



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Wednesday 17 November 2010

Session 3

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Scottish Parliament

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

Time for Reflection

The Presiding Officer (Alex Fergusson): Good afternoon. The first item of business is time for reflection. Our time for reflection leader this afternoon is the Rev Monsignor Denis Carlin from St Mary's rectory in Greenock.

The Rev Monsignor Denis E Carlin (St Mary's Rectory, Greenock): Good afternoon, Presiding Officer, ladies and gentlemen.

In the Catholic tradition, yesterday—16 November—we celebrated the feast of Margaret, queen and patroness of Scotland. She was a fascinating figure, who arrived as a political refugee fleeing the Norman conquest of England, was washed ashore in Scotland by chance and ended up married to the king of the time, Malcolm Canmore. Historians still debate her social and ecclesiastical influence in our land, but it cannot be denied that she brought Scotland much closer to the European mainstream of culture, politics and religious practice.

I have no interest in historical debates, however fascinating. The aspect of Margaret's life that holds greatest relevance for me today is her personal care of the poor, the hungry and the homeless. Her custom was to rise from her dinner table, accompanied by her children, to serve the needy who flocked to her door.

In her world, and in ours, it is easy for those in positions of power and influence to forget the less fortunate or to delegate care of them to others. Margaret took the hands-on approach to caring, as do many people today in our society.

As we all know only too well, Scotland still has its poor, its homeless, its socially untouchable. It has always been the Christian understanding that if we find ourselves with power, money or influence, our duty is to reach out and help those who have not. In the spirit of St Margaret and her hands-on approach, I salute all those people and organisations, church-based or not, who do so much to alleviate suffering in Scotland today.

My prayer for this Parliament is that concern for the most needy in our society may always be more important than politics or personalities and that love and concern for others may shape and inform Scotland today and tomorrow.

Budget 2011-12

The Presiding Officer (Alex Fergusson): The next item of business is a 25-minute statement by the Cabinet Secretary for Finance and Sustainable Growth, John Swinney, on the budget. As the cabinet secretary will take questions at the end of his statement, there should be no interruptions or interventions during it.

14:03

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): Presiding Officer, I would like to make a statement on the Scottish Government's draft budget for 2011-12, which I am publishing today for Parliament's scrutiny and consideration. I am also publishing an equalities statement on the budget, a carbon assessment of it and associated documents.

The budget addresses a financial challenge without precedent since devolution and reflects the biggest reduction in public spending imposed on Scotland by any United Kingdom Government. As the spending review confirmed, in cash terms, the Scottish budget will be cut by £1.3 billion next year. Within that, Scotland's revenue budget will be around £500 million lower and our capital budget £800 million lower.

The scale of those cuts poses a significant challenge to the delivery of public services in Scotland and our economic recovery. Our latest assessments show that, after a downturn that was shallower than that in the UK as a whole, the Scottish economy grew by 1.3 per cent in the second quarter of 2010, which was a stronger performance than in the UK, and the quarterly growth in our construction sector of more than 10 per cent is evidence of the effectiveness of our capital investment programme. However, although the Scottish economy is on the road to recovery, it remains, as today's labour market figures demonstrate, fragile.

I fully accept that a clear and credible plan is required to put the public finances back on a sustainable footing and that that is the unavoidable consequence of the previous UK Government's mismanagement of the public finances.

We and others, including our counterparts in Wales and Northern Ireland, have made it clear to the United Kingdom Government that it is cutting spending too far and too fast. Over the next four years, the UK Government's spending plans will see Scotland's budget fall by £3.3 billion in real terms—an 11 per cent cut. Within that, our capital budget will fall by £1.2 billion in real terms, or a staggering 36 per cent. Two thirds of the cuts were planned by the previous Labour Government, and

Alistair Darling described them as “deeper and tougher” than those under Thatcher. Updated analysis by the Scottish Government's chief economic adviser, published today, estimates that it could take until 2025-26 for the Scottish budget to return to last year's levels. Over that period, the cumulative real-terms loss will be £39 billion.

This is a Parliament of minorities, and we all have a role to play in shaping this budget. The people of Scotland expect nothing less. The challenge now is for us in this Parliament to work together to deliver a budget that works for the people of Scotland. We know that it is more than a one-year challenge and that it will affect every person in Scotland. It will force all of us to ask fundamental questions about the way in which we invest in our public services and our key social and economic priorities.

That is why today's budget addresses the sharpest fall in public spending in any one year of the spending review. It is also why we confirm to Parliament that we are establishing the commission on the future delivery of public services, to be led by Campbell Christie, to ask those fundamental questions about future provision. Led by one of Scotland's most distinguished public servants, the commission will be charged with providing recommendations about how public services must change to meet the medium and long-term financial challenges and the expectations of the people of Scotland. Despite the challenges, we remain ambitious for Scotland's public services, and the commission will advise on how best to deliver excellent, sustainable services for our communities in the future. The commission will report next summer to inform spending plans for the period 2012-13 to 2014-15. Further details of the commission will be announced shortly.

Turning to the immediate challenge that we face, as finance secretary, I have a duty to this Parliament and to the people of Scotland to balance the budget. In February of this year, we established the independent budget review panel, whose report in July was warmly commended, and I thank its members for their efforts and insights. Since the panel's report, we have engaged in an open conversation with the people of Scotland about the spending challenges and choices that Scotland faces.

In bringing forward my proposals, I have been guided by three overriding priorities: to promote and secure Scotland's economic recovery; to protect and invest in Scotland's front-line public services; and to take forward action on climate change so as to maximise Scotland's potential. Throughout that process, I have been ever mindful of my responsibility to ensure that the poorest and

most vulnerable in our society receive the support that they need.

To address the challenge, I will use a series of mechanisms to reduce the impact of the cuts. In recent years, the public sector in Scotland has led the UK on efficiency savings, outperforming Whitehall in each of the past two years. In this budget, we intend to build on that excellent work, which has already seen Scotland exceed our 2 per cent targets, delivering £839 million in efficiency savings in 2008-09 and almost £1.5 billion in 2009-10.

But we must go further. I can announce today that we are seeking efficiency savings of 3 per cent across public services for 2011-12. Each delivery body will be expected to report publicly on their plans, the actions undertaken and the results achieved.

Since entering office in 2007, we have taken radical steps through our simplification programme to reform and streamline the public sector, reducing costs and improving delivery. In October, we announced the establishment of the Scottish education quality and improvement agency, initially bringing together Learning and Teaching Scotland and Her Majesty's Inspectorate of Education into one organisation. That will improve efficiency and drive innovation as we move forward with curriculum for excellence. I can announce today that the General Register Office for Scotland and the National Archives of Scotland will be amalgamated to save further costs and improve service delivery. We remain on track to reduce the number of public bodies by 25 per cent in 2011.

Achieving more focused and effective scrutiny is central to our overall commitment to improvement in the public sector. We will maintain a focus on scrutiny improvement, delivering cash savings of at least 20 per cent over the next four years.

We will continue to lead the way by delivering even greater savings from reforming procurement. In 2009-10, Scotland's public sector delivered savings of £312 million from improved procurement. We intend to build on that. The Government intends to deliver further savings of £61 million in 2011-12 and some £200 million over the next three years. More detail can be found in “Efficiencies from Procurement”, which is published today alongside the draft budget.

We will maximise receipts from the sale of surplus land and buildings to combat the savage cuts to capital investment by the UK Government. The Scottish Futures Trust is developing proposals to increase revenue from land and property assets, and we will build on the success of the SFT, which has already identified savings of £111 million in 2009-10. [Applause.]

Within the Parliament's existing revenue powers, we have explored options for maximising our income. We have been mindful of the need to consider the effect of the significant tax rises that the UK Government has announced before we act. I therefore confirm that we will not raise the Scottish variable rate of income tax. I intend to secure additional resources in 2011-12 by increasing the business rates that are paid by the largest retail properties, including supermarkets and out-of-town retail parks. That will also support our town centres.

The final mechanism that I will highlight is public sector pay, which is a large and important element of our budget. Approximately 55 per cent of our resource spending in Scotland—about £14 billion—goes on pay. Since entering office, we have demonstrated our commitment to pay restraint for high earners while supporting those who are on low pay. Ministers have taken a pay freeze for two years in a row and, in the Scottish Government, pay for the senior civil service was frozen this year.

The independent budget review offered sound analysis on public sector pay and pointed out that, at a time of declining budgets, every penny that is spent on pay increases is likely to be paid for by shedding jobs. I have therefore considered carefully our pay policy, which I am publishing today—several months earlier than usual.

My aim is to maintain public sector jobs and services by constraining pay and to support those who are on the lowest incomes. When we entered office, pay for the lowest-level staff in the Scottish Government was about 5 per cent higher than the minimum wage. In 2010, it is 25 per cent higher. We are proud of that record. *[Applause.]*

Our pay policy applies directly to the 30,000 staff of the Scottish Government, its agencies and most non-departmental public bodies. In addition, the policy sets a framework for discussions with national health service staff, teachers, police and firefighters. Local authorities will continue to be responsible for setting pay with local government staff.

I confirm to Parliament that I intend to implement a pay freeze—a 0 per cent basic award—for all staff in 2011-12, with the exception that staff who earn less than £21,000 will receive a minimum increase of £250, and I confirm that the Government will introduce a living wage of £7.15 per hour. *[Applause.]* Furthermore, I will suspend all non-consolidated pay, including bonuses, in that year, and I am taking action to reduce the costs of high-earning staff across the Scottish public sector.

The costs of the senior civil service will fall by at least 10 per cent by the end of 2011-12 and by 25

per cent by 2014-15. The Government is now operating the presumption that, when a non-departmental public body's chief executive resigns or retires, their replacement will start on a salary that is at least 10 per cent lower than that of the person whom they replace.

We are further reducing the number of chief executives who have access to bonuses from the level that we inherited in 2007. As I said, we will suspend bonus payments in 2011-12. We are working to reduce the number of board members of public bodies into the bargain.

We are committed to cutting the number of senior managers in NHS Scotland by 25 per cent over the life of the next Parliament. Yesterday, the Deputy First Minister confirmed that we are freezing the amount that is paid to NHS consultants in distinction awards. Scotland leads the UK in taking that action. *[Applause.]*

The Presiding Officer: Order. I asked for no interruptions; I ask for no further interruptions until the end of the statement.

John Swinney: As the Parliament knows, one of our most cherished approaches to Scottish Government staff in the past three years has been that of no compulsory redundancies. That has created the right atmosphere to enable us to find the substantial savings year on year that have already transformed efficiency in the Scottish Government.

Clearly, the financial circumstances are totally different from what has gone before and, understandably, given the position that we are in, even that most prized policy has had to be reviewed. However, I am delighted to tell the Parliament that this Government believes that we can sustain our policy position of no compulsory redundancies, on condition that we reach agreements on flexible working practices, which reduce costs while maintaining headcount and services.

The Scottish Government will not lay down what flexibilities are necessary and appropriate for a particular staff group, so our policy encourages employers to negotiate no compulsory redundancy agreements with staff and their representatives as part of collective bargaining negotiations for 2011-12. The details will be for agreement between employers and staff groups.

Proposals for increased flexibilities in exchange for no compulsory redundancies must be fair and effective. We will continue to discuss with the Scottish Trades Union Congress how that can be achieved. The key aim remains to maintain headcount as far as possible while living within sharply reduced budgets. The Scottish Government also commits itself to seeking to

ensure that all public sector employers in Scotland engage with this framework.

These measures demonstrate that we have used all the mechanisms at our disposal to ensure that the public sector in Scotland delivers maximum value for money for every pound that we spend. However, the scale of Westminster's cuts are such that it is simply not possible to find all the savings required through those mechanisms.

Further reductions in spending are unavoidable if the budget is to balance. Where we have been forced to make such reductions, we have protected the services and activities that deliver most for the people of Scotland. We have reduced the budgets of the Scottish Further and Higher Education Funding Council, Learning and Teaching Scotland, the Scottish Qualifications Authority and Skills Development Scotland, but those reductions will be made without detriment to the number of university and college places, the implementation of curriculum for excellence or support for those who are unemployed.

We will put in place fewer and more focused bidding rounds in the Scotland rural development programme and will review the size of grants awarded. In the light of the unprecedented cuts to our capital budget, our spend on transport projects will prioritise existing projects over new. Expenditure on maintenance of the motorway and trunk roads network has been reduced.

Our enterprise agency and tourism budgets have been reduced, partly by building on our earlier reforms and by seeking further reductions in staffing levels, increased efficiencies within the bodies and the removal of lower priority activities.

These decisions have been difficult and they will have an impact—I make no claim to the contrary—but they have been taken so that we can place at the heart of our decision making the reinforcement of our social contract with the people of Scotland.

In difficult times, the Scottish Government has acted to create economic opportunities, protect household income, support front-line services and improve our environment.

As we ask households to accept pay restraint in order to protect jobs and assist the economy, the Government reaffirms our social contract by providing the resources for the full removal of prescription charges and for a freeze in the council tax for a fourth year in succession. We are also maintaining existing eligibility criteria for concessionary travel. We reaffirm our social contract by taking measures that enhance the resilience of the Scottish economy and protect communities across Scotland from the worst impacts of the United Kingdom Government's cuts.

The purpose of the Scottish Government is to focus public services on creating a more successful country, with opportunities for all of Scotland to flourish through increasing sustainable economic growth. By making the difficult decision to limit pay awards in the public sector, we are using the savings to protect jobs. Our pay restraint policy will support thousands of jobs in local economies across Scotland. That action will not only protect the delivery of key services but will assist demand in the wider economy, ease labour market pressures and mitigate inequalities impacts.

I can also announce today that our budget will fund 34,500 training opportunities in 2011-12, while upholding our commitment not to introduce tuition fees; support business growth, including the continuation of the highly successful small business bonus scheme; fund a near £400 million housing and regeneration budget, which will contribute to building 6,000 new affordable homes; support the development of the Victoria and Albert museum project in Dundee; spend more than £11 million on broadband interventions to support our digital ambition for Scotland; and invest a further £11.9 million in support for our food and drink sector.

In response to the cuts to our capital budget that Westminster has imposed, we will take decisive action to support jobs and skills. In response to a real-terms cut of 25 per cent in capital departmental expenditure limit allocation from the Treasury, I have decided to boost capital spending next year by transferring £100 million from this year to support the essential capital projects for the Scottish economy next year. We will proceed with our priority capital projects, including the Forth replacement crossing, the south Glasgow hospitals project and the schools for the future programme. We are protecting the share of the capital budget that is allocated to local government, to allow councils to undertake essential investments in and maintenance of the services that they provide.

We will also undertake a programme of infrastructure investment worth £2.5 billion in health, education and strategic transport projects. That new programme of investment will be supported by revenue finance and delivered using the non-profit distributing model. It will be taken forward by the Scottish Futures Trust, working with partners across the public sector, and will support jobs and growth and deliver vital new infrastructure to cushion the impact of a 36 per cent cut in real-terms capital spending over the four years to 2014-15.

My second strategic priority is investment in front-line services, which is central to both our short-term and our long-term economic success. Scotland's greatest economic asset is her people.

Their development through support for education, learning and skills and through services to improve health and wellbeing is a central theme of our budget.

Over the past few weeks, I have seen at first hand the professional and devoted care that my wife and young son have received from our national health service; all of us have shared such experiences. I confirm to Parliament that we will deliver on our pledge to protect NHS spending by allocating an additional £280 million of resource funding to the health budget in Scotland, honouring our commitment to pass on Barnett consequential from the UK settlement. That will help us to build on the substantial gains that have been made since 2007 and ensure that our investment in health and health improvement continues to support sustainable economic growth.

As Scotland's biggest employer, the health service makes an important direct contribution to local economies across Scotland helping those who are out of work because of poor physical health to return to employment and improving the health of those who are in work to contribute to economic performance. One of our objectives in the budget is further to encourage joint working between the health service and local government in providing adult social care. To assist that work, the Deputy First Minister has agreed, as part of our discussions with the Convention of Scottish Local Authorities, to allocate £70 million in the NHS budget to a change fund that will allow the NHS and local authorities to work together to achieve better outcomes for some of the most vulnerable in our society and to reduce demand on acute services.

Scottish local authorities are responsible for delivering many front-line services. We have, therefore, agreed with COSLA's leadership a settlement for local government that reflects our joint determination to protect those services, as far as is possible, and so improve outcomes for the people of Scotland. The agreement that we and COSLA's leadership are recommending to individual councils also reflects local government's key role in economic recovery. The agreement, details of which I will now set out, will help authorities to deliver services that are vital to people in all parts of Scotland and to promote economic growth.

In return for a funding settlement that maintains local government's share of the overall Scottish budget, local authorities will agree to deliver certain commitments, including a commitment to the delivery of the current single outcome agreements and a number of social strategies that we have agreed with local government. One of those strategies is to give every child the best start in life through implementation of the early years

framework, which represents a long-term investment in increasing sustainable economic growth.

On school education, the budget provides funding to maintain the pupil teacher ratio in the crucial early years of primary school, provides places for all probationer teachers through the induction scheme in August 2011, acts to reduce teacher unemployment, and supports the implementation of curriculum for excellence. We are also protecting the educational grants for school pupils—the education maintenance allowance—that have been cut south of the border.

Our agreement with COSLA will extend the council tax freeze into 2011-12; maintain the delivery of existing commitments on free personal care and work with local government to support carers, which provides quality of life benefits—benefits that some seek to remove—to some of the most vulnerable in our society; and maintain the total number of police officers at 1,000 more than were in post before the Government came into office.

Our agreement with COSLA is conditional. It has been agreed between the Government and COSLA's leadership. It is for individual authorities to decide whether they wish to accept it or not, and the condition is as follows. The average resource budget reduction in non-protected areas of the Scottish budget next year is 6.4 per cent. If authorities accept the agreement, their resource funding will reduce next year by only 2.6 per cent. That is a much greater degree of protection than in other parts of the budget, and it is a much superior provision to that for local government in England. If councils choose not to accept the agreement, their funding from the Scottish Government will therefore fall not by 2.6 per cent but by 6.4 per cent.

Our third strategic priority—seizing the opportunities that are presented by the transition to a low-carbon economy—provides Scotland with massive opportunities based on our comparative economic advantage. Today I am laying before Parliament the Scottish Government's draft report on proposals and policies—the RPP—as required under the Climate Change (Scotland) Act 2009. On Monday, I published the Scottish Government's low-carbon economic strategy. Together, the RPP and the low-carbon economic strategy set out a coherent picture of the steps that are required to make the transition to a low-carbon Scotland, the economic and social benefits of which Scotland is uniquely placed to take advantage of.

We have set ambitious statutory targets to reduce emissions by 42 per cent by 2020 and by at least 80 per cent by 2050. We are acting to

meet those targets. We will deliver the £70 million renewables infrastructure fund, which will receive £17 million in 2011-12. We will raise our targets for renewables from 50 to 80 per cent by 2020, due to Scotland's success in the renewables agenda. We will protect the level of spending on the sustainable action fund and increase by £1 million to £10.3 million the amount of that fund that is going to the climate challenge fund in 2011-12.

Those targets will drive new thinking, new technologies, new solutions and new investment, which will ensure that Scotland is an early adopter at the forefront of developing a sustainable, modern, low-carbon economy. The current global economic situation should be a spur, not a hindrance, to that effort. A low-carbon society will deliver on our purpose of enabling prosperity while ensuring sustainability.

This budget has involved difficult choices, not because of actions taken in Scotland but because of decisions taken at Westminster. Today, I have fulfilled my responsibility by bringing forward this draft budget to Parliament, and it is now Parliament's responsibility to scrutinise it, to discuss options and to achieve a consensus at this pivotal time for Scotland's economy and for our vital public services.

It is clear to me that the current budgetary situation highlights the need for urgent reform to ensure that Scotland never again faces years of sustained cuts to our public services. This is a time for the Parliament to reflect on the future and on the responsibilities that it wants to take.

Faced with these unprecedented challenges, Scotland has an opportunity to take a different path—one where the Scottish Parliament and Scottish Government take much greater responsibility for the key financial decisions that affect Scotland. Full financial responsibility would give this Parliament the key fiscal and economic levers to promote growth in Scotland and to use the proceeds to invest in Scotland's public finances. With greater financial powers, this Parliament could make different choices. We may have differing views on what those choices might be, but I passionately believe that, together, we can reach outcomes that will improve Scotland's prospects.

If these cuts teach us nothing else, they surely teach us this: the time for this Parliament to take greater responsibility for Scotland's economy and finances is now. That is a debate that Scotland must have. I commend the budget to Parliament.

Andy Kerr (East Kilbride) (Lab): Every budget is a test for the cabinet secretary and for the Government. This is a defining moment for the Parliament because of the challenge that our economy faces, because we need to tackle the

plague of youth unemployment and because we need to put fairness and economic growth at the heart of the budget.

The Government has failed. It has put party before nation, it has put self-interest before public interest and it has put the finance secretary's job before the jobs of the people of Scotland, whom he is supposed to serve. He is not running a country; he is running an election campaign.

Mr Swinney said that we face

"more than a one-year challenge",

so in his own words he condemns his own one-year budget. It is outrageous that our local authorities, health service, universities, further education colleges and police and fire services are being denied their ability to plan. They are all demanding clarity so that they, too, can set budgets, deliver services and reassure staff, but they cannot do so, because of the Scottish National Party.

Just what information did the cabinet secretary not have that denied this Parliament a three-year budget? Does he agree with Strathclyde police authority, which said that his actions represent a dereliction of duty that is only fuelling uncertainty?

The Minister for Housing and Communities, Alex Neil, has let the SNP cat out of the bag. He said on BBC television just over an hour ago that should the SNP be re-elected, it will publish a budget for three years. Why cannot we have that three-year budget today?

John Swinney: Mr Kerr has been demanding for several weeks that I publish the budget. I have now published the budget, so I think that we could have expected something a bit more substantial than that from him. Mr Kerr mutters, in his usual fashion in these exchanges, that the budget is just for one year. This Parliament only ever sets a budget for one year. It might publish longer-term spending plans, but it only ever sets a budget for one year.

Let me explain clearly to Mr Kerr exactly why a one-year budget is appropriate and why the establishment of the Christie commission is important. He should understand this, given his perspective as one of my predecessors in office. What has to happen in the period going forward—I accepted this in my statement—is a fundamental reform of our public services.

Mr Kerr will know from his experience as a finance minister that if numbers are set out for a prolonged period, which set out essentially the expectations and parameters of individual bodies, it becomes ever more difficult to get the type of reform in public services that we require. In the financial situation that we face—which I respectfully point out is the creation of the Labour

Party—we have to embrace that message of fundamental reform.

The responsibility that I have exerted as finance secretary is that I have fulfilled my duty to confront the year of public expenditure that will have the sharpest fall of any year in the public spending profile that has been set out to us.

I have taken the difficult decisions. I have taken the very tough decisions. *[Interruption.]*

The Presiding Officer: Order.

John Swinney: What Mr Kerr has done is put in place more obstacles to our resolving the long-term future of the public services of Scotland. That is what this Government will resolve.

The more Mr Kerr talks about the need for a four-year budget settlement, the more it reminds me of his expectation that it will be this Government that is in office to preside over that four-year term.

Derek Brownlee (South of Scotland) (Con): I thank the cabinet secretary for his statement and for confirming his real focus.

The Conservatives welcome the council tax freeze, the commitments on police numbers and the public sector pay restraint, which will protect jobs. However, this budget has to mark the first year of a longer-term plan of public sector reform and a relentless focus on jobs and growth. Whoever is in government in May, we need a budget that is focused on the months after the election, not the month before it. Only if the final budget meets those tests will we be able to support it.

On this side, we will make that assessment only after scrutiny of the Government's plans. As a start to that assessment, I will ask the cabinet secretary about efficiency savings. The Conservatives will always support genuine efficiencies where they can be made. Rather conveniently for the cabinet secretary, we will not know whether his 3 per cent target has been achieved until next autumn.

Last year, the Government claimed to have saved £1.5 billion and the cabinet secretary repeated that figure again today. Next year, that target will rise by half. If that is achievable, why did the First Minister make such a fuss this year about having to save a further £300 million?

John Swinney: I welcome Mr Brownlee's comments because they change an impression that I had from reading the morning's newspapers, in which he advanced a line that was rather dismissive of efficiency savings. He lodged numerous amendments to the Public Services Reform (Scotland) Bill that demanded that numerous public bodies publish efficiency savings, so I was a bit confused about why the

Conservatives were suddenly against efficiency. However, he has set the record straight on that question.

The point about the issues in this financial year is that, as Mr Brownlee well knows, the Government has been concerned to take decisions that ensure that economic recovery is not interrupted. I have decided to take £100 million out of this year's budget and to put it into next year's to tackle one part of the reduction in the capital budget that the Conservative Government has inflicted upon us. We have done that by deploying within the year the careful financial management that we have deployed throughout our term in office. Therefore, we will be able to cushion some of the difficult decisions on the 2011-12 capital programme.

I say to Mr Brownlee that I take such encouragement from our performance on the efficient government programme because we have within Government created a culture that tackles the way in which we spend money and observes carefully its effectiveness, impact and impetus in order to guarantee that we can spend as much of our resources as possible on achieving the Government's central purpose, which is to increase sustainable economic growth. I would have thought that the Conservatives would support that.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I, too, thank the Cabinet Secretary for Finance and Sustainable Growth for his statement.

Last year, we began a campaign to bring down top pay in the public sector. John Swinney said that it was impossible—in fact, I recall that Alex Salmond said that we would end up in the Strasbourg court—but the language today is helpful.

Last week, I called for bonuses for consultants and others to be reined in. Alex Salmond said that there would be an exodus of senior staff from Scotland, but the language today is helpful.

We also called for Scottish Water not to borrow from the taxpayer. John Swinney said that that was impossible, but the budget document shows today that we were right.

John Swinney and Alex Salmond described what we called for as impossible and illegal. We learn today that we were right to campaign on those issues but, although we hear the right language, unfortunately, much of the action is deferred.

The Scottish Government has reduced the pot for consultant bonuses: it is being reduced from £28 million to £26 million. Only this morning, it cancelled the roadshows that it had planned to

use to publicise the bonuses, but that is welcome. However, the cuts for colleges for our young people—the learners of today and workers of tomorrow—are too severe because the budget is too short term.

The cabinet secretary said in his statement that there is

“more than a one-year challenge”,

so why has the SNP ducked that challenge and published only one year’s set of figures? Colleges, councils, business and the voluntary sector all need more than a one-year set of figures. In Wales, people are asking the Welsh Assembly Government to provide that, and it seems that they are getting a different response.

If the cabinet secretary accepts that we were right on so many other issues—top pay, bonuses and Scottish Water—will he consider providing longer-term figures so that the budget is one for all the people in the public, private and voluntary sectors in all parts of Scotland for the long term, and not only for an election campaign?

John Swinney: The points that were made to Mr Purvis about the steps that he wished us to take and the difficulties that would arise for us under employment law are absolutely valid and still stand. The announcements that I made today were arrived at after careful consideration of what options are available to us that would not have the Government in employment tribunals or acting illegally. They are sustainable actions.

Mr Purvis has a bit of a nerve to put a question on the consultant distinction awards. If we look back at the record, under the last Government of which Mr Purvis’s party was a participant, the consultant distinction awards increased by 40 per cent. Under this Administration, they have increased by 5 per cent. This is the first time—the very first time ever—[*Interruption.*] Mr Purvis is back to muttering again. I will keep on repeating what I was saying so that everyone can hear it nice and clearly. For the first time, the budget for distinction awards is reducing. It is reducing because of the action that the Deputy First Minister is taking.

Mr Purvis’s point might have had more substance if the United Kingdom Government had taken the same action. Just for the record, the Liberal Democrats are participants in the United Kingdom Government, along with their friends in the Conservatives. Distinction awards are not, of course, taking the same course in Scotland as they are in the rest of the United Kingdom. I welcome Mr Purvis’s comments on the steps that the Government is taking. We are setting out a range of provisions in tackling levels of remuneration that we consider are not sustainable.

I turn to the point on colleges. The Cabinet Secretary for Education and Lifelong Learning has been in negotiation with the further education and higher education sectors. As I made clear in my statement, although the budget for the Scottish Further and Higher Education Funding Council is reducing, we have a guarantee that the number of places in universities and colleges will remain the same. That is about getting greater value and effectiveness for the public money that we spend. If the debate in the Parliament over the next few months as we consider the budget is based on the point that levels of activity can be sustained only if the budget is constantly increased, it will be a pretty futile debate. The Conservative and Liberal Democrat Government in London has reduced our budget by £1.3 billion. The challenge that I have addressed is how we can deliver greater value from that reduced budget. That is the test that this budget will pass.

In answering the final question on longer-term provision, I reiterate the point that I made to Mr Kerr a moment ago. We have established the Christie commission because we acknowledge that the medium-term budget position requires us to reform fundamentally public services in Scotland. That will be the basis of the remit of the Christie commission; it will be the basis on which the Parliament must set out the spending envelope for the three-year period. I reiterate the point that the sharpest fall in public expenditure will be between this year and next. We in this Government have addressed that challenge.

The Presiding Officer: We come to open questions. As is to be expected, a large number of members wish to ask questions. Brevity in both questions and responses is encouraged.

Joe FitzPatrick (Dundee West) (SNP): I congratulate the cabinet secretary on bringing forward a budget that protects jobs and front-line services in spite of the massive cuts to Scotland’s grant. In particular, I welcome the support that will allow the V & A project in Dundee to continue.

The cabinet secretary confirmed that he will seek a council tax freeze for another year. That is in stark contrast to the views of the Labour Party. Will he set out the value of the council tax to individuals and councils and the impact that there being no freeze would have on household incomes and council budgets?

John Swinney: The key point about sustaining the council tax freeze is that it comes at a time when householders face acute challenges in their incomes as a consequence of various tax rises that the United Kingdom Government is applying. In taking our decisions, we have to be mindful of those tax rises. People across the country have benefited from the council tax freeze. It has given them protection of their household income that is

valuable in these difficult times. For those reasons, the Scottish Government believes that sustaining the council tax freeze is the correct approach to take to delivering protection to households in Scotland.

Johann Lamont (Glasgow Pollok) (Lab): I am sure that members across the chamber recognise the significance of the housing budget in stimulating the economy, supporting construction jobs and meeting housing need. Will the cabinet secretary acknowledge that his decision to present only a one-year budget is to the detriment of those who are trying to bring forward social housing projects in a planned way? Will he further acknowledge that, because of uncertainty, those cuts may impact on the level of risk and cost, and will—logically, therefore—reduce the ability to develop projects efficiently?

Will he clarify what proportion of the money in that budget that has already been committed—which is estimated to amount to £249 million—is being spent up front by housing associations and others? How will that impact on the need for moneys to be available to deliver 6,000 new affordable houses in the next year?

John Swinney: I say to Johann Lamont that the size of the capital difficulty that we face is no different from the size of the capital difficulty that we would have faced if the Labour Government had been returned to office, because the present UK Government's capital spending plans are identical to those of the previous Government.

As regards the question about three-year planning, housing associations have the ability to take decisions on the basis of their own financial health and strength. Clearly, the Government makes a contribution to that process. Housing associations can make judgments on the basis of the information that we have provided and the pattern of public expenditure that has been set out in my statement.

The forward programme is predicated on the creation of 6,000 additional new homes in Scotland, which represents a strong programme of investment in an extremely difficult capital budget. I point out to Johann Lamont that other devices are available to expand the scale and effectiveness of the housing budget, such as the national housing trust initiative that Mr Neil has announced, which will provide additional opportunities for the development of the affordable housing sector in Scotland.

Gavin Brown (Lothians) (Con): The cabinet secretary wants to increase the business rates that are paid for larger retail properties. Will he expand on the size of that increase? Can he give us a precise definition of "larger"? Would the proposed move put larger retail properties in

Scotland at a competitive disadvantage in comparison with retail properties elsewhere in the UK?

John Swinney: Details on the specific levels and the application of the increase in business rates for larger retail properties will be set out in an order that will come before Parliament in due course, and which it will have the opportunity to consider. The detail of the application of the business rates increase will be clear from that order. The Government recognises that there are a number of strong and significant retail properties the length and breadth of Scotland, predominantly in out-of-town shopping areas. We consider that the proposed measure is an appropriate use of the financial provisions that are available to us in striking the balance that must be struck between increasing revenue and reducing expenditure.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): The cabinet secretary said that he had achieved a £1.5 billion saving last year and that Westminster had cut his budget for next year by £1.3 billion. He said that that 3 per cent cash cut in the block grant was a cut

"too far and too fast."

What level of cash reduction would he say was fair for Scotland in our current economic circumstances?

John Swinney: I point out to Mr Rumbles that his attempt to conflate those two numbers does not take into account the effect of inflation on the cost of running public services or the impact of demography or other factors that increase the demands on public services. If, by conflating those two numbers, Mr Rumbles is trying to suggest that the process of removing £1.3 billion in cash terms from a budget in one year is a straightforward exercise, he needs to think again.

As regards what level of public spending reduction would be appropriate, I have set out to Parliament on a number of occasions the Government's view that the fiscal consolidation period could be extended to a more significant extent. The fiscal consolidation period that we are now dealing with is a year swifter than the Conservatives argued for in opposition, and it is a year swifter again than the approach that the Labour Party took. So there are choices about how we can deliver fiscal consolidation without creating the disruption to public services that the Conservative and Liberal Democrat Government has created.

Patrick Harvie (Glasgow) (Green): By deciding to shift money from revenue into capital, the Government is concerned to protect the road-building programme at the expense of housing, public transport, public sector workers, the

voluntary sector, the culture budgets and many other socially progressive areas.

Is not it unreasonable for an SNP Government to be handing Tory cuts on to Scotland when there are no middle England voters to pitch for? Why does the cabinet secretary think that two thirds of the Scottish electorate voted for a Parliament that had tax-raising powers if not for a time like this, when we need to defend the country against a right-wing cutting agenda that it did not vote for?

John Swinney: I have some sympathy with Mr Harvie's point that the UK Government is pursuing an agenda for which there is not strong political support in this country, based on what the members of the Government parties said before the election. I have some sympathy with that point, but I hope that Mr Harvie will accept the position that I am in.

As a finance minister in a devolved Scotland, I have to set a sustainable budget within the financial allocations that are made to me by HM Treasury. In that context, I have a duty to set a balanced budget. Mr Harvie asks about using the tax-varying powers, but they cannot be used in isolation. If they are to be used, it can be only when we take into account the sharpness of the increases in taxation that members of the public will have to deal with through their household incomes. Mr Harvie can argue that people in Scotland want increased taxes, but I do not think that they will be able to deal with increased taxes, especially bearing in mind the fact that I have asked the public sector in Scotland to work with the Government by freezing public sector pay. On those grounds, I do not think that there is a compelling argument in favour of using the tax-varying powers at this time.

Kenneth Gibson (Cunninghame North) (SNP): I welcome the cabinet secretary's achievement in producing such a positive budget in difficult circumstances. The lack of any Labour alternative is glaring. Unlike Mr Rumbles, I will at least ask my own question and not one that David McLetchie asked 13 days ago.

Can the cabinet secretary set out how he addressed the widely trailed and inaccurate claims of a 16 per cent cut in higher education budgets at the same time as protecting student places, preserving the education maintenance allowance for our poorest students and keeping them out of poverty, and avoiding the Labour-Liberal Democrat-Tory tuition fees?

John Swinney: There has been a great deal of speculation in a number of areas of the public sector about the levels of budget reductions that might be experienced. Most of those assessments have been driven by the debate that is going on south of the border and the way in which the UK

Government has marshalled its arguments. We have taken our own decisions, which are—as I said in my statement—designed to promote economic recovery, to protect front-line services and to take steps on the low-carbon economy. In that respect, the Government has worked extremely hard to balance its commitments to ensure that on, for example, the protection of student numbers in a difficult financial settlement, the Cabinet Secretary for Education and Lifelong Learning could work to release the value that allows us to concentrate on delivering the same outcomes with less money. That focus has to run through all our decisions on public spending in Scotland today. The scale of budget reductions is such that we have to achieve greater value and impact from the diminished resource that we have at our disposal.

Richard Baker (North East Scotland) (Lab): Given that police boards have already announced cuts that the Scottish Police Federation has said are equivalent to reducing police numbers by 2,800, and given that the cabinet secretary's budget outlines a £31 million cut to the police central Government grant, where is the money coming from to maintain police numbers? How will the cabinet secretary assure police boards that his plan will sustain the funding to maintain new recruits when he has refused to set out a three-year budget?

John Swinney: I would have thought that the first thing that Mr Baker might, as Labour's justice spokesman, do would be to welcome the fact that we have secured a commitment to maintaining the 1,000 extra police officers on the streets of Scotland. I thought that Labour Party members might have been queuing up, perhaps not to say, "Well done," but to say a modest word of encouragement about the decisions that we have taken. We have put in place resources and negotiated our agreement with the Convention of Scottish Local Authorities, which has been put to local authorities, to provide funding that delivers 1,000 police officers in addition to those who were on the streets when we came to office. I would have thought that Mr Baker might have applauded that in Parliament today.

The Presiding Officer: If we are going to fit in all members who want to ask a question, we need to speed up the process a little.

Jamie Hepburn (Central Scotland) (SNP): The cabinet secretary has confirmed that he does not intend to use the Parliament's tax-varying powers in the budget. Does he agree that, far from being a progressive measure—as some members seem mistakenly to believe—any such move would in fact have a regressive impact, given that only the basic rate of tax can be varied and any increase would fall hardest on the poorest taxpayers? Does

that not reinforce the point that we need proper powers over taxation in the Parliament—powers of independence?

John Swinney: Mr Hepburn makes the fair point that the tax-varying power can be applied only to the basic rate of income tax and that therefore it does not take into account the significant divergence in incomes that exists in Scotland today. His argument for wider financial and economic powers is a compelling one, and I am happy to confirm that I support it.

David Whitton (Strathkelvin and Bearsden) (Lab): Mr Swinney tells us that Scotland's economic recovery is fragile, but that he has

"a clear and credible plan",

but there was no evidence of that in the statement. How is it credible in seeking sustained economic growth to yet again cut the budgets for the bodies that are tasked with achieving that growth—Scottish Enterprise, Skills Development Scotland, VisitScotland and the Scottish funding council? If Mr Swinney is so concerned about his responsibilities to the poorest people, why is he following the example of SNP-led West Dunbartonshire Council and rejecting Labour's policy of introducing the living wage for low-paid council workers? If he can hold a 6.4 per cent gun to councils' heads over the council tax, why not over the introduction of a living wage for local authority workers?

John Swinney: We have just had the first example of many that we are going to hear from the Labour Party in the months ahead, with Mr Whitton singling out areas where he does not want budget reductions. I would bet that, in the course of this question session, a few other members will get to their feet objecting to some activity. Is not it a bit rich that Mr Whitton comes here and complains about reductions in the Scottish Enterprise and Skills Development Scotland budgets, when regular viewers will know that Mr Gray is never here on any day of the week complaining about budgets other than those for Scottish Enterprise or Skills Development Scotland? There is therefore just a tad of hypocrisy in Mr Whitton's point.

On the Scottish funding council, we have delivered a budget settlement in which the education secretary has secured an agreement from the university and college sector that places will be maintained. I would have thought that members would say that that is a true and proper approach to delivering greater effectiveness in the way in which we spend public money.

On the living wage, Mr Whitton will know that local authorities are responsible for their pay settlements. I made that clear in my statement. I have taken responsibility on the Government's

behalf to put in place a living wage, and I am proud that the Government has done so.

Jamie McGrigor (Highlands and Islands) (Con): In his statement, the cabinet secretary said that he has set "ambitious" and world-leading targets on emissions and renewables, but last Friday the chief executive of Aggreko, the energy expert Mr Rupert Soames, said in this chamber that the problem is more with the timescales for the targets than with the targets themselves and that, broadly, we need to add 10 years to all of them. Does the cabinet secretary agree with that captain of industry?

John Swinney: The short answer is no. The previous Government put in place what I remember vividly were ridiculed as very ambitious renewables targets for 2011. The previous Administration was correct to be bold in doing that, but it was ridiculed when it set out those targets. Nevertheless, those targets have been achieved—and they have been achieved early.

The key thing in this debate is to have the investment certainty and the policy certainty that we can deliver the approach on renewables. That is what the Administration has offered and it is what we are determined to deliver. Anybody who is considering investing in renewables and wondering whether Scotland is a country that is committed to the renewables revolution can get a strong and convincing answer from the practical actions that have been taken by the Government, and by Mr Mather in particular.

Hugh O'Donnell (Central Scotland) (LD): The cabinet secretary referred to Scotland's people being its greatest asset, and many of them work in the voluntary and third sectors. In his negotiations with COSLA, to what extent has he sought assurances that those people will be protected from the trickle-down effect of any cuts that may be imposed by the local authorities, so that those in the voluntary sector who provide front-line services will be protected?

John Swinney: The critical point is not what agreements I arrive at, but the level of financial commitment that I am prepared to make for the delivery of public services. First, local authorities will have been planning for a much more significant reduction in their budget than the one that I have delivered in the budget settlement today. There has been a deliberate decision by the Government to protect front-line services and to ensure that our communities are not harmed by budget reductions having a negative impact at the local level. That is why we have delivered a 2.6 per cent reduction in the local authority budget compared with the budget reductions in excess of 7 per cent for local authorities in England, which will cause some of the acute problems to which Mr O'Donnell refers.

Secondly, the Government is increasing the core third sector budget from £20.7 million to £24 million. That demonstrates that, even at a time when our budget is reducing dramatically, we are putting more core resources into the development of the third sector.

Thirdly, through the Christie commission, details of which will be announced later, we are determined to ensure that, in the future design of public services, there is a strong opportunity for the third sector to express its point of view. That will be implicit in the remit and the membership of the Christie commission.

Margo MacDonald (Lothians) (Ind): As the reason for the cabinet secretary's switch of resource from revenue to capital spend is his determination to protect jobs and, consequently, to retain skills and capacity, which I support wholeheartedly, would he look favourably on a request from me that would involve a modest investment of capital—just over £500,000—in the refurbishment of the Midlothian ski centre, which is a national resource that is supported by one small local authority, and the proposed white-water sports complex in Leith docks, which is another potential national resource? Finally, if required, will he make available a small amount of capital to keep Dalry swim centre open until its long-term future is assured? That echoes the point that he made at the conclusion of his previous answer about the redesign of services involving agencies that, until now, have not been involved.

John Swinney: I hear Margo MacDonald's points loud and clear, as always. I suspect that local authorities have been wrestling with a number of issues, of which I recognise the Hillend ski centre as an example. The financial settlement that I am giving to local authorities, which is much more beneficial than they would have expected, will make it a great deal easier for them to tackle some of those challenges. I am happy to receive representations on such issues, but I make the general point to Margo MacDonald and to Parliament that I have allocated resources in the budget and, if we wish to support other priorities, we must be prepared to move resources from budgets that are already committed, within the budget document, to supporting existing priorities. I issue that general message to all members of the Parliament.

Brian Adam (Aberdeen North) (SNP): The budget includes support from the NHS for care services that are delivered by local authorities. What other steps are to be taken to ensure that public services give the best possible value across organisations and boundaries?

John Swinney: One of the central messages of the Government's programme of public services reform has been to encourage a process of

collaboration and alignment between different public bodies. We see a lot more evidence of that in the current environment. On the point that Mr Adam raises about the change fund and joint work that is done between local authorities and the health service, there is a lot of good evidence of increasing joint working that will be undertaken. As part of our public services reform agenda, these messages will be central to how the Government takes forward its priorities for delivering effective public services within a constrained financial environment.

Ms Wendy Alexander (Paisley North) (Lab): Is not the hidden story of this budget a complete Government U-turn on how capital spending is financed? Will the cabinet secretary confirm that the current pipeline has been so run down that not one non-profit-distributing school or hospital project is on the Government's future deal notice board at the moment? Given those three wasted years, and the lead times for new procurement, how many years will it be before a new school or hospital project starts being built with the £2.5 billion that the cabinet secretary has belatedly allocated today?

John Swinney: Wendy Alexander mentioned three wasted years. If I am not mistaken, during the past three years, the Scottish Government has had a huge capital investment programme that we deliberately increased in size in order to attack the fall in public sector housing activity. Again, I would have thought that, in the spirit of generosity, there might have been a welcome for all that.

On the point about revenue-based finance, if the Government had committed to a greater pipeline of projects in 2007, those projects would have been complete now, and the Government would have had to start paying for them. That would have resulted in even greater strain on the public finances than I am having to wrestle with today, because what I am having to wrestle with today are the consequences of the reckless financial decisions that were taken by Mr Kerr and all his other colleagues. I therefore ask Wendy Alexander not to give me a lecture on managing the public finances.

As a point of absolute detail and clarity, new school developments are under way in Scotland today and we should be celebrating them in this Parliament.

Stuart McMillan (West of Scotland) (SNP): The continuation of the council tax freeze will be welcomed by people across Scotland, apart from those in the Labour and Liberal Democrat headquarters. Will all the money that is allocated to local authorities for the council tax freeze go towards the local authorities, even if at least one of them does not implement the freeze? That is to say, can the money that is allocated be distributed

to the other local authorities that implement the freeze, so that they will get additional funding to spend in their areas?

John Swinney: The answer to that is no. There is a particular proposition that is there for local authorities to accept or reject. It has been negotiated between the Government and—

Andy Kerr: Where is the respect agenda now?

John Swinney: Mr Kerr, as always, is muttering from the side. If he shouts a bit louder, I will hear him even more clearly. He talks about respect—I have been in dialogue with local government for months, over the summer, to work out a common agenda on tackling the significant financial pressures that we face. Out of that discussion between the Government and the political leadership of COSLA has emerged an agreement that enables us to fund the council tax freeze; 1,000 extra police officers on the streets of Scotland; the maintenance of free personal care; the opportunities for teacher employment through probationers; and a range of other targets, not to mention the change fund for adult social care. This is an excellent deal for local government in Scotland.

I had hoped that Michael McMahon might stand up to tell me how good a deal this is for local government in Scotland, but I see that he has skedaddled already.

John Scott (Ayr) (Con): The cabinet secretary has said that he will maintain 1,000 new police on the streets, which I welcome, as those police were put there in the first place at the insistence of the Scottish Conservatives. He has our continuing support in that regard.

However, Richard Baker quoted figures that show a reduction from £237 million to £210 million in the budget for policing. How does the cabinet secretary propose to maintain police numbers on that declining budget, given that 93 per cent of policing costs are for staffing?

John Swinney: I reassure John Scott that the funding for those 1,000 police officers is contained in the local government settlement. That is the key point that must be followed.

We have secured agreement from local government that enables us to put that number of police officers on the streets. That is important, because this country is currently experiencing a 32-year low in the crime rate, which is a tribute to the decisions taken by the Government with support—which I acknowledge—from the Scottish Conservative party.

Charlie Gordon (Glasgow Cathcart) (Lab): The cabinet secretary told us that the Forth replacement crossing, the south Glasgow hospitals and some new schools will be the only

new capital projects next year. All other new projects will be funded through public-private partnerships. Will he guarantee that all the PPP projects—*[Interruption.]*

It seems that some members do not like the name PPP. Well, the name Windscale was changed to Sellafield, and that made no difference.

The Deputy Presiding Officer (Trish Godman): Can we have a question please, Mr Gordon?

Charlie Gordon: Will the cabinet secretary guarantee that all the projects in the Commonwealth games transport plan will be ready for 2014? That is apart from the Glasgow airport rail link, of course, which he has already cancelled.

John Swinney: I will be clear with Parliament. As I said in my statement, a number of transport projects will not be able to proceed because of the limitations of the capital budget. I was explicit with Parliament on that point.

To correct Mr Gordon, a number of new capital projects will take their course through traditional Government capital expenditure, in addition to the Forth replacement crossing, the schools programme and the south Glasgow hospitals into the bargain.

On the point about the Commonwealth games infrastructure, the Government has given commitments to ensuring that we progress work to deliver the Commonwealth games and provide the necessary transport infrastructure to support them, and we will honour those commitments.

Sandra White (Glasgow) (SNP): I welcome the announcement that the elderly and the most vulnerable will be protected by the continuation of free personal care and concessionary travel. How will the cabinet secretary ensure that those services are delivered by the health services and local government?

John Swinney: As I stressed in my statement, we are progressing work between the health service and local government to guarantee a focus on the needs of vulnerable individuals in our society. It is important that we deliver those public services, and we made the decision to establish the change fund, which is a helpful and beneficial measure that will enable us to provide the support that some of the most vulnerable in our society require.

The general focus in our public services—in the health service or in local government—on the same national outcomes that we seek to achieve is beneficial in addressing the concerns that Sandra White has properly raised today.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): The cabinet secretary has said repeatedly that the Barnett health consequentials would be passed on in Scotland. How has the 0.5 per cent real-terms increase in the English health budget become a £33 million real-terms cut in the Scottish health budget, according to table 8.02 on page 117 of the budget document? How has the £2 billion of health money for adult social care in England translated into £70 million in Scotland, which is only one third of the Barnett consequentials?

John Swinney: I am afraid that Mr Chisholm has been making a miscalculation about his Barnett consequentials. The Barnett consequentials arising from the health service changes in England were £280 million and they have been passed on to the health service in Scotland.

Christina McKelvie (Central Scotland) (SNP): The cabinet secretary has delivered the budget that Scotland needs to protect its services, families and communities during the tough times ahead, although he has had to work within the constraints of the cuts that have been imposed on him by the UK Government. Does he agree that the economic crisis has demonstrated beyond any doubt that the best way in which to enable Scotland to avoid the worst of Tory cuts and pursue a better way for our economy, our jobs and our public services is to give Scotland control of our own economy?

John Swinney: The question from Christina McKelvie highlights the significant constraints that exist in the decision making of any finance minister in this Parliament. Having that broader range of financial powers to make a judgment about how we can take forward our economic recovery is a fundamental element of the powers that the Parliament must seek.

David McLetchie (Edinburgh Pentlands) (Con): As the cabinet secretary has told us how much he regrets having to cut spending and equally how much he wishes he had tax-raising powers, will he tell us which taxes he would like to increase in order to finance the higher spending that he desires?

John Swinney: I have never had Mr McLetchie down as a tax raiser. If that is a new, important persona that he is adopting, we will be interested to learn more about it.

The Government wants to secure opportunities to grow the tax base by generating greater economic performance. I thought that Mr McLetchie would be familiar with that argument. In Mr Brownlee's question, he encouraged the Government to maintain its focus on increasing economic activity in Scotland. I absolutely accept that challenge and that principle, which is

important. The crucial point is that, if we are successful in the devolved context in increasing economic growth in Scotland, the Scottish taxpayer does not get the benefit of that. The benefit goes to the United Kingdom Government. That is why we need financial powers in this Parliament.

The Deputy Presiding Officer: I call Elaine Smith. Please be brief.

Elaine Smith (Coatbridge and Chryston) (Lab): Does the cabinet secretary support the STUC's there is a better way campaign, which proposes alternatives to cuts? If so, how does he justify his attack on public sector pay and public services?

John Swinney: I have had a number of constructive discussions with the STUC and I listened carefully to the presentation that its general secretary gave on its there is a better way campaign. I think that Elaine Smith knows that I have some considerable sympathy with that view of the world in terms of the strategic economic decisions that the UK Government has taken. However, Elaine Smith will also understand that I have an obligation to live within the financial settlement that has been provided to me by the UK Government, and I have taken a set of decisions that are designed to address that challenge as effectively as possible.

I will certainly continue my dialogue with the STUC and trade unions on these questions. I hope that employees in the public sector will understand that the approach that the Government has taken is designed to protect and maintain employment in the public sector. We do not come at the matter from an ideological position of wanting to run down public sector employment. That is not our position. We have tried to take steps, particularly on pay restraint, to deliver the best opportunity to protect public sector employment.

The Deputy Presiding Officer: I call James Kelly. Please be extremely brief.

James Kelly (Glasgow Rutherglen) (Lab): In June, when the Parliament debated the Criminal Justice and Licensing (Scotland) Bill, the Liberal Democrats supported the SNP Government's introduction of a presumption against short-term sentences on the basis that the Government would fund it with at least £12 million as per the financial memorandum. Does the cabinet secretary agree that his Government has conned the Liberal Democrats? The community justice services budget has been cut by £400,000 in real terms and no funding has been provided for that policy.

The Deputy Presiding Officer: I am glad that that was brief.

John Swinney: That was the second time this afternoon that we have begun to get ideas about areas in which we should spend more money, without anybody coming forward and saying where the money would come from.

There are many difficult decisions implicit in the budget and we have to face up to them. Whether the Liberal Democrats are conned is not a matter that I would speculate about. What is important is that we focus on delivering the outcomes that I know the justice secretary is determined to deliver through the approach to shorter sentences and community disposals.

Patient Rights (Scotland) Bill: Stage 1

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S3M-7400, in the name of Nicola Sturgeon, on the Patient Rights (Scotland) Bill.

15:20

The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon): I am pleased to speak in favour of the Patient Rights (Scotland) Bill, which is extremely important. It gives life and meaning to a principle that I hold very dear: the principle of a patient-focused, mutual national health service. It is deliberately about raising the status and focus of patients' rights, and clarifying those rights and the duties of health boards with regard to the manner in which patients are treated. In short, it seeks to change the culture of the health service and the dynamics of the relationship between the patient and the health service in a way that levels the playing field. I believe that that is why it has strong support in a range of groups that represent the users of the NHS.

The Health and Sport Committee said in its report on the bill:

"there is overwhelming support for the rights and principles which the Bill sets out to enshrine. There is a general acceptance of the need to ensure that the rights of patients are respected and clearly understood".

The committee acknowledged that the current framework for the promotion and communication of patients' rights is not effective and that changes need to be made.

The committee's main criticism of the bill seemed to be that legislation is not necessary to improve patient rights. It recommended that, instead of primary legislation, the measures in the bill, along with all the other rights that patients have in reserved legislation and common law, should be put into a patient charter and issued using my powers under the National Health Service (Scotland) Act 1978.

With the greatest respect to the committee's report, which is, as usual, a thorough piece of work, I do not agree with that approach. I believe that primary legislation is the right and best way to secure and enhance the rights of Scotland's patients. Primary legislation raises the importance and meaning of patient rights as a matter of fact and law, and sends a strong and powerful message to the health service, professionals, patients and carers. It will give priority and prominence to the rights of patients, and will help to focus the actions of health boards. I do not believe that a charter would be an effective way to

make real and lasting change in the NHS. We should not forget that that approach was tried before, by the Conservative Government back in 1991, and that it did not work. It did not lead to the changes that people wanted. A patient charter would not have the same authority or status that the bill will have, and it could more easily be ignored or sidelined by future Governments.

If members vote for the Patient Rights (Scotland) Bill, we will be taking a bold step in setting out the foundation for a statutory framework of patient rights that will last way beyond this parliamentary session and even the next. The Parliament would leave a significant legacy if it was the first in the United Kingdom to legislate for patient rights and create an NHS that truly and meaningfully put patients at its heart.

I want to talk about some other points that the committee raised in its report. There has been criticism that the bill contains no new rights and no mechanisms for redress, but that is not the case. The bill will create, for the first time, the legal right to complain and will establish the treatment time guarantee. It is true, of course, that a variety of other rights already exists, but they come from disparate sources, are not always clearly understood, and often relate to very specific matters such as access to records rather than to the very essence of the relationship between the NHS and patients.

On the issue of redress, the only thing that the bill does not do is create a new, additional right to go to court. That does not add up to there being no right of redress. The bill clearly sets out the duties on health boards to respond to and learn from complaints and the steps that they need to take to deliver the treatment time guarantee.

It is also the case that the bill does not remove any existing rights of redress, whether through the courts or to the ombudsman. More fundamentally, the debate about redress is in danger of missing the point of the bill, which is not about adding to existing rights of redress for patients when things go wrong, although as I have said, it strengthens them. After all, as members have pointed out before, most patients do not want to pursue litigation claims against the NHS; no one wants a lawyer by every bedside.

What the bill is about, as I have said, is changing the culture of the health service and the dynamics of the relationship between NHS and patient in order to raise patient satisfaction levels and minimise the chances of things going wrong. However, there was one recommendation in the committee report about redress that I think merits further work. It recommended that the Government consider introducing a method of alternative dispute resolution. I welcome the suggestion and have asked my officials to explore it further.

I turn to the treatment time guarantee. Some committee members thought that the guarantee could distort clinical priorities. If that were the case, it would be a legitimate source of concern, but I assure members that that is not the case. The provision at section 18(1)(a) provides that

“Nothing in this Act prejudices ... the exercise of clinical judgement”.

That means that boards must still take account of clinical priority. Section 8(3)(a) also makes that clear in relation to the treatment time guarantee. However, when I appeared at the committee, I said that I would consider an amendment to the bill to include a similar provision in an earlier section on the treatment time guarantee. I confirm that the Government will lodge that amendment at stage 2, and that clinical priority must also operate within the treatment time guarantee.

The committee was also concerned about the small number of exclusions from the treatment time guarantee; I stress that the list of exclusions is short and that it mainly includes services that, for obvious reasons, it is not possible to deliver within 12 weeks, such as obstetrics and organ donation.

Mary Scanlon (Highlands and Islands) (Con):

I remind the minister that although the list is short, there are thousands of mental health patients who are not covered by the treatment time guarantee.

Nicola Sturgeon: Mary Scanlon makes a timely intervention—I was coming on to that very point about mental health. With the greatest of respect, the area has caused some confusion. Where a treatment or service meets the eligibility criteria of planned or elective care delivered on an in-patient or day-case basis, it is covered. That is as true for mental health services as it is for all services.

I know that many in this chamber, including me, are concerned about waiting times for mental health services that will not come within the treatment time guarantee because they are not delivered on a day-case or in-patient basis, such as access to psychological therapies. I have made it clear before, as has the Minister for Public Health and Sport, that we are determined to take action in that respect and are currently working on the development of a health, efficiency, access and treatment target for access to psychological therapy, to be introduced in 2011-12. Mary Scanlon raised an important point, but I hope that I have cleared up the confusion about what is covered in the bill. The rights and principles in the bill apply to all patients; it is not discriminatory.

The committee suggested that the bill should be amended so that compliance with the 18-week referral-to-treatment target is reported in the annual report of general practitioners. The

Government is happy to consider that recommendation.

I move to the final section of the bill, which introduces a legal right to complain and a patient advice and support service. The committee's report asked what practical difference the complaints procedure in the bill would have. At the moment, no right to complain is set out in primary legislation. Research shows that patients can be reluctant to make complaints. In some cases, that is because of the fear of repercussions—hopefully always unfounded—or of the effect that the complaint might have on patients' relationship with the NHS and their future treatment. The statutory right that is included in the bill is intended to give patients the confidence that it is okay to exercise that right.

The patient advice and support service will enhance and replace the existing independent advice and support service. It will be staffed by patient rights officers who will provide support and advice to patients about their health and the health service. In particular, they will help patients to give feedback or make a complaint. The committee agreed in its report that there is a need to improve the existing service. It recognised “the current variation” and welcomed

“the commitment of the Scottish Government to address these issues.”

The committee suggested that that should be done by developing the existing structure through a national contract. I agree that a national contract is necessary, but the arrangement would benefit by being underpinned in legislation, to ensure a consistent and enduring value-for-money service.

Ross Finnie (West of Scotland) (LD): I would be grateful for clarification. If no right to complain exists, why are powers being taken to repeal the current legislation on the complaints procedure?

Nicola Sturgeon: I am happy to get the specific answer to that question so that I can give it, but no statutory right to complain exists. The bill introduces the right to complain. If Ross Finnie wants me to address his point when I sum up, I will be happy to do so.

The bill is of course about patients. It introduces measures that patients want on how they are treated, on being involved in decisions about their care and on the support that they get to use health services. However, the bill does more than that. It legislates for support to patients, it establishes the legal right to make a complaint, to raise concerns and to give feedback and it puts in legislation a guarantee on treatment times.

I said to the committee, and I repeat, that my passion for the bill stems directly from my experience in the past three and a half years. I

know that everyone in the chamber shares my commitment to and belief in the health service, even if we sometimes disagree on the detail of policy. Ironically, the passion that everybody has for the health service makes me think that the bill is needed.

I am often struck by the fact that patients' loyalty to and regard for the NHS sometimes make them accept things that should not be accepted. I often speak to patients who feel that making a complaint is somehow disloyal to the health service, that it might affect their care or that it will not make a difference. Some feel that, because they receive world-class clinical care, they should not speak out about issues such as not being properly communicated with, the standard of food in hospitals or the dignity with which they are treated. The bill says clearly that speaking about all such issues is not just okay but is in fact the right of patients.

Yes—the bill is about immediate legal rights, and we are keen to work with members to strengthen the bill further in that regard at stage 2. However, the bill is also about changing the culture and the dynamics—it is about levelling the playing field between the patient and the big organisation that is the health service. For those reasons, I urge members to vote for the bill's general principles.

I move,

That the Parliament agrees to the general principles of the Patient Rights (Scotland) Bill.

The Deputy Presiding Officer: I call Christine Grahame to speak on the Health and Sport Committee's behalf.

15:32

Christine Grahame (South of Scotland) (SNP): I remind the Parliament that, as the Presiding Officer was right to say, I speak as the Health and Sport Committee's convener, so I am—properly—constrained in my remarks.

Here we go—another week, another day and another Health and Sport Committee debate. I tell the team that we should get an award for stamina. I thank the entire Health and Sport Committee team—clerks, the official report and Scottish Parliament information centre staff—for such dedication to duty. I also thank all those who gave written and oral evidence. Enough of gratitude—to business.

The Patient Rights (Scotland) Bill was introduced in the Parliament on 17 March this year. The committee held a seven-week call for written evidence between 25 March and 13 May that resulted in 41 written submissions being

received. The committee took oral evidence between 8 September and 6 October.

We heard first from the Scottish Government's bill team, Citizens Advice Scotland, Consumer Focus Scotland and the Scottish Public Services Ombudsman. On 29 September, we took evidence from Inclusion Scotland, Long Term Conditions Alliance Scotland, the Scottish Association for Mental Health, the Royal National Institute for Deaf People Scotland, the Royal National Institute of Blind People Scotland, the British Medical Association Scotland, the Royal College of Nursing Scotland, the Royal College of General Practitioners Scotland, Unison and the Law Society of Scotland—a motley crew. We are beginning to bond with many of those organisations, so frequent are their visits. We concluded oral evidence when we heard on 6 October from the NHS Forth Valley patient focus and public involvement steering group, NHS Lothian and—last but not least—the cabinet secretary.

The stated aims of the bill as introduced are to set out the rights of patients who receive health care from the NHS, to introduce a guarantee for eligible patients to start to receive medical treatment within 12 weeks of treatment being agreed—I stress the word “agreed”—and to provide for the rights of patients to make complaints about and provide feedback on their treatment by the NHS through the provision of a new patient advice and support service. That service will be provided by the Common Services Agency of NHS Scotland on a contractual basis with a service provider. PASS will include the establishment of patient rights officers in each of NHS Scotland's 14 territorial health board areas. It is fair to say that it will be more of a conduit for complaint services.

The committee published its stage 1 report on Thursday 4 November. Consideration of the bill was based on the bill's four principal aspects, to which the cabinet secretary referred: patient rights; the treatment time guarantee; complaints and feedback; and PASS. I will turn to the first, patient rights, and thereafter deal with the others in, I trust, an orderly fashion.

One of the main issues that we considered was what constitutes patient rights and whether primary legislation is the most suitable means of promoting them. Another was the fact that the bill covers some rights but not all rights, which is a point that other members might develop. The committee also considered the need for rights to be enforceable while ensuring that Parliament does not create a charter for lawyers—tedious expression though it is—in relation to the NHS.

The committee welcomed and shared the commitment of the Scottish Government to

promote the rights of patients but, notwithstanding the cabinet secretary's comments, we considered that there is an

“inherent contradiction between, on the one hand, setting out patient rights in primary legislation giving the impression of enforceable rights and, on the other, making express provision in the Bill to limit the legal enforceability of these rights.”

The committee went on to state that the bill

“may raise unrealistic expectations amongst patients regarding their rights due to the limitations on legal enforcement under section 18 of the Bill.”

I heard what the cabinet secretary said and I think that we accept the point, but we are creating a right without a remedy.

Members of the committee differed in their views on the use of primary legislation to promote patient rights. The report states:

“Some Members of the Committee believe the Government's objective would be more effectively achieved by bringing up to date a revised and comprehensive patient rights charter. This should be in plain English, enshrining the healthcare principles set out in the Schedule to the Bill, all of the rights available to patients (existing rights, new rights provided for in the Bill, including”,

as the cabinet secretary said,

“an alternative dispute resolution mechanism),”—

such as mediation—

“to be published by the Cabinet Secretary using the powers of direction under the NHS (Scotland) Act 1978.”

On the treatment time guarantee, which the cabinet secretary also dealt with, the 12-week treatment time guarantee is for elective/in-patient treatments for patients and there are a number of exclusions—the cabinet secretary referred to some of them. Some that she did not refer to are assisted conception; diagnostic tests; outpatient treatments; and alcohol and drug misuse services, although I think that there may be reasons why it would be difficult in some circumstances to provide those within a treatment time guarantee.

Members of the committee again differed in their views regarding the introduction of the treatment time guarantee and the decision to place it in primary legislation. The report states:

“Some Members consider that the treatment time guarantee will be beneficial to patients by providing reassurance about the maximum time they may have to wait for treatment following diagnosis. Other Members consider that the proposed guarantee would add little to the existing 18 week referral to treatment target and are concerned by evidence that a new target could have unintended consequences including the potential for distortion of clinical priorities. In addition, these Members question the value of a statutory ‘guarantee’ which cannot be enforced.”

The report continues:

"The Committee also noted the concerns raised about the proposed exclusion of a number of services"—

I have mentioned two or three—

"most notably mental health services."

I again note the cabinet secretary's remarks. The report goes on:

"While the Committee accepts that it would be illogical to set targets for the treatment of patients accessing mental health services in response to a crisis, it is disappointed that access to services such as cognitive behavioural therapy are deemed to be outside the scope of the 12 week guarantee".

On complaints and feedback, the committee fully supported the aim of the Government in seeking to develop a more open and accessible system of patient feedback within the NHS. However, we were not clear what practical difference the provisions of the bill would make for patients who want to

"give feedback, raise concerns or complain about the health care they have received. Patients already have a 'right to complain'—

notwithstanding that it is not enshrined in statute—

"and the provisions of the Bill will not alter that right in any way."

On PASS and patient rights officers, the committee considered the proposed structure and the costs for the establishment of a new patient advice and support service and noted the variations that have developed in the level of service delivered by the current independent advice and support service, which is operated by citizens advice bureaux. We accepted that the service is not uniform throughout the country. Many of the issues relate to the current contractual and funding basis for the IASS, which varies from one health board area to another.

The committee believed that the role of PASS and patient rights officers

"are not sufficiently clearly defined in the Bill".

The committee went on to note that the role of a PRO will be to act as a "signpost" for patients, assisting them with feedback, providing them with advice and supporting them in making complaints. However, PROs will be prevented from carrying out any advocacy role on behalf of patients. That seemed a bit cluttered and, given that, the committee failed to see how PASS and the PROs will be an improvement on the current service provided by the IASS—forgive me for using all these acronyms. In the committee's view,

"a more effective and efficient approach could be to build on the current IASS structure by developing it through a new national contract. Such an approach would retain the best elements of the present system whilst addressing the concerns regarding the inconsistencies in the level of service and funding between health board areas."

That would ensure that we do not throw out the baby with the bathwater.

I turn to our overall conclusion. The good news for the cabinet secretary is that we were unanimous in our support for the promotion of patient rights and the Government's aim of placing patients at the centre of the NHS in Scotland. The bad news is that the committee was divided on whether primary legislation is the most appropriate means of achieving that goal. The report states:

"Some Members feel that the Bill has the potential to offer a renewed focus on patient rights, including a new treatment time guarantee and an enhanced patient advice and support service. These Members consider that the Bill will provide the necessary impetus to help overcome any organisational or cultural obstacles to change which may exist within NHS Scotland."

However, it continues:

"a majority of the Committee is not persuaded by the evidence which has been advanced to date, that primary legislation is the most appropriate means of promoting patient rights."

Some members went on to recommend, as an alternative, that the Scottish Government publish a comprehensive patient rights charter, to be enforced in the way that I have described.

The report states:

"Some Members consider that the Bill, as introduced, will not contribute significantly to the goal of achieving a patient-focused health service and, contrary to the Government's policy intentions, may potentially cause confusion regarding the legal rights of patients."

It concludes:

"Consequently, the Committee is unable to make a recommendation to the Parliament on the general principles of the Patient Rights (Scotland) Bill."

We agreed to disagree.

15:41

Jackie Baillie (Dumbarton) (Lab): I welcome the stage 1 debate on the Patient Rights (Scotland) Bill. I thank the Scottish Government for introducing the bill, the Health and Sport Committee for scrutinising it and all those who contributed to the consultation. Although I am pleased to indicate that Labour supports the general principles of the bill, we acknowledge many of the committee's concerns and intend to lodge a number of amendments at stage 2 to improve the bill's provisions.

First, there is the fundamental question of whether legislation is required to achieve the outcome that all of us desire. I am glad that the cabinet secretary addressed that point. I know that the Scottish National Party had a manifesto pledge to give every patient a legally binding waiting time guarantee and I recognise that the bill falls short of that commitment; indeed, many of those who gave

evidence to the committee suggested that the lack of sanctions and of a means of enforcement are a potential weakness. I note that section 18 restricts the potential for legal action. I agree with that, because we do not want to foster a compensation culture or to create a bonanza for lawyers. Therefore, one must question why a legislative approach is needed.

Rather than have legislation that simply declares or asserts something, we need legislation that sensibly advances patients' rights within a framework that recognises the mutuality of the NHS and the balance between rights and responsibilities of patients and of staff. The bill as drafted does not reflect that balance; as I understand it, it does not even reflect all of patients' existing rights.

We favour an approach that enables the cabinet secretary to introduce a comprehensive charter of rights and that begins to get the balance right by reflecting responsibilities, too. However, she is right to say that we need to ensure that provisions are properly implemented. Any action of Government requires monitoring, reporting and assessment of whether it is working. There are many things in the health service that are not conditioned by legislation, but health boards are in no doubt about the importance of those issues.

Secondly, the treatment time guarantee covers only in-patient procedures. I understand why it excludes people who require mental health treatment, for example, but it may have the effect of skewing clinical priorities. I note the cabinet secretary's comments, but I wonder whether the treatment time guarantee is not too blunt an instrument. Surely it would be better to have a more encompassing patient guarantee—a more sophisticated approach that covers different aspects of the patient journey, but with sufficient flexibility to allow for clinical priorities to be considered. That is not necessarily for legislation; rather, we want to enable ministers to take forward the matter in dialogue with patients and clinicians.

Thirdly, and as Christine Grahame has mentioned, the role of patient rights officers lacks clarity and seems only to signpost, so it is not as wide in scope as the existing provision for the independent advice and support service. Surely it would be more cost effective to work with that model and to develop a national contract. We do not need legislation to secure best value.

We agree with establishing the legal right to complain, which we think is important. We agree that we need to improve the NHS complaints system—and I am sure that many members who have worked with the system will testify to that. Again, one wonders whether that should be set out in legislation, but we are willing to consider that point further.

Most people who come to us to describe an unhelpful experience in the NHS do not really want to complain. In many cases, they want the NHS to apologise, and we should never underestimate the power of just saying sorry. Importantly, they also want the NHS to learn from the mistake, so that no one else goes through their experience.

I have been told about the complaints system at the State Hospitals Board for Scotland, which is described as being based on the four Cs. The first of those is complimenting people. That does not happen often enough. We should be telling people that they have got something right—positive endorsement. Secondly, comments are taken on board. That is often enough to resolve a situation and to stop it escalating further. Thirdly, concerns are addressed. Thereafter, and only when necessary, are complaints considered. That system is very much about early resolution and it is important that we learn from that example.

I agree with the suggestions that have been made about an alternative dispute resolution system. We have discussed no-fault compensation and mediation, and I am hopeful that the cabinet secretary will lodge amendments in that regard.

We welcome the bill for the opportunity that it provides to raise patient rights up the agenda. I share the cabinet secretary's passion for the NHS, its staff and all the hard work that is done in treating our constituents, our families and our friends. We believe in a mutual NHS that is absolutely patient centred. On that basis, we will support the general principles of the bill.

15:47

Mary Scanlon (Highlands and Islands) (Con):

In scrutinising any piece of proposed legislation, it is right and proper that parliamentarians look for the benefit that it will bring—in this case, to patient rights. At the end of the stage 1 process, I am still looking for those benefits in the Patient Rights (Scotland) Bill.

Section 1 states:

"Health care is to ... be patient focused ... anything done in relation to the patient must take into account the patient's needs".

It goes on to say that health care should provide

"optimum benefit to the patient's health and wellbeing ... and encourage the patient to participate as fully as possible".

Do we need to legislate for that? Is that not happening? Surely NHS staff do not do things to patients that are not patient focused, that do not provide benefit and that do not involve the participation of the patient. If they do, there are

disciplinary procedures to address such unacceptable behaviour.

Sections 6 to 10 cover the treatment time guarantee. What happens if it is breached?

"The Health Board must ... make such arrangements as are necessary to ensure that the agreed treatment starts at the next available opportunity ... provide an explanation ... give the patient details of ... advice and support"

and tell them

"how to complain."

Is that not happening at present? As the Health and Sport Committee confirms in its report,

"there is an inherent contradiction between ... setting out patient rights in primary legislation"

and having no legal enforceability for those rights.

The treatment time guarantee does not apply to the majority of patients with mental health problems—they will still have to wait months, and sometimes years, to see a psychiatrist or psychologist or to get cognitive behavioural therapy; neither does the guarantee apply to patients who are waiting for physiotherapy. It does not apply to treatments that are undertaken in hospital out-patient departments, and it does not apply to diagnostic tests. It is a fact that someone can get a hip replacement or heart bypass in 18 weeks—or, in future, in 12 weeks—but people can wait months or years to talk to someone about their depression.

I agree with the Scottish Association for Mental Health that this bill perpetuates the division between mental health and other NHS services. I asked the Law Society of Scotland whether that was considered discrimination against mental health patients and its response was:

"the provision clearly appears to be discriminatory under the normal meaning of the word."—[*Official Report, Health and Sport Committee*, 29 September 2010; c 3430.]

The fact is that in mental health there is absolutely no doubt that early diagnosis and early intervention can save NHS spend on treating severe, chronic and enduring mental health problems in the long term, allow people to enjoy a quality of life and allow many to remain in work.

The cabinet secretary spoke of the support for the bill. I attended every minute of every evidence session and I can tell her that the support was minuscule. The Law Society, the British Medical Association, the General Medical Council and many others highlighted the point that nothing in the bill is enforceable by legal action.

The Scottish Public Services Ombudsman, who I think knows something about NHS complaints, stated:

"the Bill does not appear to provide any significant extension to existing rights and expectations in relation to

the quality of NHS services provided in Scotland. Instead, it confirms and makes explicit rights and expectations that currently exist."

He went on to say that the bill

"carries the risk of an unwelcome increase in legalism and litigation in disputes between members of the public and the NHS."

As Jackie Baillie said, there is no provision for patients who wish to give feedback, raise concerns or complain. They will all be channelled to patient rights officers.

I commend the convener of the Health and Sport Committee, who managed to get us all to agree on a final conclusion, which was:

"the Committee is unable to make a recommendation to the Parliament on the general principles of the Patient Rights (Scotland) Bill."

For all those reasons—and because of the Scottish Conservatives' commitment to patient rights and responsibilities—I ask the cabinet secretary to examine and produce a revised patient rights charter under the power available to her under the National Health Service (Scotland) Act 1978. The Conservatives produced the first patient charter in Scotland in 1990. It was revised—and rightly so—and enhanced by the Liberal-Labour Scottish Executive in 2000. A further 10 years on, it is appropriate and justified for the Scottish Government to review it. In doing so, it would have our full support.

15:53

Ross Finnie (West of Scotland) (LD): For a moment there we saw Jackie Baillie sitting next to the cabinet secretary. Given her change of stance, we can see why.

Patient rights derive from a variety of sources, as the cabinet secretary pointed out—from legislation, case law and common law and convention. Patient rights are undoubtedly not easy to find. Indeed, sometimes it is difficult for the patient to ascertain precisely what their rights are. So, there is no real difficulty; in fact, there is unanimous agreement that if we are fostering a patient-focused, mutual health service, we need to make patient rights more capable of being easily understood and promote them. The disagreement is about how best that can be achieved.

The Liberal Democrats are clear that if we are to have resort to statute, it ought to have a legal purpose and effect. We are not satisfied that it should just be a status symbol or something that gives people a sense of importance. Across the range of Government policy—I mean not necessarily the SNP Government but Governments of any colour—the danger is that very serious policy statements will be diminished because the public will begin to believe that unless

something is in a piece of primary legislation, it is not worth the paper that it is printed on. That would be a dangerous precedent.

Despite the fact that the Government's consultation told it that people did not want a lawyers' charter, it still proceeded with the bill, which is a legal instrument by definition. However, realising that that could be difficult, it drafted section 18(2), which effectively emasculated its own bill by stating:

"Nothing in this Act gives rise to—

- (a) any liability to pay damages,
- (b) any right of action for specific implement,
- (c) any right of action for interdict,
- (d) any right of action for suspension".

That left a general right to seek a declaratory judicial review, all of which left one asking oneself why on earth we were creating an act of Parliament if it was to have such little force and effect.

Perhaps members were left with the view that the bill would bring all the patient rights together in one place. Then, we would know clearly and understand what it was about. However, if members read the bill, they will find that at least 17 existing rights are not referred to. The right of access to medical records, the issuing of medical reports for insurance purposes, the right to advocacy services for mental health service users, the right to appoint a welfare attorney, the right to life—for instance, in connection with treatment rationing—the right to a GP and the right to a second opinion are not referred to, and so it goes on.

The bill does not cover all our existing rights and creates only two new rights. One is the treatment time guarantee, which does not necessarily need to have a statutory backing. The other relates to complaints. The bill repeals the Hospital Complaints Procedure Act 1985 and, in section 11, reinstates in effect what that act says.

We are left with a difficult situation and begin to ask why we need a bill. Others have supported us in that. I will quote one or two examples:

"I want to return to the question of exclusions. We are being asked to consider a bill that entrenches discriminatory rights in law. That is one of our main concerns."—[*Official Report, Health and Sport Committee*, 29 September 2010; c 3436.]

Those are the words of Dr Richard Simpson at committee.

"Human rights legislation is not mentioned in the bill, which just says that it is necessary to 'have regard to' the need to treat a patient with dignity and respect".

Again, those are the words of Dr Richard Simpson in committee.

"My concern is not only that the bill does not help, but that it does not encompass all the rights that patients have."

Those, too, are the words of Dr Richard Simpson.

Presiding Officer,

"the fact is that substantial numbers of rights are not referred to in the bill. The implication is therefore that the rights in the bill are greater than other rights."—[*Official Report, Health and Sport Committee*, 6 October 2010; c 3563.]

Those, too, are the words of Dr Richard Simpson but, despite his trenchant opposition to the bill, he now supports it whole-heartedly. Apparently, he is going to amend it. Perhaps he is going to introduce even more legal powers, although I doubt it. Perhaps he is going to try to bring all the rights, with their different legal remedies, into a single act. What an appalling mess that would be.

As the Health and Sport Committee report makes clear, there is a better alternative, which has been adopted in Australia and south of the border in England: we can achieve the same aims through a patient rights charter. It would not be for the selected few rights that are in the bill, but would embrace all the rights that we have. We believe—just as the cabinet secretary does—that it is vital to promote our rights, but it is equally important that we do so in a way that shows what all our rights are. The cabinet secretary should publish those rights using the power that she has under the 1978 act.

We concede that one of the best things in the bill is the bit to which the cabinet secretary should have regard: schedule 1, which is not concerned with rights but sets out principles with which we are in total agreement.

I leave members with these words:

"In no way do I doubt your good intentions"—

I presume that that was directed at the cabinet secretary—

"in introducing the bill but I feel that it will not help patients in the way you expect it to. A constitution or charter for patients that has the force of direction from your office, and the energy behind it to make sure that patient rights are properly promoted, will achieve what you are seeking to achieve."—[*Official Report, Health and Sport Committee*, 6 October 2010; c 3576-3577.]

Once again, those are the words of Dr Richard Simpson.

The Deputy Presiding Officer: We move to the debate. Speeches will have to be a tight six minutes.

16:00

Michael Matheson (Falkirk West) (SNP): I have no intention of quoting Richard Simpson in

the course of my speech, even if Ross Finnie chose to do that this afternoon.

The tenor of this health debate is a little healthier than was last Wednesday's, but yet again we are not unanimous in our position on the bill that is before us. From the debate thus far, there is clear agreement on the importance of patient rights and the need for those rights to be upheld. Our NHS should always ensure that it acts in the best interests of patients wherever possible. Unfortunately, that is not always the case. As we clearly demonstrate in our stage 1 report, the committee was unable to come to an agreed position on whether legislation is the best option to improve patient rights in our health service in Scotland. I am mindful of the sharp divide between those who support and those who oppose the bill. Broadly, those who represent patient interest groups and other interest groups in the NHS favour legislation, and those in the professional bodies that represent those who work in the NHS appear to be strongly opposed to it. That may, in itself, suggest that we have the balance somewhat correct.

I recognise that some members believe that setting out a list of rights in a bill that has limited legal enforceability is not the appropriate way to go. As Christine Grahame said, some committee members see the contradiction in that. Over the course of the evidence that we received at committee, I was not persuaded that, if greater legal enforceability were introduced into the bill, there would be a desire out there to rush to the courts to enforce the legal provisions. The suggestion that including greater legal enforceability in the bill would somehow create a charter for lawyers is well off the mark and somewhat unfounded, on the basis of the evidence that we received as a committee. The cabinet secretary has indicated that she is prepared to look at how the provisions of the bill could be improved at stage 2 to give greater enforceability. I welcome that.

I often deal with complaints from constituents about our health service, but no one has ever come into one of my surgeries and said, "I am here because I want to take our health service to court." Even if the bill were to provide greater legal enforceability, I suspect that no more of my constituents would rush into my office to say, "I want to take the NHS to court." In most instances where the NHS has got it wrong, it holds up its hands and says so. Unfortunately, at times there are cases where the NHS is not prepared to do so, which is to be regretted. I believe that that is influenced in part by the fact that at times there is a culture of fear in our NHS; a culture that says that admitting to mistakes leaves the NHS open to potential legal challenge. One of the benefits from the bill could be that we start to address that

unhealthy culture, which can exist in some parts of our NHS.

In preparing for the debate, I thought about our experience in the lead-up to the coming into force of the Freedom of Information (Scotland) Act 2002. I remember when the Information Commissioner of Canada came to the Parliament to share his experience of the introduction of freedom of information in his country. He was clear that the issue and challenge was not the coming into force of the legislation but changing the cultural mindset of the public agencies affected by it.

I have no doubt that since the Freedom of Information (Scotland) Act 2002 came into force, many of our public bodies have changed their mindset and their attitude to making information available, and that there has been a significant cultural shift in the way in which they do that. I believe that one of the bill's potential benefits is that it could help to make the cultural shift that is necessary in the NHS, thereby ensuring that patients' rights are much more central to the decision making of clinicians and management and the way in which they plan and manage their services.

Jim Elder-Woodward summed up the bill's importance fairly well when he gave evidence to our committee. In talking about the need to ensure that we have an NHS that is truly mutual, he said:

"If we are to work on the basis of mutuality, each person around the table needs to bring a resource with them. For patients, the resource will be the Patient Rights (Scotland) Bill".—[*Official Report, Health and Sport Committee*, 29 September 2010; c 3456.]

That can be provided by passing the bill.

16:06

Rhoda Grant (Highlands and Islands) (Lab):

The only honest way to describe the bill is as a disappointment. It does not do what it says on the tin.

I am certain that everyone in the Parliament is signed up to the concept of improving patients' rights, so this bill, of all bills, should have been given a fair wind. It is a sign of how short it falls of that aim that the committee could not recommend to the Parliament that its general principles be agreed to at stage 1.

I am deeply disappointed that the cabinet secretary appears not to have taken seriously the committee's concerns. The real dilemma is whether the bill can be amended so radically at stage 2 that it will improve the situation of patients. I for one am willing to try. If we cannot do that, the bill will need to be voted down at stage 3, because in its present form it would be detrimental to patients. As others have said, the bill as it stands

enshrines some current rights but leaves out others. We fear that it would create a hierarchy of rights. Are the ones that are identified in the bill more important than those that are the subject of ministerial directions?

The bill would not provide a remedy for patients whose rights have not been met. No one wants American-style litigation in our health service, but if people are to be provided with a right they must have a remedy in the event that they cannot access it. In its report, the committee suggested something along the lines of mediation, but I am not so sure. If a patient's waiting time guarantee has been breached, they need action, not discussion.

There are other issues that the bill does not cover. Some of the hardest cases that I have to deal with involve people whose health has suffered or who have lost loved ones because of the actions of clinicians. The current complaints procedure is wholly inadequate in dealing with such cases, because boards and professionals tend to close ranks for fear of litigation or of a doctor being struck off. They do not deal with the issues or respond satisfactorily. The Scottish Public Services Ombudsman cannot help, because it looks just at the process rather than the substance of the complaint.

The only option that patients are left with is to go to law. They are not experts, so they need to find a professional who is willing to review the case, which comes at a cost. They have limited resources to take on the full force of a health board and its insurer in the court system. Needless to say, people are reluctant to do that, not just because of the cost but because they do not know where to start. Such people often come to MSPs to ask them to right the wrong, in the belief that if the state has let them down, it is for the state to right that wrong, but we have no tools to use on their behalf other than mediation, which, frankly, does not work in such cases. I am hugely frustrated by that. It is wrong when all that we can do is offer sympathy. The Stafford hospital inquiry is a pretty sobering example of what happens when complaints are not dealt with properly.

I do not have all the answers, but we need to examine the issue further. One option might be to consider setting up a body along the lines of the Independent Police Complaints Commission, which provides independent scrutiny. That would obviously have a cost, but it might be a better use of the money that has been put aside for a new complaints service.

On the proposed patient advice and support service, the evidence was strong that the current independent advice and support service works well when health boards pay for that service for their patients. The current service is provided by

citizens advice bureaux, and it works well by ensuring that patients receive advice on health care and any other issues that might concern them, such as benefits. There is real concern that a new service would stop that joined-up approach and cause patients to have to deal with myriad people when they are possibly not best placed to do so. It is clear that all patients need to be able to access the service, regardless of their health board. Perhaps that should be done on a national basis, with the Government top-slicing the funding rather than leaving the decision to the health boards. When money is tight, health boards obviously will look for savings, and that kind of service becomes vulnerable if it is not protected.

As I said, not all rights are enshrined in the bill. It is clear that legislating for some rights and setting them in stone would be problematic. For example, the waiting time guarantee might change. Services that have no guarantee will not be included. Also, of course, legislation cannot be amended day and daily when patients' rights change.

Some members are keen on a patient charter, which has merit. An accessible statement of rights and responsibilities for patients would be helpful, but that does not need legislation. Indeed, to make it accessible, we should really avoid enshrining it in legal mumbo-jumbo. The bill could place a duty on the Government to produce a charter that gives patients a clear statement of their rights and responsibilities and the remedies when they are denied.

The only part of the bill that got unanimous support was the health care principles in the schedule. They provide a statement of intent about how patients should be treated when they engage with the health service, and they should be the basis of a new ethos for health care.

We need more than warm words. For the bill to work, it must do something, and if it is to progress into law, it will have to be changed radically. I hope that those changes can be made.

16:11

Nanette Milne (North East Scotland) (Con):

The NHS with which I grew up was a paternalistic organisation in which patients were the passive recipients of treatment that was meted out to them by those who thought that they knew best what was good for them. In hospital, they were talked over by a retinue of people in white coats who assumed that the patient would have no understanding of their medical condition. That approach is clearly unacceptable in the 21st century, and thankfully things have moved on, with patients having rights, including that of being fully involved with the management of their health

issues. However, the system is not perfect and patients can feel let down by it. The Scottish Government's intention to create a fully patient-centred and genuinely mutual NHS is laudable and has widespread support.

The point at issue is whether legislation, as outlined in the bill, is necessary to achieve that goal. From the evidence that was given to the Health and Sport Committee, it is clear that many witnesses believe that it is not. Consumer Focus Scotland noted that patients have rights already, but they are not mentioned in the bill, and as we have heard, the SPSO pointed out that the bill does not extend significantly patient rights in relation to the quality of NHS services that are provided for them in Scotland, and fears that to enshrine them in primary legislation could lead to

“an unwelcome increase in legalism and litigation in disputes between members of the public and the NHS.”

The Law Society articulates a common concern of witnesses, that the bill lacks teeth because it does not include the provisions that are necessary to enforce the principles and guarantees that it contains. The RCN is

“unconvinced that legislation is more useful than a review of how rights and responsibilities are promoted and implemented”

and the GMC is not clear about how those rights that are included in the bill would be implemented, measured and enforced.

It is unusual to have such a weighty body of opinion questioning the need for a bill and doubting the effectiveness of the proposals within it. Mary Scanlon has pointed out that the treatment time guarantee that is set out in the bill is not legally enforceable, and that many people who have conditions that are not included in that guarantee, such as mental health problems and deafness, stand to lose out under the proposed legislation. The list of conditions might be small, but that is no comfort to the patients who are affected. The BMA has serious concerns, which I share, that to place treatment time guarantees into statute will skew clinical priorities, and although I do not always agree with the BMA, I certainly agree that targets should always be based on clinical evidence and not on political imperative.

Finally, there is doubt about the accuracy of the projected costs that are associated with the bill. A number of concerns have been raised about that by organisations, including NHS boards and Citizens Advice Scotland. I worry about added bureaucracy developing around an unspecified number of patient rights officers.

I am not a member of the Health and Sport Committee but, from what I have read about the bill, I cannot see that it is necessary, or even that it would produce the cultural change that the cabinet

secretary seeks. Of course, I believe in a patient-centred health service and that patients should have the right to quality treatment whenever they need it within an NHS that has their best interests as its foremost consideration. I also believe that patients should be supported and helped if and when they feel let down by the service.

We need a more open and accessible system of patient feedback in the NHS. Many patients would like to give constructive feedback following a health care experience, but they do not want to do that through a formal complaint. There should be a mechanism to cope with that. However, to set in new legislation what the NHS has been striving to do throughout its existence—namely, to ensure that anything done in relation to a patient takes into account the patient's needs and that regard is given to the importance of providing optimum benefit to the patient's health and wellbeing—does not seem necessary to me or to many of the people and organisations that have taken an interest in the bill.

Surely a much better option would be to look again at the patient charter, which was devised by John Major's Government in 1990 and revised 10 years later by Labour. A strengthened patient charter would be every bit as effective as the bill in improving the promotion and implementation of existing rights and responsibilities for those who use and work in the NHS. Its efficacy across Scotland could readily be judged by Government ministers during their annual review of health boards' performance. We all want the best deal possible for patients but, along with many others, my party feels that the bill is not the best way in which to achieve that. However, as Mary Scanlon said, we are willing to co-operate fully with the cabinet secretary should she be willing to go down the road of producing a more effective patient charter.

16:17

Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): To me, the question is, “What are patient rights?” My constituents are patients, I am a patient and the cabinet secretary is a patient—we are all patients, if not now, then sooner or later. So in talking about a truly national health service, with patients requiring diagnosis, receiving treatment and, we hope, being made well, I take a first-principles approach. Accordingly, we should consider what my constituents—the people who live the length and breadth of my vast and remote constituency—approach me about in relation to the health service.

Let me look back over my time as a member of the Scottish Parliament. My first example is maternity services in the far north. I and other Highland MSPs witnessed what was probably the

biggest demonstration that Caithness has ever seen when there was a proposal to downgrade the consultant-led maternity service based in Caithness general hospital in Wick. When faced with an increase in the number of mothers having to travel a 200-mile round-trip to Inverness to have their babies, the people of the far north were not having it, and they told us so loud and clear.

A second example is dental services in my constituency. How many times have I raised that in the Parliament? More times than I and, I dare say, the cabinet secretary would care to remember. Sadly, the lack of available NHS dental services for my constituents has been a huge issue for years, and it continues to be one. Going private and paying for a dental insurance scheme is simply not an option for those who are unemployed, the elderly or those on lower incomes. What do they do if no NHS dental service is available? Do they go private or do they go without? Alas, we know the answer. If people do not get treatment, far worse dental problems and associated health problems are stored up for a much more frightening future day.

A third issue that my constituents have contacted me and other members about and asked us to raise in the Parliament is the Scottish Ambulance Service. There are issues such as single manning; ambulances having to be parked up so that two single crew members can double up; and even doctors having to leave their practice area to accompany a patient in an ambulance, sometimes for more than 100 miles to hospital in Inverness.

A fourth example is the patient transport service. There is a lack of availability of the service. Also, as I have argued for long enough, the remuneration system and the associated tax regime—which is not the cabinet secretary's problem, although in a way it is and very directly so—lead to drivers in remote and far-flung locations pulling out. Those are real problems for patients.

Those are four examples of things that are important to my constituents: access to a maternity service; access to an NHS dental service that will not have X thousands on the waiting list; access to a speedy, properly manned ambulance service when one is needed; and a patient transport service that is not only a one-way service and that does not lead to patients sometimes missing appointments, which is no good for their health and recovery and wastes the time and precious resources of our health professionals.

I am sure that other members could give many more examples of what patient rights are about. They are about a right to diagnosis, a right to treatment, a right to recovery, a right to genuinely

local NHS services and a right not to be disadvantaged because of where one lives. I make no apology for the fact that, for more than 11 years, that has been the central theme of all that I have said in this chamber on health matters. In focusing on such issues, I believe, like members from all parties, that I am genuinely reflecting constituents' rights.

Do constituents come to me and say, "I want my legal rights"? No, they do not. What they very often say—too often—is that they want help and treatment for them, for their loved one or for their neighbour, or they say, "I know that doctors, nurses and health professionals already do their best; I just want to be able to access their services." As other members have said, if someone has a complaint about the treatment that they are receiving or the lack of it—we all get the occasional complaint—they, I and other MSPs know that we have recourse to the ombudsman, to our local NHS board, to the chair of that board and, indeed, to the cabinet secretary herself. I put on record the helpful and constructive attitude that ministers have taken. By and large, the present complaints procedure works. Yes, as others have said, more advice and a charter could help, but that would be a very different beast from the bill.

I have described the very real expectations of my constituents, which are all about local service delivery and availability, and about not being disadvantaged for reasons of geography and distance. Alas, however well intentioned the bill might seem at first, at this stage it misses the mark and addresses precious little to my constituents.

The Deputy Presiding Officer (Alasdair Morgan): I can give the next two members only four minutes each.

16:22

Irene Oldfather (Cunninghame South) (Lab): My comments concern issues around people who lack capacity, some of which were discussed at the recent meeting of the cross-party group on Alzheimer's. I associate myself with Mary Scanlon's comments on the importance of early diagnosis and treatment for those with mental health problems, and I raise the possibility of further, unintended consequences, particularly in relation to those who lack capacity.

There is insufficient recognition that there is a difference between normal best practice in relation to the rights of competent patients and best practice in relation to the rights of patients who lack capacity or who are unable to consent to medical treatment or health care due to a mental disorder, of whom people with dementia are the largest group. I understand the rationale behind rights being enshrined in the Adults with Incapacity

(Scotland) Act 2000, but I am concerned that there is a perception that the bill contains some but not all of patients' existing rights. There is a danger that patients' rights could become piecemeal and that—particularly for patients who have communication difficulties or who lack capacity—the situation could be difficult to explain. Patients may, rightly, believe that the bill is all encompassing, whereas, in its present form, it is not.

In addition, particularly for that vulnerable group, where there is a significant crossover between health and social care it must be recognised that rights do not stop when someone leaves the general practitioner's surgery or the acute ward. A one-door approach is essential if we are to avoid confusion among carers and patients about where to go with which part of their complaint. To that end, I ask that, in reshaping the proposals, we consider the inclusion of the charter of rights for people with dementia that the Government has already endorsed.

Connected to that, Alzheimer Scotland has expressed concern that, in limiting the duties of patient rights officers to raising awareness and understanding of the rights of patients only in relation to the rights that patients have under the bill, there is an implication that they will be under no obligation to have knowledge of or to promote and support the rights of patients under the Adults with Incapacity (Scotland) Act 2000 or the Mental Health (Care and Treatment) (Scotland) Act 2003. That could be extremely confusing for carers of people with dementia or other disorders who need to know where to take their complaints about general acute medical care and treatment.

If the patient lacks capacity to make decisions based on information, treatment must be lawfully authorised by a relevant enactment or rule of law. Evidence from the Mental Welfare Commission for Scotland reports that that is not happening, and on-going work continues to lack properly documented procedures.

Rights are meaningful only if one knows what they are and how to claim them. It is essential for those who lack capacity that we ensure fairness and equity in the system. A great deal of work remains to be done to show that the bill can address those priorities, but I feel that incorporating the charter of rights for people with dementia within it would go some way towards assisting matters.

16:26

Elaine Smith (Coatbridge and Chryston) (Lab): The main problem with the bill seems to be whether it is required at all. However, there can be little doubt that the underlying ethos should be

supported and encouraged, and the Scottish Government has rightly recognised the need for the provision of better information for patients, as well as a guaranteed standard of care and reasonable treatment throughout the NHS in Scotland. Making patients aware of not only their responsibilities, which we are often reminded of, but their rights is a positive step forward that ought to be welcomed across the chamber.

It is vital that health care professionals listen to the patients' cares and concerns, with patients being treated as partners, whose knowledge of their own body and symptoms is respected, rather than as subjects who are just dictated to. I will focus on the example of thyroid disorders in order to highlight the importance of patient advocacy and a need for a change of ethos, as outlined by the cabinet secretary earlier.

Thyroid disorders are a gender issue, as women are five times more likely to suffer from them than men are, and 17 per cent of women over 60 will suffer from some form of hypothyroidism. In its submission to the Health and Sport Committee, Breast Cancer Care suggested that health care should be based on clinical and patient-specific need that excludes all strands of discrimination. Any discussion of rights should, therefore, not ignore the gender imbalance that exists in many areas of health care, such as thyroid disorders. Many very ill people with thyroid dysfunction are not being diagnosed by general practitioners, are on the wrong levels of thyroxine or are on thyroxine but not converting from T4 to T3, and they need advocacy.

Dr Anthony Toft, a world-renowned and highly respected Scottish endocrinologist, believes that it is of prime importance that GPs consider how patients present, rather than simply accepting the results of blood tests. He suggests that doctors should take a whole-picture approach that takes into consideration all the patient's symptoms and does not rely totally on tests. That is important in the case of a lack of T3. In such a circumstance, the tests show that the T4 is fine, and the GP will insist that there is nothing wrong with the patient's thyroid function when, in fact, they are gravely ill and getting progressively worse.

Another issue that the proposed patient advice and support service could assist with is generic prescribing. Obviously, we are looking to save money in the health service, but a drug such as thyroxine can vary in strength and quality, depending on the source, and that variation can have a detrimental impact on the health of thyroid patients. Dr Toft therefore also recommends that the same make of thyroxine should be dispensed to a patient, but GPs and pharmacists do not seem to be aware of that. Advocacy is needed in that regard.

The health of many thyroid patients could be much improved if GPs and others listened to them rather than simply depending on tests. That is an area that requires more attention, research and advocacy for patients in Scotland.

Whether or not the bill progresses to the end of stage 3, a patients rights officer could promote the interests of the patient in cases in which they are not being listened to or are too ill to advocate on their own behalf. With or without the bill, we need to start viewing patients as equal partners in our system of health care. As well as ensuring that their views are respected, that could prevent more serious conditions from arising or stop there being lengthy periods of misdiagnosis, which would save the NHS money in the long run.

As others have said, the area of complaints needs to be updated and modernised. Patients not only need clear procedures in order to make complaints; they need evidence that their complaints are dealt with and that effective changes are made and systems modified as necessary. It is vital that feedback be given. As the constituency member for Coatbridge and Chryston, I have heard numerous instances over the years of constituents who are dissatisfied with NHS services but worried that, if they complain, they may receive less favourable treatment.

Overall, our NHS is an excellent service that operates on the principle that people are treated on the basis of health need and not their ability to pay. Any change must be an improvement and in no way detrimental to that ethos, and it must work better for the patients of Scotland.

16:30

Iain Smith (North East Fife) (LD): I make it clear from the outset that the Liberal Democrats believe that the rights of patients are of utmost importance. They should be clearly set out, and NHS boards must be held responsible for upholding them. However, the issue before us today is whether primary legislation is the right way to go about that.

It is important that the Parliament remembers that primary legislation is not about sending messages but about changing the law of Scotland. It involves establishing legal rights and responsibilities for the people of Scotland and the legal duties and responsibilities of those bodies that serve them. The problem with the bill is that it does not do anything new. It does not extend or improve the rights and responsibilities of the people of Scotland, or the duties and responsibilities of the bodies that serve them.

When we consider primary legislation, we must ask the following questions. First, is there a problem that needs to be addressed? There are

certainly issues in relation to improving patient rights and the existing complaints procedures. Is primary legislation the best way to deal with those issues, or can alternative methods be used? Is the existing legislation properly implemented and enforced, or does it need to be amended?

The case has not been made for new primary legislation in this area. Other options are available to the Government and to the Parliament to address those matters.

Let us take the complaints system, for example. The cabinet secretary made much in her opening remarks of the fact that the bill introduces a new legal right of complaint. However, as Ross Finnie pointed out, that right already exists.

Nicola Sturgeon: Will the member give way?

Iain Smith: I will finish the point, but I will let the minister in if I have time.

Complaints about the NHS are dealt with by the service at two levels. Level 1 is an informal stage, at which local resolution is sought, and level 2 is a formal complaint that involves an NHS internal review. There is then the option of referral to the SPSO. That is covered by key legislation in the Hospital Complaints Procedure Act 1985, which—most significantly—is complemented by directions and procedural guidance from the Scottish Executive that were last updated in 2005. The Government has the power to change the complaints procedure through direction and guidance if it feels the need to do so, which is an important point.

Nicola Sturgeon: I want to clarify the point that Ross Finnie made earlier. Will Iain Smith and Ross Finnie accept that the 1985 act does not give patients a legal right to complain? It makes provision for the complaints procedure arrangements that must be in place, but it does not give the legal right to complain that the bill would give.

Iain Smith: Well, 11,000 people make complaints every year under the Crown system and, of those complaints, 27 per cent are completely upheld and 33 per cent are partially upheld. There are a lot of people out there who are quite able to use the existing complaints procedure. Some people do not use it, but that is not because they think that there is no legal right to complain; that is myth. It is because they are concerned about the process, they are frightened that it might affect their future relationship with their health professionals or they have other reasons for not doing so.

I will address a couple of other issues that came up in the debate. On the treatment time guarantee, we should remember a bit of the history. The 2007 Scottish National Party manifesto stated:

"Individuals sometimes need to be treated more quickly than the national waiting time guarantees. To ensure this happens we will introduce a Patients Rights Bill to give every patient a legally binding waiting time guarantee appropriate for their condition."

That was slightly watered down by September 2007, when the SNP introduced its programme for government, which stated:

"We will consult on our proposals for a Patients' Rights Bill which will bring greater accountability to our health service, give patients more rights and give legal effect to waiting time guarantees".

The bill before us today states that if a health board does not meet the treatment time guarantee, it must

"make such arrangements as are necessary to ensure that the agreed treatment starts at the next available opportunity"

—in other words, the patient will be put on a waiting list. The board must also

"provide an explanation to the patient as to why the treatment did not start within the maximum waiting time"

—it was because there were too many people ahead of them on the waiting list. The bill does not really extend the existing rights of patients under the current waiting time provisions.

Patient rights are important, but there is always a danger that we will start to pass bills because of what they say on the cover rather than what they say inside. The Patient Rights (Scotland) Bill would be a good thing if it extended patient rights but, as has already been hinted at, there are some serious questions about whether it in fact diminishes those rights. For example, there are existing common-law rights to consent to or refuse treatment; to have adequate information about treatment, side effects and risks, or informed consent; and to appoint a welfare attorney. However, the bill states only that health care is to

"allow and encourage the patient to participate as fully as possible"

and to "have regard to" the need to provide information, and it contains no right to appoint a welfare attorney.

There is a legal right to confidentiality under the common law and the data protection legislation, but the bill states only that health professionals must "have regard to" confidentiality. On human rights, there is an absolute right to freedom from degrading treatment and an absolute right to privacy, but the bill states only that health professionals must "have regard to" the need to provide patients with dignity and respect and the need to respect privacy and confidentiality. It strikes me that, in those areas, the bill diminishes the existing rights rather than improving them. For that reason, we cannot support the bill.

I cannot understand the Labour Party's position on the bill. In every single speech that Labour members have made, they have argued against the use of primary legislation, yet they are going to vote for it at stage 1. That does not make sense. I hope that they will see sense between now and decision time.

16:36

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

This afternoon's debate has been helpful in setting out the different positions that people take on the Patient Rights (Scotland) Bill. The position that is taken by the cabinet secretary and her colleagues on the SNP benches is clearly that the bill is appropriate and necessary. The position that has been set out by my Conservative colleagues and the Liberal Democrats is that the bill is inappropriate and unnecessary. The Labour Party's position is drowning in a sea of fudge.

There is a philosophical question at the heart of the debate: when is legislation necessary? The view that my party and I take is that we should legislate only when necessary and as a last resort. We should not legislate as a gesture or, as Iain Smith said, to send a message. That is what the cabinet secretary said earlier that the bill would do. Ross Finnie made the point very fairly in his opening speech. I find myself increasingly in agreement with Mr Finnie in health debates. Some have observed that, indeed, I am increasingly coming to resemble Mr Finnie. However, I reassure him that that is only a temporary arrangement on my part. I will be as delighted as he will be when St Andrew's day comes along and I can get the razor out.

It seems to me that legislation should be put through only when it is necessary, when it is required as a last resort, and when we have exhausted all the other possibilities. I do not believe that the bill meets those tests, because what is required by the bill should be happening already in the NHS. The bill will make no difference.

What is singular about the reaction to the bill and the evidence on it from the health bodies is that, as Michael Matheson said, it has been extremely negative. The Royal College of Nursing said:

"There is a need to enshrine patient rights, but we do not believe that legislation is the way forward."

BMA Scotland said:

"We could do it by publishing a charter, so that patients feel more empowered to address patient rights issues within the context of an on-going episode of care."

Dr Bill Mathewson from the Royal College of General Practitioners Scotland said:

"I agree with my colleagues."—[*Official Report, Health and Sport Committee*, 29 September 2010; c 3439, 3440.]

Others to whom Mary Scanlon referred took the same view. Does the cabinet secretary see the irony that, just a week after we were lectured to on minimum unit pricing of alcohol and told that we should listen to the medical establishment when it comes to health issues, she is now disregarding its opinions on the important issue of patient rights? The Government is taking a pick-and-choose approach.

There has been a lot of discussion about the treatment time guarantee. We have always been nervous about enshrining time limits and targets in legislation. On this occasion, we agree with the BMA, which has expressed concern that the measure would have unintended consequences, distort clinical care and harm patients. Nanette Milne, speaking from medical experience, agreed with the BMA and confirmed what it had to say. We need to be cautious. We are not convinced that there is a need to enshrine the guarantee in legislation. In any event, there is no sanction. What is the point of having a legal right in the bill if the recipient cannot enforce it?

The provision will, of course, come at a cost, as we will need an army of patient rights officers—potentially between 65 and 80 full-time equivalents throughout Scotland—who will take money out of the health budget. We believe that that money could be better spent on front-line services.

There are other flaws in the bill. Mary Scanlon quite properly referred to the lack of mention of those with mental health issues who face extremely long waiting times to be seen. They will not be helped at all by the bill. Other patients, such as those who are waiting for physiotherapy, are in the same boat. Therefore, we have deep concerns about the approach that the cabinet secretary has proposed.

What should be done instead?

Elaine Smith: Are patients' rights not such an important issue that the cabinet secretary should be given the opportunity to amend the bill at stage 2? If it is not amendable, members of Murdo Fraser's party could then decide not to support it.

Murdo Fraser: I hear that point but, to be honest, I have difficulty seeing how the bill could be amended in a way that would make it acceptable to us. It seems to us that there is a better way to approach the matter, through enhancing the patients charter. Mary Scanlon set out that approach. Notwithstanding the cabinet secretary's rather dismissive words, the patients charter was an improvement in the NHS. It improved the way in which patients were dealt with and their rights to complain. There was a culture change in the NHS at that time, and it was

improved by the previous Administration. We think that that is the right way forward.

There is an issue with NHS complaints more generally. Jamie Stone drew attention to that in a fine speech. Last week, I met the Scottish Public Services Ombudsman, Jim Martin, to discuss some issues. The problem in the NHS is that, if people feel that they or a member of their family has had bad treatment, they will want some redress. Those people will not be looking for money or compensation; they will probably be looking for an apology. They will want somebody to say, "We're sorry. We got this wrong and lessons have been learned." However, the current system does not allow that to happen and, in frustration, many people end up going to lawyers and seeking redress through the courts. That is extremely expensive, stressful and time consuming, and they are not looking for that. They want a proper complaints system. That is what we should get, but the bill will not give us that, which is why we will not support it.

I am sorry that poor Richard Simpson, who is a robust opponent in committee, has now been exposed as Jackie Baillie's poodle, and that he will meekly vote for the bill. We and Rhoda Grant say that it does not do what it says on the tin. There is a better way, so members should reject the bill.

16:42

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I am flattered by Ross Finnie's repeated quotes from my attempts to ask questions about the bill in the committee.

I think that we all agree that the bill has good intentions, and that we need to improve patients' rights and how they are managed. Most of the witnesses who gave evidence to the committee thought that drawing together patients' rights would be valuable. I do not often agree with Michael Matheson, but I agree with him that there was a clear divide between the approach of the health professionals, whom Murdo Fraser quoted at length, and the approach of the patient groups. Those groups clearly indicated a desire to legislate. We should take account of that.

Almost all the witnesses indicated that there are serious problems with the bill as drafted.

Ross Finnie: Does the member agree that it is more accurate to say that there was a clear desire to have expressions as set out in the schedule? There was little evidence of anybody wanting a law to go to court with.

Dr Simpson: I will come back to that.

A number of members have referred to the Law Society, which pointed out that there are 17 other rights that patients already have that are not set

out in the bill. Ten of those are listed in paragraph 43 of the committee's report. Some of those rights are fundamental and some of them are very complex. Irene Oldfather was eloquent, as usual, when she said that impaired capacity is an important issue that needs to be addressed. Other members have referred to the GMC's concern that a patient's right to refuse treatment was not made clear. The Scottish health council and Consumer Focus have expressed doubts about the bill, and we have considerable doubts about it. That is not surprising in view of what Ross Finnie quoted.

The committee clearly enunciated the central paradox of the bill. We want patients to have clearly laid out rights, but section 18 effectively precludes any significant legal action. However, once again, we all agree on that because we do not want lawyers at the foot of the bed.

The lawyers describe those provisions in the bill as not being meaningful. When is a right not a right? If it is enforceable, it is a right; if it is not enforceable, perhaps it is not a right.

Jackie Baillie and others have made clear our preference for powers to be developed and published in a charter of rights. However, perhaps that should be dealt with in a bill that has the enabling powers to produce it. It should also contain provisions on patients' rights and responsibilities as well as those of staff.

Later sections of the bill deal with the treatment time guarantee. We have considerable difficulties with the guarantee and will seek to amend it. Sections 6 to 10, which introduce the guarantee, present another conundrum. In committee, Ian McKee questioned witnesses repeatedly about the trade-off between clinical priorities and guarantees. When we first debated the subject, I was attacked by the cabinet secretary because I said that clinical priorities must always come first. Her reply was that if a guarantee is not binding, it is not a guarantee, and if it is not binding, will patients not find it meaningless? There is therefore a second conundrum in the bill that we need to address. I say to my Liberal Democrat and Tory colleagues that, although we might not be successful, we will seek to address the conundrum by taking a much more flexible approach to patient guarantees, rather than giving the precise guarantees that the cabinet secretary seeks to embody in primary legislation, which might change.

Others have said that the treatment time guarantee, as it is laid out in the bill, is highly discriminatory. SAMH and others indicated their serious concerns about mental health being almost totally excluded from the bill in relation to treatments such as CBT. However, that is not the only area that faces a problem. Why is the national scoliosis service excluded? Assisted conception,

which is a source of considerable delay and problems, is a worry to many patients, so why is it excluded? We need a much more flexible approach in the TTG sections of the bill and we will seek to amend them.

Elaine Smith spoke about issues in primary care. Primary care is not covered by the bill, yet many of the delays in cancer diagnosis relate to the primary care sector, about which there are no guarantees in the bill.

There are many targets in the NHS that are not just for in-patient procedures. NHS Lothian indicated that procedures that are in-patient today might be out-patient procedures tomorrow and therefore subject to a TTG. The situation will be different in different health boards, so there are real problems in not making the TTG provision more flexible.

Turning to the complaints section of the bill, I note that the SNP undertook to introduce no-fault compensation and I know that it is still working on that. That is important in relation to where we are going. It is a pity that it cannot be included in the total package at this point, but I understand the difficulties. We would welcome a much more formal mediation process because, as many speakers have said, patients do not want to enter into a formal complaints procedure; they want something else.

In paragraph 136 of our report, we refer to the example of the complaints system in the Equality and Human Rights Commission's evidence. It is known as the four Cs and was developed by the state hospital, as my colleague Jackie Baillie explained. That system encompasses and embodies the approach that we all want to see. It includes compliments, which are about positive feedback. It includes comments, which are simply something in passing such as, "The doctor is wearing a wrist watch," which is against health care-acquired infection regulations; someone in that situation does not want to complain, but they might want to say, "Doctor, you might want to take your wrist watch off," or to say to the nurse, "You know, the doctor was wearing his wrist watch." If they see a commode with blood fluids on it—we have lots of HAI reports—they do not want to complain because it might be just about to be cleaned, but they should be able to make a comment. The system also deals with concerns, which are short of a complaint. The four Cs system has changed the culture, which is what we all want to do, and we can try to embody it in legislation, which would give greater formality to the complaints procedure than there is under the 1985 act.

Finally, the bill introduces PASS and PROs. PROs will be expensive and will be a backwards step from the current IASS. However, we heard

evidence that the IASS is flawed, is not uniform and has no national contract. That involves many issues that might be worth being embodied in primary legislation. We need to see what we can do on that. I urge the cabinet secretary to suspend the retendering process that is going on, which is damaging the system that is in place. Staff are leaving, and we will lose the volunteers who are associated with the system.

Despite many reservations, Labour will support the bill at stage 1. We offer the Government the opportunity to work together to amend the bill significantly at stage 2. If the bill can be amended to the degree that we want, we hope to support it at stage 3. However, we reserve our position until we see whether the bill can be amended and can meet the serious objections to it in its present form.

We need a charter of rights that apply from the bill and other legislation. We need to consider treatment time guarantees. Huge issues are involved. We are prepared to work with the Government in a serious attempt to make the bill practicable.

16:51

Nicola Sturgeon: I thank all members for their speeches, the Health and Sport Committee for its work at stage 1 and Christine Grahame for her opening speech. He will not thank me for supporting him, but I thank Richard Simpson for displaying open-mindedness. I remind Ross Finnie, who is normally a stickler for procedure, that part of the job of all Health and Sport Committee members—they do it well—is to scrutinise and ask questions at stage 1. It is rather unfair to quote people's questions against them in debate.

It is extremely encouraging that everybody has agreed with the principles of strengthening patients' rights. I think that it is agreed that something needs to be done to improve the current framework. I believe that that should be done through primary legislation. Mary Scanlon said that the bill had no support and she mentioned the BMA, the RCN and the GMC. They are all respected organisations, but they represent providers of health services. She omitted to mention organisations such as Inclusion Scotland, the Rarer Cancers Forum and the RNIB, all of which—as Richard Simpson said—support the bill, as do organisations that represent people who use health services, as Michael Matheson said.

Many members have said that we should achieve the aim by a patients charter. My issue with that—with which Labour agreed to an extent—is that, without legislation, any rights that are in a patients charter can be easily eroded or

forgotten. Whether the Tories and their new-found friends in the Liberal Democrats like it or not, that is what happened to the previous patients charter. I remind members that that charter existed when patients routinely waited a year or 18 months for hospital treatment.

Murdo Fraser: I am genuinely interested in the cabinet secretary's argument, but the problem with her proposal is that the bill contains no legal remedies to enforce the rights that she is supposed to be giving. How is what she suggests better than the patients charter?

Nicola Sturgeon: I am coming to that point. If Murdo Fraser has patience, he will hear the answer to his question.

I was about to say that it is perhaps not surprising that the Tories—and, to a lesser extent, the Liberals—oppose the bill, because the coalition Government south of the border is removing or at least diluting many guarantees that patients had.

Mary Scanlon said that all that the bill covers should be happening. She is right, but we all know—and, as the Cabinet Secretary for Health and Wellbeing, I am prepared to admit—that although the NHS delivers to those standards in the overwhelming majority of cases, to be frank, it does not do so in some cases. The bill is intended to raise standards for all patients.

The issue has been raised that the bill is not enforceable. We deliberately took on board people's response to the consultation that they did not want the system of the lawyer by the bedside. I make no apology for that—that is the sign of a listening Government—but it is not true to say that the bill contains no rights of redress. The bill contains the right to complain and to give feedback. There are existing rights to go to the ombudsman, to initiate judicial review and to take action for clinical negligence, if that is appropriate. The bill also legislates for support to help patients complain and to ensure that their rights are met. I think that that is particularly important when it comes to helping more vulnerable patients.

Jackie Baillie made the important point that what patients want when something goes wrong is for the NHS to acknowledge it and to learn lessons. That is why the duty that the bill puts on health boards to respond to and learn from complaints is, in my view, as important as the right to complain itself.

It is absolutely not the case that the bill somehow diminishes rights for patients and removes existing rights. Patients will still have other rights that are set out in other legislation or in common law—the rights in the bill will be additional to those. Some members have mentioned the list of rights identified by the Law

Society. Patients will still have all those rights and they will have additional rights. As is always the case, information for patients and staff will include information about all the rights available to patients.

I am not sure whether Irene Oldfather is still in the chamber, but she raised some important issues about patients who lack capacity, which I will certainly reflect on further.

Jackie Baillie said that the treatment time guarantee covers only in-patient and day-case treatment and Richard Simpson made a valid point about procedures moving between the different categories of treatment, but I know that they would both accept that the treatment time guarantee sits within, or would sit within, the overall treatment guarantees that we have in the health service, which, of course, cover all stages of the patient journey.

Rhoda Grant said that people whose treatment time guarantee is not met do not want dispute resolution. She is absolutely right about that, which is why the bill expressly sets out the steps that boards must take in those circumstances.

Elaine Smith raised important equality issues. I tell her that the bill was developed after consultation with and consideration of the impact on equality groups. We will continue to have equality at the forefront of our minds.

Mary Scanlon: Can the minister tell me who does not have a right to complain at present? Who will have a new right to complain if the bill is passed?

Nicola Sturgeon: The answers to those questions are easy. Right now, nobody has a statutory right to complain and, if the bill is passed, everybody will have a statutory right to complain. That is probably one of the easiest questions that I have been asked in the chamber for some time.

On the treatment time guarantee, I say again that the eligibility criteria of planned or elective care on an in-patient or day-case basis applies to all services, including mental health services, so it is wrong to say that mental health patients will lose out as a result of the bill, but it is right to say that on-going work is required to reduce waiting times for access to mental health services that do not fall within those criteria.

The last area that I will address is the patient advice and support service. I believe that patients need access to support to help them use the health service and to help them complain when things do not go as they expect. The bill builds on the current service but makes some important improvements to the way that that service is run. I believe that it is important to legislate for PASS so that there is no risk of the erosion of such a

service. Citizens Advice Scotland said in its evidence to the committee that the bill would make PASS

“statutory, so health boards would have to fund it.”—*[Official Report, Health and Sport Committee, 8 September 2010; c 3259.]*

Rhoda Grant, Jackie Baillie and others said that PASS could be more restrictive than the current service. I should point out that the current service is funded only to provide health information; it is the fact that citizens advice bureaux provide the service that allows it to provide access to a more holistic service. Of course, potential providers in the future would be able to do the same.

In conclusion, I welcome the debate and I am very open—as I always am—to working with members to bring forward sensible amendments at stage 2 that will strengthen what is currently in the bill. For the purposes of today, however, I ask members to support the Patient Rights (Scotland) Bill and its general principles.

Patient Rights (Scotland) Bill: Financial Resolution

16:59

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-7391, in the name of John Swinney, on the financial resolution for the Patient Rights (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Patient Rights (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in Rule 9.12.3(b)(iii) of the Parliament's Standing Orders arising in consequence of the Act.—
[Nicola Sturgeon.]

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

Business Motions

16:59

The Presiding Officer (Alex Fergusson): The next item of business is consideration of business motion S3M-7417, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 24 November 2010

2.00 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Stage 3 Proceedings: Children's Hearings (Scotland) Bill

followed by Business Motion

followed by Parliamentary Bureau Motions

6.00 pm Decision Time

followed by Members' Business

Thursday 25 November 2010

9.15 am Parliamentary Bureau Motions

followed by Scottish Labour Party Business

11.40 am General Question Time

12.00 pm First Minister's Question Time

2.15 pm Themed Question Time
Education and Lifelong Learning
Europe, External Affairs and Culture

2.55 pm Stage 1 Debate: End of Life Assistance (Scotland) Bill

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 1 December 2010

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Scottish Government Business

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 2 December 2010

9.15 am Parliamentary Bureau Motions

followed by Scottish Government Business

11.40 am General Question Time

12.00 pm First Minister's Question Time

2.15 pm Themed Question Time:
Health and Wellbeing

2.55 pm Scottish Government Business
followed by Parliamentary Bureau Motions
5.00 pm Decision Time
followed by Members' Business—[Bruce Crawford.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-7418, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 2 consideration of the Historic Environment (Amendment) (Scotland) Bill.

Motion moved,

That the Parliament agrees that consideration of the Historic Environment (Amendment) (Scotland) Bill be completed at Stage 2 by 17 December 2010.—[Bruce Crawford.]

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S3M-7419, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 1 consideration of the Certification of Death (Scotland) Bill.

Motion moved,

That the Parliament agrees that consideration of the Certification of Death (Scotland) Bill at Stage 1 be completed by 4 February 2011.—[Bruce Crawford.]

Motion agreed to.

Parliamentary Bureau Motions

17:01

The Presiding Officer (Alex Fergusson): The next item of business is consideration of two Parliamentary Bureau motions. I ask Bruce Crawford to move en bloc motions S3M-7420 and S3M-7421, on the approval of Scottish statutory instruments.

Motions moved,

That the Parliament agrees that the draft Sexual Offences (Scotland) Act 2009 (Supplemental and Consequential Provisions) Order 2010 be approved.

That the Parliament agrees that the draft Legal Profession and Legal Aid (Scotland) Act 2007 (Membership of the Scottish Legal Complaints Commission) Amendment Order 2010 be approved.—[Bruce Crawford.]

The Presiding Officer: The questions on the motions will be put at decision time.

Decision Time

17:01

The Presiding Officer (Alex Fergusson):

There are four questions to be put as a result of today's business. The first question is, that motion S3M-7400, in the name of Nicola Sturgeon, on the Patient Rights (Scotland) Bill at stage 1, 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)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brown, Keith (Ochil) (SNP)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)

McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

Against

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Carlaw, Jackson (West of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West of Scotland) (Con)
 Hume, Jim (South of Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 McArthur, Liam (Orkney) (LD)
 McGregor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 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)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

Abstentions

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

The Presiding Officer: The result of the

division is: For 84, Against 32, Abstentions 2.

Motion agreed to,

That the Parliament agrees to the general principles of the Patient Rights (Scotland) Bill.

The Presiding Officer: The next question is, that motion S3M-7391, in the name of John Swinney, on the financial resolution to the Patient Rights (Scotland) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)

Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Tom (Hamilton South) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

Against

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Hume, Jim (South of Scotland) (LD)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

Abstentions

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

The Presiding Officer: The result of the division is: For 99, Against 16, Abstentions 2.

Motion agreed to,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Patient Rights (Scotland) Bill, agrees to any increase in expenditure of a kind referred to in Rule 9.12.3(b)(iii) of the Parliament's Standing Orders arising in consequence of the Act.

The Presiding Officer: The next question is, that motion S3M-7420, in the name of Bruce Crawford, on the approval of a Scottish statutory instrument, be agreed to.

Motion agreed to,

That the Parliament agrees that the draft Sexual Offences (Scotland) Act 2009 (Supplemental and Consequential Provisions) Order 2010 be approved.

The Presiding Officer: The final question is, that motion S3M-7421, in the name of Bruce Crawford, on the approval of another SSI, be agreed to.

Motion agreed to,

That the Parliament agrees that the draft Legal Profession and Legal Aid (Scotland) Act 2007 (Membership of the Scottish Legal Complaints Commission) Amendment Order 2010 be approved.

West Fife Enterprise

The Deputy Presiding Officer (Trish Godman): The final item of business today is a members' business debate on motion S3M-6708, in the name of John Park, on West Fife Enterprise—making a difference. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the excellent work of projects such as West Fife Enterprise, a non-governmental organisation focusing on employability inclusion and economic regeneration in Fife; considers that employability inclusion social enterprises in Scotland provide crucial and innovative support for people who are unemployed or find themselves marginalised in the labour market, linking potential employees with local employers; welcomes the work of West Fife Enterprise as a model of excellence in employability practice; notes that many of West Fife Enterprise's clients are from hard-to-reach groups that face multiple barriers to sustainable employment; applauds the hard work of everyone involved in transforming lives and the labour market for the better at West Fife Enterprise, and looks forward to supporting West Fife Enterprise and initiatives like it in the future.

17:04

John Park (Mid Scotland and Fife) (Lab): I really appreciate this opportunity to speak about and to open the debate on West Fife Enterprise, which is an organisation that I have been aware of for a number of years, although I have only got to know it very well over the past few years, since my election as an MSP in May 2007. I have been very impressed with the work that the organisation has been doing, which is why I say that I really appreciate tonight's opportunity to talk a bit about the organisation and to highlight some of the major things that it has done to improve the lives of young people in the communities of west Fife.

If members ever get the opportunity to visit West Fife Enterprise, I suggest that they do so. The organisation has breathed life into many young people's opportunities. I have been really impressed when I have gone around to speak to people there who have been given the opportunity to improve their skills. Some of those young people have been in and out of the workplace after having left school, without ever having the opportunity to get into the sort of work that would enable them to develop a real long-term career. They are getting a level of support from West Fife Enterprise that is all too often unavailable in mainstream work.

I visited the organisation about a year ago and saw the work that was being done in the metalwork class. I also saw the skills that people were developing in the joinery and carpentry classes. That is a normal working environment for many of them—building things that are sometimes

sold on to the community. All in all, the types of skills that people get there are valuable and will, I hope, stay with them for the rest of their lives and enable them to go into meaningful, gainful employment.

West Fife Enterprise was established in the early 1980s, as the mining industry in west Fife started to go into severe and serious decline. It was set up and supported by a range of organisations in order to help people who were suffering from the effects of the recession in the early 1980s. The organisation continued to help and support people in fighting the effects of that recession and in working towards the recovery that was needed in the coalfield communities in the 1980s and 1990s, and it continues to provide that support today.

The economic climate that we currently face presents a real danger for young people who have recently been on the fringes of employment, because they could be pushed even further away from employment. The work that West Fife Enterprise pursues with those young people is highly valuable and is vital to ensuring that they get an opportunity that they might not otherwise have to go into the workplace and develop careers.

West Fife Enterprise does not just work with candidates who go into the centre; it also offers a significant amount of employer support by working with more than 200 employers from a range of different backgrounds. It provides opportunities and placements for young people to get new skills, not just in a training centre environment but in a work environment. As everyone knows, the kinds of skills that stay with people and allow them to secure employment are the softer skills such as teamworking—working alongside others—as well as simply getting out of bed on time and the other things that people must do to hold down a job.

The connection that West Fife Enterprise has with employers in the community is vital. If it did not have that, there would not be a conduit for young people to leave the training centre and go on to candidate placements. A number of approaches are used. I am sure that members have heard of the get ready for work programme, which is supported by the Scottish Government, and of the quest for employment programme.

Despite the significant challenges for the economy in west Fife, there are still plenty of opportunities on the horizon. I do not have to tell members about the new aircraft carriers that are to be built at Rosyth—I am sure that a few members have heard me talk about them in the chamber before. There is the new Forth crossing, which will be only a handful of miles along the road. There are also significant potential opportunities for offshore renewables in the Firth of Forth.

Would it not be a shame if those opportunities came to west Fife, but a whole generation of young people did not get them? Would it not be a shame if they did not get the skills and if we had to think about employing people from other parts of the country and perhaps importing labour because we did not have the right skills mix or because we had skills shortages such as we have had in the past?

That is why we have to ensure that there is financial and political support at every level, so that young people not only get the opportunity of a job on the aircraft carriers, in offshore renewables or on the new bridge, but gain the skills that will enable them to stay in employment no matter what happens. Those skills will be marketable as the economy becomes more global, which will present challenges in finding employment opportunities. I hope that West Fife Enterprise will have a bright future in that sense, and that it will provide a pipeline of young people to go and work on those projects as the opportunities arise.

I recognise the work of Alan Boyle, the chief executive of West Fife Enterprise, and his team. Without the work that they are doing, those young people would not have the opportunities. As we all know, it is very much down to individuals to drive the culture of an organisation and to ensure that it delivers and makes a difference. There is no doubt that the people in West Fife Enterprise are making a difference for the people of west Fife.

The boardroom, which is situated at the rear of the learning establishment, contains a number of awards and certificates. They certainly put Dunfermline Athletic to shame—that is for sure—but they would also put a lot of much better resourced organisations to shame, too, which is an indication of the work that West Fife Enterprise has done over the past 20 years or so.

That work would not happen without support from the likes of Fife Council and the funding that it has made available, and the Coalfields Regeneration Trust. I know that many members really appreciate the work that the trust does throughout Scotland, but it does a fantastic job in Fife in particular.

It has been a pleasure and a privilege for me to highlight the work of West Fife Enterprise. I am proud to say that I am a big supporter of the work that it does, I am proud that it is situated in the part of Fife that I know very well and I am proud to say that I think that it will continue to support young people, to make a difference and to ensure that west Fife has a future.

17:12

Christopher Harvie (Mid Scotland and Fife) (SNP): I thank my Mid Scotland and Fife

colleague, John Park, for securing the debate. He is well known for the interest that he takes in what could be called education for regeneration.

West Fife Enterprise was set up to provide skills and work training for former west Fife coal-mining communities—the “Little Moscows”, as they were known—which were hit hard by the Thatcher Government’s destruction of the deep-mined coal industry. Had the National Union of Mineworkers been led by a native of that place, Lawrence Daly, it might have carried the battle on rather better than it did. It was Daly who, in 1973, rallied the general council of his union against the Heath Government by reciting by heart the whole of act 2, scene 1 of “Julius Caesar” and playing all the roles. The Little Moscows created remarkable men.

It is nearly 30 years since West Fife Enterprise was set up and it has done great work in reaching out to the unemployed, the low skilled and the disadvantaged, including young folk who are not in work or education. It offers skills training, qualifications, employability and confidence training. Those are tailored to the needs of more than 200 employers, who also provide the company with work placements and trials.

West Fife Enterprise has gained numerous awards, including from Scottish Enterprise and the Coalfields Regeneration Trust, as John Park said. It has done much to broaden vocational qualifications and to help clients to enter jobs and further education. West Fife is, after all, not just the country of Lawrence Daly but of Jennie Lee, the founder of the Open University.

West Fife Enterprise’s high-technology facilities at Forthview industrial estate expanded in 2005, with low-cost public transport links drawing in clients from former coal mining communities in central Fife. As the current economic crisis piles pressure on Scotland’s economy and finances, West Fife Enterprise goes back to basics and is even more important than when it was originally founded.

As we look over the economic horizon, we see looming up peak oil—a possible \$200 to \$300 a barrel—during which we will all have to manoeuvre and adapt to survive. Other skills and training initiatives in Fife deserve mention, such as the Siemens and Carnegie College initiative on offshore technology training. It addresses the challenge of North Sea oil extraction as we enter peak oil and the age of carbon capture. It also addresses the emerging field of marine renewables, which will be crucial—and for good—in the days when the oil runs out.

It is worth concluding with one bizarre anecdote that came my way today about a former Conservative candidate for the area. He is one

Jacob Rees-Mogg, who contested the constituency—not with notable success—in 1997 and, interviewed by someone from *The Times*, contributed this:

“My nanny will come up to campaign for me and look after me. I could not survive without her.”

He is now a Tory MP, even if he makes Boris Johnson look like Dennis Skinner. We have been warned what the alternative to fine organisations such as West Fife Enterprise is likely to be.

17:16

Ted Brocklebank (Mid Scotland and Fife)
(Con): I, too, congratulate John Park for securing tonight’s debate, which praises West Fife Enterprise with the sub-title “Making a Difference”.

Fifers are, by nature, enterprising and talented people, and those from the western part of the kingdom have certainly ticked the “making a difference” box nationally and internationally. I need mention only Dunfermline-born millionaire and philanthropist Andrew Carnegie and Cowdenbeath-educated Nobel prize winner James Black to show what west Fifers are capable of when given half a chance. There is also the best footballer I ever saw pull on a Scottish jersey—Jim Baxter from Hill of Beath—and, from the same village, Donald Findlay. On top of his legendary defending skills as an advocate, he appears now to be shoring up the financial defences of Cowdenbeath Football Club and doing a pretty good job of it since he became chairman of the club at the beginning of the season.

However, I am well aware that John Park is highlighting the excellent work of projects such as West Fife Enterprise in identifying and bringing into the workplace those who were perhaps not born with all the natural talents of Andrew Carnegie, James Black, Jim Baxter or Donald Findlay—or perhaps, more accurately, those whose talents have simply not been recognised or developed.

In our complex modern society, it is a sad fact that no job is for life. That has changed totally since I left high school in the north-east part of the kingdom many years ago. Back then, those of us who wanted to become bankers or schoolteachers knew that once we had climbed onto the bottom rung of our chosen professions, we were there—barring accidents—until we retired. Words such as “recession” and “redundancy” were, thankfully, unknown to us in those days. So it was with Fifers who chose to work on the land or at the fishing, or those who came from the pit villages and followed their forefathers down the mines.

The old certainties are no more. Machines have replaced people on the farms, overfishing and the common fisheries policy have destroyed the

fishing industry, and deep mining in Fife and elsewhere in the United Kingdom is a thing of the past. Members' business debates are supposed to be consensual, so I will not get into battle with Chris Harvie's version of history, in which Maggie Thatcher destroyed the mining industry. I say to him that he is better than that.

In John Park's day, there was hope that electronics would replace mining, particularly for those who found themselves unemployed in Fife's west and central areas but, sadly, large-scale employment in electronics proved to be a mirage. As with other parts of the UK, west Fife has had to look to a more diverse range of job sources to tackle a current unemployment level of about 9 per cent, with parts of the Dunfermline East constituency showing jobless numbers at a grim 17.5 per cent at the end of last year.

As John Park explained, West Fife Enterprise is the longest-established training provider that covers the former mining villages of west Fife. As we heard, the organisation was established in 1983 and quickly identified a lack of relevant skills and qualifications as being the biggest barriers to the workplace. As we have also heard, West Fife Enterprise is supported by Fife Council as well as by, I understand, European structural funds and the Coalfields Regeneration Trust.

With the collapse of deep coal mining, the sad fact is that large numbers of people became marginalised as far as the labour market was concerned. Young people in particular found that their lack of skills or education meant that they had little prospect of employment. If organisations like West Fife Enterprise had not stepped into the breach, the situation would all too quickly have become a generational problem, as it has in other parts of Scotland and the UK. What West Fife Enterprise did was get out into the communities and start to connect directly with potential clients. I understand that its approach has always been informal and community-based. As we have heard, the organisation forged a network of some 200 Fife companies and began the task of equipping its clients with the needs of the workplace. In doing that, it identified not only the skills potential that employers required, but the likely workforce that they would need in the future.

In recent years, that approach has been particularly important for the Fife workforce, given the increasing diversity of the skills that are required. As we have heard, skills are required in a range of workplaces from the fledgling offshore renewables industries to modern shipbuilding at Rosyth. In particular, engineering skills will be very necessary given the new Forth crossing. There are also the high-tech skills that the many new companies that are now moving into the Dunfermline area require. I am delighted to learn

that, through the Forthview learning centre, there is also scope to increase significantly the capacity and diversity of the clients and customers with whom West Fife Enterprise deals.

John Park is to be commended for bringing to the chamber an important good news story. I pay tribute to West Fife Enterprise, which is clearly an outstanding example for other organisations and key communities elsewhere in Fife and Scotland.

17:22

Jim Tolson (Dunfermline West) (LD): I congratulate John Park on securing the debate this evening and on highlighting this super service in my constituency, which I have visited on a number of occasions over the past few years.

Like many West Fife Enterprise clients, I come from west Fife mining stock. Like John Park, I had a formative career at Rosyth dockyard. Although many of the similarities between John and I end there, one other passion that we share is seeing generations of youngsters from the former mining areas of West Fife get every possible opportunity to reach their full potential.

I know that I was lucky enough to get a job when I left school at 16, which is nearly 25 years ago, and then, several years ago, to qualify with an honours degree. I also know that, both then and now, many young people were and are not so lucky. People should not think for a moment that that is because those young people did not stick in at school. More often than not, it is about the lack of opportunities for young people today.

On my visits to West Fife Enterprise, I am always struck by the dedication and hard work of the staff as well as of their clients. You feel the passion for achievement when you walk in the door. Many of the clients, whom West Fife Enterprise's chief executive has described as the hardest to reach, often face multiple barriers to sustainable employment and have not had the easiest start to life. Despite that, they often come away from their time with West Fife Enterprise with recognised qualifications such as the SVQ2 in areas such as administration and information and communications technology, metalwork and fabrication and woodwork and carpentry. They also gain important life skills such as communication, literacy, numeracy, team building and listening skills that prepare them for the workforce.

As both John Park and Ted Brocklebank said, West Fife Enterprise is a multifunded organisation. Fife Council, the Coalfields Regeneration Trust and others input to ensure that projects such as this survive in our communities throughout west and central Fife.

West Fife Enterprise was set up by councillors on Dunfermline District Council in the early 1980s. The councillors included Tom Douglas, who is the current convener of West Fife Enterprise, with whom I served on Dunfermline District Council in the early 1980s. Despite our political differences, I would call Tom a true gentleman, whose passion for our former mining communities is second to none. I am not sure whether he is with us in the public gallery this evening.

One reason why West Fife Enterprise is so successful and sustaining is that it provides the necessary support to ensure that students from the former mining areas of central and west Fife can participate. It does so by providing free or subsidised transport, free child care when registered child minders are used and, importantly, work placements with willing companies in the west Fife area.

John Park has helped to highlight just one of the great services that west Fife has to offer its young people, many of whom would otherwise find it extremely difficult to break out of a cycle of short-term jobs and long-term unemployment. It makes it possible for many young people in the area to achieve beyond their expectations and to contribute to our economy for the future of Fife and of their families. I wish all at West Fife Enterprise well for the future. Keep up the good work!

17:25

Helen Eadie (Dunfermline East) (Lab): I, too, heartily congratulate John Park on securing the debate.

The story of West Fife Enterprise is inspirational, not just because of the position that it is in today, but because of how it started. I do not want to be too harsh in pointing out to Jim Tolson that it was not Dunfermline District Council that set it up; it was people who were unemployed, such as unemployed coal mine managers, unemployed cleaners and unemployed shipbuilders. A range of people who were unemployed in the villages of High Valleyfield, Torryburn and Low Valleyfield came together and formed an association, whose first full-time employee was me—it got £19,000 for that through the Carnegie Unemployed Voluntary Action Fund. The Manpower Services Commission came along and gave it £60,000 and then, to everyone's astonishment—including my own, as the person who had filled in the application form to the European Union—we got £1 million-worth of funding, which was made up of Fife Regional Council funding that was matched, pound for pound, by EU funding.

It is inspirational that local people created the organisation themselves. I can still see their faces

in my mind's eye. I am thinking of unique social workers such as Maggie Dempster, who was a community development worker—she is still around in west Fife, doing unsung hero's work—who firmly believed in the premise that people can help themselves. West Fife Enterprise is a classic case of something really good being born in a community. It was the people themselves who made it happen. They got the old Torryburn school for a peppercorn rent and they got the old kitchens up in High Valleyfield. Just getting those premises was hugely inspirational, got everyone in the villages motivated and allowed good meetings to be held. I have nothing but admiration for all the work that they did.

People had to work extremely hard to understand the criteria for getting the funding from the EU. They meant that the enterprise had to be built on the premise of providing training and child care and helping to create co-operatives. People who were long-term unemployed as a result of the decimation of all the local industry, which Christopher Harvie rightly mentioned, went on to learn good skills, but we are talking about more than just the provision of skills—a huge confidence-building exercise went on. That was what was important and made us want to work all the hours that we did to create the organisation.

I think that had it not been for those brave people, who galvanised support politically and professionally to such an extent that district councillors and regional councillors came on board, it just would not have happened. Someone from High Valleyfield once said to me—I know that his name was Tom, but I cannot remember his second name; I think it was Adams but if I have got that wrong and he is in the gallery I hope that he will forgive me—that pigs would fly if we got the European funding. We got it and do you know what? I have a child's mobile at home, which is made up of pigs flying. I will bring it in and show it to anyone who does not believe me. I believe that pigs can fly; I believe in the impossible.

The local people in West Fife Enterprise believed in the impossible. They have gone on to build a hugely professional organisation. I take my hat off to people such as Alan Boyle who have worked hard to achieve such a high level of professionalism that, as John Park rightly said, the organisation has received awards. The biggest reward that they could ever get is the respect of the Parliament and of all the people across west Fife, for believing in themselves. I heartily congratulate them, and I congratulate John Park on his speech.

17:30

The Minister for Enterprise, Energy and Tourism (Jim Mather): I, too, start by thanking

John Park for securing the debate and broadcasting the success of West Fife Enterprise.

I declare an interest, in that my father was a Fifer. Although he was from east Fife, if he was still alive he might migrate to west Fife on the basis of what we have heard today.

I am heartened by what is happening with West Fife Enterprise. The practical and economic skills, training, confidence, and the livelihood-building and community-building skills are all in place there. Helen Eadie gave us the provenance of the people who started the company, and that was exceedingly heartening. I am a great fan of Professor Mark Moore of the Kennedy school of government at Harvard University. He talks about public value outcomes and the other side of the coin—active citizens. We need to broadcast the audit trail through to the active citizens, and then to the network of 200 companies, and how that is working for work placements, soft skills, discipline and allowing people to learn by doing. The reality of it is that that is the only way to learn properly. Junior doctors see one, do one and, to really learn it, teach one.

The key thing that strikes me about West Fife Enterprise is that it is a mechanism that other parts of Scotland could learn from. I am a great fan of John Seddon, who says that the job of the centre is to keep pulling around to find out what is working, and when it finds that out, to broadcast it, but without the mandatory push. We need to leave space to allow people to have their own ideas, to augment and develop them, and to take them to a new level.

I was interested in Christopher Harvie's contribution, invoking the memory of Lawrence Daly and Jennie Lee, among many other people. Ted Brocklebank invoked the memory of Andrew Carnegie. I have just been reading Carnegie's autobiography and he was doing a lot of things right back then in Dunfermline. His dad got together with other working guys to get 60 books to form a library, which is why, later on when he was monied, Carnegie went down the library path. If he was around just now, West Fife Enterprise is the sort of project that he would have supported.

Last week, we were at the Scottish Council Foundation, which was running an event on philanthropy. There were a lot of high-net-worth people in the audience who were beginning to consider what they could do that would be purposeful, successful and might gain momentum. Perhaps tonight we can have a conversation about what can be done to connect West Fife Enterprise with that.

I am also inclined to ask what we can do to help connect West Fife Enterprise even further. Last Monday, we ran an interesting session on

business gateway in Glasgow. We worked on the basic theory that business gateway is not just itself; there is more involved in starting up businesses. There are the business organisations, professions such as accountants and lawyers, the regulators, utilities, schools and colleges, and the West Fife Enterprises of this world. It was heartening to have a really good brainstorming session about how we could augment business gateway's role of helping business to get up and running, and helping young, successful businesses to continue to grow, evolve and be all that they can be. We also talked about how to handle the difficulty that so many family business die at the point of generational change. They need to organise and build into their DNA the potential to be successful and grow over the piece.

On Wednesday, I was at a Federation of Small Businesses event in Edinburgh. A young lady from Fife came up to me and said, "That was a really good session in Glasgow. We are going to do the same in Fife." There might be a dynamic there, and West Fife Enterprise could be a key part of that. We need to bring people together in common cause. The provenance of the organisation has that common cause and that means that there is less resistance to the idea of getting folk together. It would give us better outcomes in the future. I am keen to do that, particularly when we see in Fife, and elsewhere in Scotland, pockets of high unemployment, and we are still having to face that lagging indicator of unemployment in our society.

In essence, in communities where there is a strong sense of community, such as those in Fife and in my constituency, the more we bring people together, the more the ingenuity and self-ordering capability comes through and the more we can develop the interconnectedness, rope in other people and play to the strength and diversity that is there and that maybe not all of us see. That is an asset-based recovery.

If we can come together with a strong sense of community, which Fife has, and develop round organisations such as West Fife Enterprise that have the clear goal of maximising the life chances of young people, constantly keeping in touch with the constituency of people who work in West Fife Enterprise and the candidates coming through in that fantastic network of 200 businesses; if we have a mechanism to bring in the many people who could and should help in that process—I have a mega list here of potential partners; and if we also bring in those who would benefit from the success of the organisation, we can move it to a different level. Along with the community planning partnership and elected members in Fife, I am keen to come across and run a session at which we brainstorm what might be done and, in essence, try to get something happening so that we elevate even further the profile of West Fife

Enterprise in Fife and give it a mechanism to continue the debate and dialogue and its great work.

Meeting closed at 17:37.

I am a great fan of a guy called Feuerstein, who, in Israel in 1948, faced the difficult problem of kids being out of control. People had come out of the concentration camps, the economy was on the ropes and terrorism was on the go. It was a terrible time. Schools were not functioning and kids had language difficulties and were out of control. Feuerstein got involved, taking the same approach as West Fife Enterprise, involving skills training, confidence and discipline. He found out something that the kids were good at and made a real meal of that. He let them know that they were important, that they had an important role to play and that they had big options. The success of that country owes a lot to Feuerstein. Let us see what we can do with West Fife Enterprise to help it be successful and perform a similar function at the kingdom's level.

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