made. Parliamentarians are contributing to the work on the Philip report and the work of the various groups that have examined the issue.

As many members have said, tribunals are important and have an impact on many areas of life. They also have an impact on individuals. I was interested to hear Mike Pringle quoting the statistics, of which I was not aware, that show that hundreds and in some cases many thousands go to tribunals. That indicates the impact that tribunals have.

It is clear that the landscape has grown in the devolution years. We now have more than 40 tribunals, so the network is complex. That is the driver for assessing whether obvious improvements could be made not only to make the system work better, but ultimately to provide a better system for people who bring issues to tribunals and who look for appropriate and effective resolution.

When we examine the tribunal landscape, we must address a number of issues that have been raised in speeches today and in various reports that have been produced through the years. We must look at the appointments system, to ensure that there is consistency in how appointments are made across tribunals and that the system is transparent, so that people who come before tribunals have confidence that tribunal members were appointed in an independent manner and can bring their expertise to the table.

As Stewart Maxwell and Robert Brown said, if tribunals are to have the confidence not only of those who serve on them but of the many people who pass through them, it is important that they are independent and are seen to be separate from the Government. I accept the assurance that the cabinet secretary gave about the pilot that has been set up.

Through the years, there has been a great deal of frustration about education appeal committees. Many members will have had constituents complain to them about how education appeals are run. The previous Executive looked at how the work of education appeal committees could be changed and made more transparent. There have been examples throughout the country of dissatisfaction with appointments to such committees. People have been left dissatisfied in cases in which councillors were able to turn down appeals against council decisions because they accounted for the majority of committee members.

Mike Pringle: The member makes an interesting point. I was a member of a council education appeal committee. I found it absolutely inappropriate that we were discouraged by the council from finding in favour of some of the parents who appeared before us. I was a member of the committee for only one year, because I supported some of the appeals.

James Kelly: Mike Pringle's intervention illustrates some of the concerns about education appeals and the processes that are followed. These are serious issues that affect people's lives, but some cases have been decided on a show of hands. In such instances, matters are not properly recorded and people are left feeling that their concerns have not been properly debated and addressed.

The tribunal system is a labyrinth, so there is an opportunity for us to take a more co-ordinated approach. As the cabinet secretary said, greater co-ordination will provide us with an opportunity to save money as well as to produce a more effective system.

A number of members spoke about the importance of devising a user-friendly system. Many people who come into contact with tribunals find them quite intimidating. We need to ensure that there is a more relaxed and informal system—not such that the processes do not deal robustly with the issues in hand, but such that people do not feel intimidated when they appear before tribunals.

All the issues that I have raised illustrate the need for reform. In England and Wales, where there has been reform, the establishment of the dedicated Tribunals Service has brought advantages in the provision of information to tribunal users, better and more specialised management of tribunals, publication of the documents that are used in tribunals, and the provision of schedules, so that the process is more transparent and people are aware of how it works.

Many members have spoken about the five options that the AJSG has brought forward, which have been well covered during the debate. The options range from the status quo to better integration, and on to option 5, which most members seemed to favour; option 5 is a dedicated Scottish tribunals service to support both Scottish tribunals and tribunals that are basically under the remit of UK legislation.

There are strong arguments for supporting option 5. Clearly, as I said, the number of tribunals has increased over the period of devolution. There is obviously a devolution issue as some of the tribunals cover reserved matters, but in this instance it is logical that one tribunals service should be in place to support the work of all the different tribunal bodies.

Robert Brown: Do any issues arise from the potential for having different procedures in Scotland from those in England on reserved tribunals, such as immigration tribunals, which Anne McLaughlin mentioned? Might not some issues with regard to the different procedures that currently operate in that area be exacerbated if there are two different systems?

James Kelly: Robert Brown makes some reasonable points. That is why the Labour amendment calls for proper consultation on the changes.

I support the pilot that the cabinet secretary announced in his speech, which will deal with five tribunals. That is only a small portion of the 40 tribunals. I understand that we have to deal with

such matters in phases, but as we move through the process consultation needs to take place with the various users of tribunals and organisations that support them greatly, such as trade unions and citizens advice bureaux. That would allow us to deal with the issues that Robert Brown raises.

I believe that I still have time, Presiding Officer, so I will give my thoughts on some of the reasonable points that were made in the debate. As I said, I support the cabinet secretary's announcement. He made a valid point about the potential savings that can be made by going down this route. Obviously, that is particularly relevant as we move forward to a financial situation in which money will be tight and the challenge will be to identify areas in all budgets, not only the justice budget, in which money can be saved. The proposal is a potential winner, in that it is a way to save money and produce a more effective service.

Robert Brown made a valid point about the children's hearings system. I understand that the system is not covered by the tribunals process, but it is relevant in the sense that our children's hearings panels have operated very effectively—Mike Pringle told us that, unfortunately, there are 43,000 children's hearings each year—and the Scottish system is seen by many as the jewel in the crown. I know that the system is under review, but as we move forward we do not want to change things that operate in a satisfactory manner; we need to bear that in mind.

Dave Thompson made valid points about how complaints are initiated and how we need to make the process more user friendly. Many people who come into contact with the tribunal system find it to be a minefield. They find it very difficult and it is incumbent upon us to make the process more user friendly.

Cathie Craigie, in an excellent speech, highlighted the work of the Cumbernauld and Kilsyth unemployed workers centre and how it gives a voice to those who need to use tribunals. Through that, she also highlighted the need for consultation.

Nigel Don, drawing on his experience of considering the Damages (Scotland) Bill on the Justice Committee, highlighted the importance of access to justice.

In a thought-provoking speech, Stewart Maxwell built on the idea of supporting a tribunals service to save money by arguing that the model could be applied throughout the public sector. That is a much bigger debate that will take place across the Scottish political system. It will be interesting to see whether he advances some of his ideas at the forthcoming Scottish National Party conference.

Bill Butler commented on the need for a less adversarial approach. I am sure that everyone would agree with that.

In a good-natured attempt to break the consensus, Anne McLaughlin, along with Dave Thompson, mentioned independence. She also spoke seriously about the fact that there was too much bureaucracy in tribunals and that we need to try to reduce it.

Mike Pringle made an excellent point on how we could make the process of complaining to ombudsmen more effective and user friendly.

Bill Aitken, the convener of the Justice Committee, brought all his experience to bear in his speech as ever. He particularly brought out the fact that we need to be aware of what is happening with the Gill review. There is an element of crossover between the work that is taking place on tribunals and that review. I am sure that the ministerial team is aware of that and does not want any duplication.

The debate has been useful and there were a number of interesting speeches. We support the Government motion and welcome the Government's indication that it will support the Labour amendment's call for more consultation. The issues that the steering group identified in the Philip report and which were identified in the debate will be taken forward constructively, and I hope that that will help the many users of tribunals throughout Scotland.

16:42

The Minister for Community Safety (Fergus Ewing): I am delighted to participate in the debate and we were delighted to hear the cabinet secretary's announcement of the establishment of a Scottish tribunals service on 1 December. It was gratifying to see that that announcement, which will be good for Scotland, was made with the support and co-operation of the Lord Chancellor, Minister for Justice and fellow jazz lover, Ken Clarke. We are pleased that the respect agenda continues in that regard.

The service will initially bring together into one organisation the administrative support for five devolved tribunals. The cabinet secretary identified them in his opening speech. They are: the Mental Health Tribunal for Scotland, the Additional Support Needs Tribunals for Scotland, the private rented housing panel, the Pensions Appeal Tribunals for Scotland and the Scottish charity appeals panel.

The debate has been so wide ranging that one sometimes felt that the speeches strayed over the boundary of relevance, in cricketing parlance. Throughout it, we heard experiences from

members' working lives in education appeals, which Mr Pringle mentioned, children's hearings, which various members mentioned, and constituency work, which a great many members mentioned. That gave us the picture of a huge amount of important work, about which we hear little, being carried out in tribunals.

We also debate tribunals little in comparison with the Scottish Court Service, which we debate all the time. This debate has provided an opportunity for members to give their points of view, and I am grateful to them for so doing. Bringing together the Scottish tribunals service will create considerable benefits for Scotland.

Robert Brown: Will the minister comment on the point that was implicit in various contributions to the debate, about the sheer number of tribunal cases? Would it be worth having a more detailed study of ways in which the number of cases might be reduced, for example by better mediation at an earlier stage, which might sort out cases more effectively, more satisfactorily and at less cost?

Fergus Ewing: I entirely agree, and I had planned to expand and expatiate on that important issue later in my speech. Approximately 50,000 cases a year go to tribunal, and 42 tribunals operate in Scotland. Some tribunals, such as the mental health tribunals, handle a huge number of cases; others hear very few. The Scottish charity appeals panel has been asked to intervene either once or not at all. There is huge variance.

Mr Brown's point is absolutely right—I may as well deal with it now, since he has raised it. The Scottish Government has been doing considerable work to support mediation. We give financial support to the Scottish Mediation Network. We believe that it is better to try to avoid going to court. As a former solicitor, Mr Brown, like me, will remember that too often the main gainers in court actions are the solicitors rather than the clients, irrespective of the outcome. It is a sad fact of litigation that if there are two parties only one can win, and often both of them feel that they have lost. Even if one of them has been the nominal victor, the costs of pursuing litigation are extremely high, particularly for more serious matters.

Even a minor matter in a summary case can lead to huge expenses on either side, out of all proportion to the original prospect. I read of a case—in the papers, so one does not know whether it is entirely true—of a lady who was sequestered and had incurred legal costs of hundreds of thousands of pounds for a disputed factorial bill of a couple of hundred pounds. Most people know that pursuing litigation for such matters is not sensible. What most people perhaps do not appreciate is just how emotionally draining and taxing it is to be involved in a litigation.

I agree entirely with Robert Brown. A huge amount of work has been going on to support mediation. The same applies to arbitration, which was mentioned by several members. In the past few days I have attended a meeting with those who are involved in arbitration, with a view to implementing yet another of our manifesto pledges—in addition to 77 out of a total of 94—namely, the establishment of a Scottish arbitration centre. Seventy-seven out of 94 ain't bad, and is a record that I wish I had achieved in my examination results at school. We want to establish a Scottish arbitration centre partly because we believe that it will facilitate faster solutions to people who have disputes. We believe that it is right that they should do so. It is an extremely serious point.

It has been an extremely general debate, so if other comments are considered relevant then this one must be relevant, too. I hope so.

Patricia Ferguson (Glasgow Maryhill) (Lab):

Given the minister's enthusiasm for mediation and arbitration, will he indicate whether his Government is whole-heartedly behind my Property Factors (Scotland) Bill, which I hope would give people such as the lady he mentioned the opportunity to settle her difficulties more accessibly and comfortably than by going to court?

Fergus Ewing: I am not sure about the precise detail of the proposal in Ms Ferguson's bill, but in general and in principle, we support alternative dispute resolution and believe that people should pursue every reasonable option to try to resolve differences without going to a tribunal or a court. That is just an extension of common sense. We have various other measures, but time probably does not permit me to go into them, so I will move swiftly on.

We believe that the Scottish tribunals service will create a more efficient and effective administration that will be able to use its scale to make better use of resources. As the cabinet secretary said, it will begin to tackle the fragmentation of the tribunals—a point that many members made during the debate. We are working towards all tribunals in Scotland being part of a coherent Scottish justice system that is administered in Scotland. Indeed, there is a timetable for the achievement of that, which brings us up to around 2015, by which time we hope to see the Scottish tribunals service include all tribunals; that is the aim.

Many members, principally Mr Robert Brown, referred to the role of tribunals that deal with reserved areas, one of which is, of course, industrial tribunals. Employment law is substantially reserved to Westminster. It is an area in which I had some practice, although unfortunately for me I was usually up against Mr

Brown's partner, Rod McKenzie, or Raymond Williamson, who are avowed experts in employment law, and I thereby secured defeat for my unfortunate clients. I did have some success on other occasions.

It is striking that in employment tribunals claims have to be made within a short time; three months is the cut-off point for unfair dismissal claims. There is then a very quick process of getting a day in court. The dates are assigned through a commonsense process so that, within a reasonable amount of time after someone loses their job, they get their day in court. In most cases, they do not have to go through an overly complex, endless and byzantine process of adjusting pleadings—as one has to do in the civil courts, which can go on for years. They have to go through a fairly rapid process to get to the hearing for their dispute. We should value that and praise all those who work in our tribunal system for achieving it.

Mr Brown referred to complex cases, and there are many that might well go on to the employment appeal tribunal or even further, but that is relatively infrequent. By and large, in comparing and contrasting the employment tribunals with the civil court system, my experience is that the employment tribunal was a far less stressful and more satisfactory experience for clients. That is merely my experience, and it might not be wholly accurate, but it is a tribute to the Scottish tribunal system and all who work in it that we have such a good system. Because we have responsibility for the area, I decided to meet those who head our employment tribunals in Scotland. I met Shona Simon, the president of employment tribunals in Scotland, and Susan Walker, who is the vice-president.

There are a great many issues of huge importance, some of which have been raised today by Cathie Craigie, who covered her constituents' many concerns in her remarks about the difficulties that constituents have in accessing tribunals. In response to some of Cathie Craigie's points, and those of other members, I say that an element of legal advice and assistance is provided in the preparation of cases that are going to tribunal under the advice and assistance scheme, and the assistance by way of representation—ABWOR—scheme. I have the figures with me, but I do not want to bore members in the chamber so I will not read them out.

Margo MacDonald (Lothians) (Ind): You still have six minutes to go.

Christine Grahame (South of Scotland) (SNP): Why change the habit of a lifetime?

Fergus Ewing: I do not like to disappoint, Presiding Officer, and some remarks are being

made off-stage; unfortunately, I cannot hear them. I reassure members that there is an element of publicly funded assistance for the preparation of cases going to tribunal. It is important because getting the facts right and presenting them coherently is the basic requirement for success in any case.

Cathie Craigie: I am grateful to the minister for allowing me back in, and that he is showing that he is taking seriously the concerns that I have raised. I accept that there is an element of support for preparing for a tribunal but, as I understand it, that support would come through a lawyer. Many people, including many of my constituents, go to voluntary organisations that have established expertise. How can they access financial support of that sort?

Fergus Ewing: I am grateful to Cathie Craigie for making that point, as it brings me neatly to the next segment of my speech—although I note, Presiding Officer, that we are running out of time. *[Laughter.]* Cathie Craigie is absolutely right. She mentioned citizens advice bureaux earlier—as have other members—which do an excellent job in helping people to prepare cases before tribunals.

In my intervention, which Cathie Craigie kindly took during her speech, I alluded to my and my party's concern that there will be a considerable growth in the number of appeals against the refusal of employment support allowance throughout Scotland. When I visited the Nairn and Inverness citizens advice bureaux, I was told that there are already a huge number of such appeals. I place on record our worry that there will be very serious consequences if there are reforms to benefits whereby people on low levels of benefit have them removed. The appeals system is under great strain at the moment, which I believe is because of difficulties in dealing with the private company that has the responsibility for dealing with medical evidence. I suspect that those matters will become issues of great political controversy in quite a short time, should the UK go ahead with its avowed intention further to reform and make difficult the availability of benefits.

I want to provide some relief to Cathie Craigie by reassuring her that, in addition to the measures to which I have just alluded, which I am sure she will welcome, we will in the stage 3 debate next week on the Legal Services (Scotland) Bill, which I know has cross-party support, propose a number of measures that specifically address the points that she has raised. For example, if the Legal Services (Scotland) Bill is passed, citizens advice bureaux will be able to employ solicitors for the first time. They cannot do that at the moment, but they will be able to assist Cathie Craigie's constituents further—

The Presiding Officer: Order. There are some very loud conversations taking place around the chamber. I would be grateful if they could be muted.

Fergus Ewing: Thank you, Presiding Officer.

Organisations such as Scottish Women's Aid, to whose conference I spoke but a few weeks ago, will be able to employ a solicitor if the Parliament passes the Legal Services (Scotland) Bill next week. That means that they will be better able to deal with the hugely important and sensitive task of obtaining matrimonial interdicts for females who are the victims of violence. The bill will be of assistance to them, too.

I can further reassure Cathie Craigie, who raised the topic, that if the Legal Services (Scotland) Bill is passed next week, we will have the benefits of section 96, which will place a new duty on the Scottish Legal Aid Board. It will not just be a passive body that dishes out legal aid on application and administers it prudently, but will have a duty proactively to monitor the availability of legal aid throughout Scotland.

If the Parliament passes the Legal Services (Scotland) Bill next week, all those points—

Cathie Craigie: Will the minister take an intervention?

Fergus Ewing: Most certainly.

Cathie Craigie: I thank the minister for the trailer for next week's business. I am sure that the chamber will be absolutely stowed next Wednesday afternoon, given the interest in the bill.

I am looking for information regarding voluntary organisations that might not have the resources to employ solicitors. I accept what the minister is saying about the Legal Services (Scotland) Bill, and I welcome the aspects of it that the minister has been discussing, but we are talking about tribunals. How can we get some resources to the voluntary groups that represent the minister's constituents and mine at tribunals up and down Scotland?

The Presiding Officer: Disappointingly, the minister must wind up now.

Fergus Ewing: I know that the chamber will be agog next week during stage 3 of the Legal Services (Scotland) Bill and I do enjoy speaking to a full house, but I can reassure Cathie Craigie that this Government has been very generous to those voluntary organisations, as Mr Neil can testify, because he has provided considerable support to those bodies, which do an excellent job throughout Scotland.

I thank all members for what has been a highly stimulating debate.

Decision Time

17:00

The Presiding Officer (Alex Fergusson): We come to decision time. There are seven questions to be put as a result of today's business. I remind members that in relation to the debate on higher education, if the amendment in the name of Michael Russell is agreed to, the amendments in the names of Claire Baker and Margaret Smith will fall.

The first question is, that amendment S3M-7109.2, in the name of Michael Russell, which seeks to amend motion S3M-7109, in the name of Elizabeth Smith, on higher education, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Campbell, Aileen (South of Scotland) (SNP)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Paterson, Gil (West of Scotland) (SNP)
 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)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGregor, Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

The Presiding Officer: The result of the division is: For 63, Against 58, Abstentions 0.

Amendment agreed to.

The Presiding Officer: The next two amendments therefore fall.

The next question is, that motion S3M-7109, in the name of Elizabeth Smith, on higher education, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Campbell, Aileen (South of Scotland) (SNP)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Paterson, Gil (West of Scotland) (SNP)
 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)
 Scott, Tavish (Shetland) (LD)

Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McGregor, Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)

Abstentions

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Foulkes, George (Lothians) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)

Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

The Presiding Officer: The result of the division is: For 62, Against 17, Abstentions 42.

Motion, as amended agreed to,

That the Parliament welcomes the firm consensus against any introduction of up-front fees in Scotland; notes the ongoing Independent Review of Higher Education and Student Finance in England and Wales; recognises that the Scottish Government will need to consider any potential impact on Scottish universities, and further recognises the Scottish Government's intention to publish a green paper on higher education to explore these issues further.

The Presiding Officer: The next question is, that amendment S3M-7116.2, in the name of Richard Baker, which seeks to amend motion S3M-7116, in the name of Kenny MacAskill, on administrative justice and the future of tribunals, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that amendment S3M-7116.1, in the name of John Lamont, which seeks to amend motion S3M-7116, in the name of Kenny MacAskill, on administrative justice and the future of tribunals, be agreed to.

Amendment agreed to.

The Presiding Officer: The final question is, that motion S3M-7116, in the name of Kenny MacAskill, on administrative justice and the future of tribunals, as amended, be agreed to.

Motion, as amended, agreed to,

That the Parliament believes that justice delivered by tribunals is an integral part of the Scottish justice system; welcomes the Lord Chancellor's invitation to the Scottish Ministers to consider with him proposals to devolve responsibility for tribunals operating in Scotland; further notes and welcomes moves to create an integrated Scottish tribunal service; in doing so, recognises that any forthcoming proposals from the Scottish Government for reform of the tribunals system should be consulted on widely, including with those currently involved in the operation of tribunals, as well as trade unions, Citizens Advice Scotland and other organisations that support those taking cases to tribunals, and further notes that the Lord Chancellor has emphasised that any transfer of powers should seek to preserve the benefits of existing arrangements.

Offshore Renewables

The Deputy Presiding Officer (Alasdair Morgan): The final item of business is a members' business debate on motion S3M-6366, in the name of Maureen Watt, on the offshore valuation study. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes the publication of *The Offshore Valuation Study* at the All Energy Conference in Aberdeen; believes that its conclusions demonstrate the scale of economic opportunity available to Scotland in the offshore renewables sector, and acknowledges the report's conclusion that the development of a European super-grid is integral to the future success of the industry.

17:04

Maureen Watt (North East Scotland) (SNP): I thank all the members who have stayed for the debate and those who signed the associated motion. Given that the Scottish low carbon investment conference took place this week, I believe that it is a timely moment to discuss the offshore valuation study and the challenges and opportunities that it sets out for Scotland's renewables industry.

The subject is often discussed by members of all parties, and I believe that all members want Scotland to lead the way in harnessing the renewable energy off our shores to drive forward our economy. To get there, however, it is imperative that grand vision is matched by robust calculation and strategy.

The offshore valuation study is an important document that goes a long way towards quantifying what must be done in the coming years and what the potential rewards will be. It is a solid basis for the long-term planning that will be the bedrock of making the most of the renewable energy resources off our coasts.

Last year, the Parliament passed its world-leading Climate Change (Scotland) Act 2009, which is one of the most important actions that members have taken since devolution began. The challenges of meeting the target of a 42 per cent reduction in carbon emissions by 2020 and an 80 per cent reduction by 2050 are significant, and the nature of our energy supply will play a key role.

It is estimated that, across the United Kingdom, electricity supply will need to reduce its carbon emissions by 80 per cent before 2030 if we are to stay on track to meet the 2050 carbon emissions reduction targets. In Scotland, we have the opportunity to be well ahead of that curve. The First Minister announced just days ago that Scotland should aim to produce 80 per cent of the electricity that we need from renewable sources by

2020, and that there is the real prospect that 100 per cent of our electricity demands will be met by renewable means by 2025. Those are challenging goals, but they are made possible by the rate of progress in recent years.

As important as it is for us to support the development of renewable energy for climate change reasons, there is an unprecedented economic opportunity for our nation, too. The offshore valuation study estimates that the UK's offshore renewable energy resources would, if developed to full capacity, produce six times the current UK electricity demand, or 2,131TWh. While any conventional resource will inevitably diminish with time, renewable energy by its very nature will always be there for us to take advantage of with the right infrastructure and equipment.

The offshore valuation study outlines three scenarios that could be delivered with appropriate levels of investment. The first is that the UK would develop offshore renewables to the point at which any further development would require electricity to be exported. The second is that we would push past that to the point at which electricity exports would be equivalent to the electricity that is produced by all means other than offshore renewables. The third is that enough electricity would be produced to match the energy that is generated by electricity, gas, oil-based fuels and other sources. The aspiration to produce clean, renewable energy that provides for heat and transport needs across the UK in that way is hugely ambitious, but it is conceivable if enough was to be invested.

Each scenario is progressively more ambitious, with greater initial investment demands and greater rewards in the longer term. The scenarios provide highly illustrative demonstrations of the level of investment that is required, but also the level of energy and wealth that can be produced.

It is clear from the scenarios that if we have the ambition to export renewable electricity to other parts of Europe, the creation of a European Union supergrid is fundamental. The access to a European energy market that a supergrid would bring is essential if the potential revenues from offshore renewables are to be secured. The EU has identified the development of a European supergrid as a key infrastructure priority, but we cannot rest on our laurels and assume that that infrastructure will automatically be built without Scotland's continued input.

As long as Scotland does not enjoy its own voice in Europe, I hope that all parties in the Parliament would push the UK Government at every opportunity to lead the progress that must be made on delivering a supergrid. That is a

development of critical national importance for Scotland's economic future.

Of course, a supergrid is not the only infrastructure that will be needed to make a success of offshore renewables. Sites around Scotland that, with the right investment, can become hubs for the offshore renewables industry are identified in the national renewables infrastructure plan. In the north-east, Aberdeen is already the energy capital of Europe, thanks to the oil industry. It has rightly been identified as integral to the future of offshore renewables, too.

Getting the right investment in place is critical if Scotland is to fully develop its own centres for manufacturing, maintaining and operating offshore renewables technology. We have a wealth of offshore expertise, thanks to the oil industry, and we can develop that expertise further to provide real jobs and economic opportunities to thousands of people throughout Scotland in the offshore renewables industry. Fully developing our supply chain is a key part of the progress that we must make if we are to ensure that the cost of offshore renewables is not to be prohibitive and that the Scottish economy enjoys maximum benefit from the industry's growth.

The European Commission's North Sea grid co-ordinator, Georg Adamowitsch, recently said:

"Taking into account the wind, wave and tidal resources of Scotland, you are in a position to help the rest of Europe to achieve its climate goals."

A real leadership role is available for Scotland to grasp in moving towards offshore renewables to help to tackle climate change. The findings in the offshore valuation study are an invaluable outline of the challenges and opportunities ahead. We must ensure that we build on them to help Scotland to achieve our potential in the area.

17:11

Lewis Macdonald (Aberdeen Central) (Lab): I congratulate Maureen Watt on securing the debate and highlighting the work of the offshore valuation group, and am delighted that there is cross-party enthusiasm for a project that was, of course, given the green light by Ed Miliband as Secretary of State for Energy and Climate Change. There is also cross-party enthusiasm for a European supergrid and offshore renewables in general. However, it is easy to talk a good game on renewable energy; it is much harder to deliver.

It is more than seven years since I gave consent as the responsible minister for Scotland's first offshore wind farm at Robin Rigg in the Solway Firth, and it is four years since ministers at Westminster gave the green light to wind power generation from the Beatrice oil field in the Moray Firth. Since then, important steps forward have

been taken in recognising the potential future contribution of offshore wind, but there are still vital decisions to be made. The next 10 years will be critical in realising that potential.

The world's biggest offshore wind farm was officially opened the other day, but it is not in Scottish waters—it is off the coast of Kent. Just because we have the best natural resources, it does not automatically follow that we will capture the economic benefits that those resources can bring. To do that, we have to recognise and be honest about the challenges in funding the necessary infrastructure and delivering the necessary consents. Anyone who is tempted to believe that that will be easy needs to reflect for a moment on the record on onshore wind.

Since the current Scottish Government took office, ministers have made decisions on 16 new onshore wind farm applications. They have approved 11 of them, with a combined potential output of 1,676MW, and rejected five, with a combined potential output of 1,153MW. That is a 60:40 ratio. In other words, ministers have approved 60 per cent, or three out of every five, potential megawatts of new renewable energy from new onshore wind farms since May 2007. Hence the need for realism as well as ambition in relation to offshore wind. Scotland can compete, but it can compete for offshore investment only if the strategic environmental assessment for Scottish waters supports wind power development as much as it is supported elsewhere in these islands, and if the consenting authority for Scotland's marine environment is able to deliver an approval rate for projects that is better than 60 per cent.

We need to be realistic about a European supergrid. Norway's grid company, Statnett, is very interested in bridging the North Sea in order to export Norway's surplus hydro power to these islands. Such an interconnector might hinge on a mid-sea supernode in the central North Sea that gathers demand from oil platforms and supply from offshore wind farms. That would certainly be good news for Aberdeen, as the headquarters of offshore energy operations on the UK continental shelf.

The offshore valuation group supports a Norway-Great Britain link, as the European Wind Energy Association said last year that it does, but in its report it highlighted the importance of doing other things first and anticipated that landfall for such a link would be in England rather than in Scotland. The table that shows the initial supergrid layout, which is on page 72 of the report, makes clear that the first priority is to link all parts of these islands and to connect Great Britain to Norway and to Denmark, Germany and the Netherlands via a mid-sea supernode in the next 20 years. A

Scotland-Norway direct interconnector is envisaged only in the 2030s.

I hope that the Scottish Government will be an enthusiast for the North Sea supergrid, and that it will have cross-party support. The first part of achieving the supergrid should be development of our interconnectors within these islands and then from Britain to continental Europe via the central North Sea. Politics is about priorities, and those should be our shared priorities as we go forward.

17:15

Rob Gibson (Highlands and Islands) (SNP): I congratulate Maureen Watt on securing this useful debate.

I am often involved in discussions about the output of wind farms and so on. I must point out that when Lewis Macdonald commented on the 60:40 ratio of consents to rejections, he was probably including the Lewis wind farm—I see that he is confirming that—which all members know was never going to be consented in the form that was proposed and is a lesson to us all. If we leave aside the Lewis wind farm, our success rate is far higher than the member suggested it is.

Lewis Macdonald: I am interested in the member's comment. Why does he think that the Lewis wind farm could not have been consented?

Rob Gibson: I think that we all recognise that there are issues in various parts of the country. The Lewis wind farm application represented the worst possible way to go about securing a large project. Given the islanders' response—let alone the applicants' lack of environmental sensibility about the peatlands on which they proposed to build the wind farm—absolutely the wrong climate was created for taking such a project forward.

The motion is about the offshore valuation group's study. The group made the sensible proposal that wind farm round 3 grid connections must be supergrid compliant. During the European recovery package discussions, money was given to the UK Government to take forward the North Sea grid. I want to know exactly how that money has been used, because it was supposed to be used this year.

I am fascinated by the arguments in the study about financing the process. I have no doubt that the minister will talk about that. The group talks about hundreds of billions of pounds per decade, which gives us an idea of the scale of what is proposed. People outside the chattering classes and the oil and renewables industries perhaps do not get the size and cost of what is proposed, although the issue has been brought to our attention as a result of the proposals for a green investment bank, in relation to which it has been

suggested that about £550 billion would be needed over the period of development of the technologies. Such a sum would be needed; the oil industry was able to find the money for the recovery of oil from the North Sea, but who will pay for the expensive processes that are required in relation to offshore wind, tide and wave energy is a moot point.

In *The Herald* yesterday, Ian Bell pointed out that Alex Salmond, as other people have done, has come up with a figure of £200 billion for the private investment that will be required to secure a future for renewables in Scotland. That is a massive sum. In the Scottish context, it is important that we know how the process will work in Britain so that we can eventually feed into the European grid.

My point is that if we have to get Scotland's contribution maximised, the cross-party support for a green investment bank sited in Edinburgh, and backed up by the powers of our financial community and the location here of many of the headquarters of the renewables companies, is an important part of that, because in order for us to get the money that is needed to make the necessary progress, it is essential that people see that the people who are involved in it are based here and not in London. I hope that members of the coalition Government will be of a mood to think about that as well.

Many things could be said about what has been achieved. The Thanet scheme has benefited from the jackets that are built at Burntisland Fabrications in Methil. It is an international industry. The deep waters of the Moray Firth are going to be dealing with the technologies that will be exported. The deep waters of the USA and Brazil are looking to the prototypes at the Beatrice wind farm scheme to be expanded to 200 or 270 machines that might be capable of producing 8MW each by the time they are built in 2020. That is the technology that is going to be exported. The shallow-water technologies are not at the cutting edge, and that is another reason why the offshore valuation study has to recognise the difficulties, but also the opportunities, that are created by what we can do in Scottish waters.

17:21

Nanette Milne (North East Scotland) (Con): MSPs who represent the north-east of Scotland, such as myself, clearly see the importance of the oil and gas and offshore renewables sector and view it as being pivotal to the future economic prosperity not only of our part of Scotland, but of the entire nation. I have lived in Aberdeen all my life, and I have seen how the oil and gas industry and its daughter industry, the renewables sector, have provided growth and jobs to the local area.

It is often overlooked that the oil and gas sector, which is predominantly located in the north-east, currently accounts for more than 50 per cent of Scotland's gross domestic product receipts that go to the Treasury. It is therefore exciting that Scotland could be in a position to harness the offshore renewables sector's potential. With three of the world's largest offshore renewables projects in the pipeline and set to come on stream in the next four years, we need to do more to ensure not only that the north-east and the rest of Scotland benefit from the development, but that the jobs and economic growth that might stem from it are maximised. The offshore valuation study clearly points to how that potential can be realised through the development of a European supergrid. The study suggests that harnessing just a third of Scotland's practical offshore wind, wave and tidal resource by 2050 would take the country's installed offshore renewables capacity to 68GW.

As everyone knows, I do not always agree with the First Minister, but I fully endorse the comments that he made this week at the low-carbon investment conference in Edinburgh and the launch of the offshore wind industry group's route map. With required capital expenditure in offshore projects estimated to be at least £177 billion in Scotland alone, it is vital that all political parties work to demonstrate the opportunities that exist for private finance leaders to seize the multibillion pound opportunities in renewables and low-carbon technology and, more importantly, to demonstrate that Scotland is not only open to business but has people with the transferable skills that can give businesses a competitive advantage. The jobs potential cannot be underestimated, with up to 60,000 new green jobs potentially being created across the low-carbon sector by the end of this decade, some 28,000 of them directly servicing domestic and worldwide offshore wind markets.

Although the First Minister is not here this evening, I am sure that he would want to acknowledge and warmly endorse the decision by the Conservative-Liberal Democrat coalition Government at Westminster to review the transmission rates scheme and the coalition Government's agreement to work to deliver an offshore electricity grid in order to support the development of a new generation of offshore wind power.

The future development of the renewables sector in Scotland will go hand in hand with the future of the oil and gas industry, and the many present and future opportunities that both sectors offer our country. However, there are many challenges—not least the need to develop the sector skills that will be required to take advantage of the jobs and economic potential that the renewables sector can develop.

I believe that all political parties can see that potential, and what we need now is the political will to create the right environment for business enterprise, and lower regulation that will allow that potential to be delivered.

17:25

Nigel Don (North East Scotland) (SNP): I, too, congratulate Maureen Watt on bringing her motion to the chamber for debate. It is sad that so few members have stayed to debate what is going to be an enormously important part of our future economy.

I would like to reflect on four things, the first of which is the Crown Estate. I understand that Richard Lochhead has already started discussions with local authorities and others about how the Crown Estate should perhaps be modified and how our involvement with it should change in such a way that Scotland's communities can benefit from the natural resources off our shores and the benefit is not all transferred straight to London. I do not think that one needs to be a nationalist to see that there is a point in there, and it is one that the Scottish Government needs to pursue with some vigour.

Secondly, I reflect on the sheer scale of the opportunity, which others have mentioned. The numbers are quite staggering. I endorse the thought that the First Minister expressed in his speech earlier this week about the need for the financial institutions to recognise that they have an opportunity to invest in something that is genuinely new. They can put money—and it will be very big sums of money—into developing something that is simply not there at the moment. Their investment will not just change the value of other assets but create new ones. We have to enthuse the financial institutions around the world to get behind this sensible investment for the future.

I also make the point that some of the things that we know about the oil industry are not true of the renewables industry. The maintenance side of the business will be much more about ships than about helicopters. Clearly, the oil comes up and the helicopters can come down, but when a lot of what we are doing involves turbines, we will not be able to get helicopters in there, so the maintenance industry, at least for offshore turbines, will be different. That will make our ports more important, which is my third point.

Members who are in the chamber at the moment know an awful lot about Aberdeen. We also recognise that Dundee is well placed, and it will make its case. However, I observe that the smaller port of Montrose is an extremely important part of the equation. Indeed, it is mentioned in the study. Montrose is already interested and active in

the oil industry, and it is well placed for the future. I had an interesting discussion only last week with the chief executive of Montrose Port Authority, John Paterson, about deepwater harbours and serious efforts to be involved in the offshore renewables. I encourage the minister and the Government not to forget Montrose.

One thought on Montrose is that a railway goes through the centre of the town, but there is no railhead for cargo. There is surely an opportunity for a containerised railhead. A lot of other products could go through such a facility, but I certainly think that those who are trying to do engineering in the area would be grateful to be able to get their goods, containerised or otherwise, on to the railways. I do not think that we really want to run everything on the roads of Angus. There are good reasons for not doing that.

The fourth point that I would like to reflect on is not just the scale of the money that is involved, because banks know about big sums of money, but the challenge to integrated decision making. If we are going to make this work, we must ensure that investments, Government authorities, planning authorities and all the other custodians of decisions, checks and balances, safety and so on recognise that we need to make it happen. It only takes one party to get in the way. We need a collective, national decision that we are going to win the battle, that we are going to win the race, and that we are going to be the renewables powerhouse of Europe. Only when we all do it is it actually going to work.

17:29

The Minister for Enterprise, Energy and Tourism (Jim Mather): I am keen to congratulate Maureen Watt on bringing the debate to Parliament in a significant week in which we have had an extremely constructive PILOT meeting in Aberdeen, at which the UK Government, the Scottish Government and the oil and gas sector came together. Charles Hendry, the new UK energy minister, was there. There was plenty of evidence of the respect agenda and a genuine desire to work collaboratively—which we very much welcomed—a point that he made when he opened a dinner that we had and again when he closed it, and which he made again in opening and closing the following day's session. He carried that message on to the low-carbon finance conference that was held on 28 and 29 September, which was attended by between 400 and 500 people. Today, we had the hydrogen conference, so the tempo is increasing.

I intend to run an amnesty on competing on our approval ratings because I think that the collaborative, cross-party approach—which I think is the tone that I detected earlier today—and the

respect agenda in the renewable energy sector are vital in offering the greater sector, the finance sources, the UK Government and the EU a sight of cross-party cohesion and a single voice from Scotland. We have a monumental opportunity. If we can show constancy of purpose as a Parliament and as a society, the prize will be all the more achievable and all the more deliverable. Hence, we all have part-ownership of a legacy that will be hugely important to Scotland.

I am extremely grateful to Maureen Watt for securing the debate on an issue that is as hugely important as I have just said that it is. The offshore valuation study did Ed Miliband no harm, and I believe that it will do Scotland no harm. It has validated our energy policy, which favours the comparative advantage that Scotland has to offer, and it further strengthens our view that Scotland should have better grid connections to continental Europe. I will expand on that point for a moment, if I may.

It is clear that the supergrid is a shared priority. Georg Adamowitsch, who, as the European Commission's electricity grid co-ordinator, is the personification of grid and the continuity figure in Europe, was back in Scotland this week for the third time to talk about the supergrid and the potential of an EU common energy market. He got great feedback from Scotland. I urge members to get sight of the video that was used to open the conference. There is one part of the video that animates the grid potential around Scotland and which shows Scotland connected to the rest of the UK, to Ireland and to Norway—where the First Minister went last month to progress the issue—by a North Sea supergrid. It is heart warming to watch that animated production, which pulses with climate change capability, renewables capability, security of supply and the potential to export electricity to Europe. I do not want to be too heavy about this, but it almost takes you into the land of goose bumps; you can really begin to see things happening.

It is entirely credible that Scotland is standing on the verge of a low-carbon energy revolution, and what has happened this week at the PILOT meeting and at the low-carbon finance conference has very much consolidated that. Even before that, the consolidation process was under way with companies such as Quayle Munro, PricewaterhouseCoopers, McGrigors Energy and Morton Fraser bringing people—including people from furth of Scotland—together to be involved in the debate, and it was a palpable phenomenon at this week's conference.

Things are beginning to happen. The figure of 206GW that David MacKay came up with is a salivating prospect. Even if we were to produce only about a third of that, we would generate some

£14 billion of revenue by 2050, with the employment potential estimated at 145,000 jobs. That is in essence what drives our enthusiasm for the offshore wind route map and the prospects of the revenues that will come from it. The route map has been developed through a process of open engagement with communities throughout Scotland. The recent offshore wind strategic environmental assessment consultation has produced material responses from people throughout Scotland, with more than 500 responses received to date. Now the feedback process will take place. That process allows us to move forward with increased confidence.

Nanette Milne: Does the minister agree that it is key to realising the tremendous opportunities for employment that we pay serious attention to the sector's skills needs?

Jim Mather: I agree with that absolutely. The steps are in place to achieve that. We are having conversations with the relevant people and people are beginning to see the opportunities for that. I recently spoke to Ian Marchant, who is investing heavily in the University of Strathclyde campus on that. There are other examples of people moving in that direction, as we heard about recently at First Minister's question time.

The marine renewables sector is important, because we have the prospect of generating 1GW from it by 2020. We have delivered grant funding of £13 million for the wave and tidal energy: research, development and demonstration support—WATERS—fund. The saltire prize is garnering continuous attention. We are sometimes criticised for the timing of the saltire prize, but I believe that it is wonderful Scottish cash flow management. We have gained enormous advantage through the publicity from the prize and we have leveraged that even further this week.

We are considering the practicalities of skills and infrastructure, but I will concentrate on infrastructure for a moment. In a debate last week, our Liberal Democrat friends told us that they would make their best efforts on the release of the fossil fuel levy. We made a big issue of that this week and reinforced the point with Charles Hendry, because it is critical in these difficult times to make that release happen. The message must be continually reinforced. We welcome the review that is under way, but it must take us to a point at which money hits bank accounts and decisions can be made.

Nobody could fail to acknowledge the environmental, economic and social opportunity in Scotland of the offshore renewables sector. We are not complacent; we are cracking on. We recognise that a great deal of work needs to be done and that we need to translate that into practical steps. Having 500 practical people in a

room for two days is a great way to make progress on that. I should say that a hallmark of that conference was the buzz of conversation in the coffee breaks. I did not linger for a coffee break, but I passed through one and saw people networking furiously. We have identified all the key stakeholders and we are bringing them together. We will work with communities. I welcome the valuation report, which I am sure is the start of something of which the current generation can be really proud.

Meeting closed at 17:37.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

Members who wish to suggest corrections for the archive edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by RR Donnelley and is available from:

Scottish Parliament

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

Public Information Service

The Scottish Parliament
Edinburgh EH99 1SP

Telephone: 0131 348 5000

Fòn: 0131 348 5395 (Gàidhlig)

Textphone users may contact us on
0800 092 7100.

We also welcome calls using the Text Relay service.

Fax: 0131 348 5601

E-mail: sp.info@scottish.parliament.uk

We welcome written correspondence in any language.

Blackwell's Scottish Parliament Documentation

Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries

0131 622 8283 or

0131 622 8258

Fax orders

0131 557 8149

E-mail orders, subscriptions and standing orders
business.edinburgh@blackwell.co.uk

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:

243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Accredited Agents

(see Yellow Pages)

and through other good booksellers

e-format first available
ISBN 978-1-4061-6773-3

Revised e-format available
ISBN 978-0-85758-124-2