



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC AUDIT COMMITTEE

Wednesday 1 December 2010

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PUBLIC AUDIT COMMITTEE

21st Meeting 2010, Session 3

CONVENER

*Hugh Henry (Paisley South) (Lab)

DEPUTY CONVENER

Murdo Fraser (Mid Scotland and Fife) (Con)

COMMITTEE MEMBERS

*Willie Coffey (Kilmarnock and Loudoun) (SNP)

George Foulkes (Lothians) (Lab)

*Jamie Hepburn (Central Scotland) (SNP)

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Anne McLaughlin (Glasgow) (SNP)

*Nicol Stephen (Aberdeen South) (LD)

COMMITTEE SUBSTITUTES

Derek Brownlee (South of Scotland) (Con)

Linda Fabiani (Central Scotland) (SNP)

*James Kelly (Glasgow Rutherglen) (Lab)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Sarah Boyack (Edinburgh Central) (Lab)

THE FOLLOWING GAVE EVIDENCE:

Michael Russell (Cabinet Secretary for Education and Lifelong Learning)

Alex Salmond (First Minister)

CLERK TO THE COMMITTEE

Jane Williams

LOCATION

Committee Room 1

Scottish Parliament

Public Audit Committee

Wednesday 1 December 2010

[The Convener *opened the meeting at 09:32*]

Decision on Taking Business in Private

The Convener (Hugh Henry): I welcome everyone to the 21st meeting in 2010 of the Public Audit Committee, and remind everyone to ensure that all electronic devices are switched off.

I ask members' indulgence to take agenda item 3 before item 2 as the first substantive item. Do members agree to do so?

Members *indicated agreement.*

The Convener: I have apologies from George Foulkes and Murdo Fraser. I know that they will be disappointed not to be here. James Kelly is here in George Foulkes's place. We have not heard about a substitute for Murdo Fraser.

Item 1 is to decide whether to take item 4 in private. Do members agree to do so?

Members *indicated agreement.*

Subordinate Legislation

Public Finance and Accountability (Scotland) Act 2000 (Economy, efficiency and effectiveness examinations) (Specified bodies etc) Order 2010 (SSI 2010/389)

09:33

The Convener: Item 3 is subordinate legislation. Committee members have before them a negative instrument. Members have no comments to make on the order, so we will refer it back and say that committee members have no comments to make on it.

Section 23 Report

"The Gathering 2009"

09:34

The Convener: Item 2 is the section 23 report "The Gathering 2009". I welcome to the meeting the First Minister, Alex Salmond, and the Cabinet Secretary for Education and Lifelong Learning, Michael Russell.

Before we open the discussion, I remind members that the potential legal action relating to creditors is still sub judice. Members will have to determine for themselves whether any comments that they want to make may infringe on any issues relating to the legal case.

Before we proceed to questions, does the First Minister or the cabinet secretary wish to make any opening comments?

The First Minister (Alex Salmond): I am content to allow committee members to proceed with questions.

The Convener: Thank you very much, and thank you for making time for us.

Prior to the initial grant being given to The Gathering 2009 Ltd, did either of you have any contact, meetings or discussions in any capacity with Lord Sempill or Jenny Gilmour?

The First Minister: I did not.

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): I met Jamie Sempill many years ago—before the 1999 election, I think. I think that he was a Tory candidate then. I had no contact with Jenny Gilmour, and I never discussed the gathering with either of them at any time before my first meeting with them.

The Convener: The decision to give a grant was not exceptional in itself; that would happen in the normal course of business practice. However, it was a bit unusual to agree to give a grant to a company that was structured in the way that this one was. For example, in the case of the Cairngorm funicular railway, there was joint public sector and private sector exposure. In this case, the company directors' only exposure when the organisation was set up was £1 each, so the public sector was essentially taking on all the risk. As we now know, some small private companies have clearly suffered as a result. The set-up was unusual. Why did you think that it was acceptable to give a grant to a company that was structured in that way? The directors had very little exposure to liability.

The First Minister: As I remember, the original grants were from EventScotland, the City of Edinburgh Council and the local enterprise company.

Michael Russell: The company limited by guarantee structure is not unusual in itself; there are many companies limited by guarantee. I think that the company was seen as a company within the cultural sector that was doing a public good. I understand that the gathering could have come about only with the involvement of the Standing Council of Scottish Chiefs, of which Jamie Sempill was a prominent member—indeed, I think that he was chair of the council at one stage—and the company was seen to be undertaking a public good to a great extent. The fact that the three public sector funders that the First Minister mentioned each provided a grant during 2007 confirms that it was seen that a public good was being undertaken.

The Scottish Government's further involvement in 2008 was targeted closely on two aspects of the proposal. There was £80,000 for the Highland games element and £20,000 for the education programme. In other words, that money was seen as purchasing certain aspects that fitted in with the Government's objectives.

I do not think that the fact that the company was limited by guarantee was a major issue in itself or that the funders would have seen it as a major issue.

The First Minister: It might be helpful to say that, across the homecoming programme as a whole, a ratio of return of 8:1 was looked for. I believe that the same ratio, which I assume comes from EventScotland and the tourism industry, has applied to other tourism events for many years. In other words, it is assumed that £1 of public grant will be able to generate £8 of value in the total event.

The Convener: I accept what you and Mike Russell are saying, but the issue is that, if things had gone badly, as they subsequently did, the company directors were liable for only £1 each. When you decided to give a grant on top of the other public sector grants, you stood to lose considerably more than either of the directors. Is that a factor?

The First Minister: A grant is not something that we expect to get back; the grant is for the delivery of the event, and that is matched against whether the event is delivered or not. We will come on to discuss the loan that was advanced to The Gathering 2009 Ltd, for which it is obvious that there were different criteria. If the event had been successful in financial as well as in tourism terms, we would not have expected to get the grant back. The loan is a different matter.

Michael Russell: It is important to note that, as it says in the heading on page 13 of the Audit Scotland report,

"Throughout the organisation of the event financial projections indicated that a small deficit was most likely".

No doubt we will come on to what the projections actually meant and what was taking place with the steering group. The steering group obviously thought that during the period when the organisation was on-going a small deficit was most likely. Had there been an indication that a massive profit was likely, I suspect that it would have discussed the matter closely with the people involved.

The Convener: Why did you decide that the Government would not be involved in the steering group?

Michael Russell: Again, I am dealing with matters that occurred before I became the relevant minister. I think that there was a feeling that the steering group was the appropriate group of organisations that would have a day-to-day involvement with the event as it took place. Remember that, as the Auditor General for Scotland said,

"the steering group had a purely advisory role".

The best advisers would have been the people who were delivering on the ground. However, I accept the argument in the Auditor General's report that the approach should be considered again for future events.

Steering groups are not unusual in the sector that we are considering. For example, the MOBO awards, at which Mr McAveety and I were present, and the Ryder cup had steering groups of a similar nature. The question whether the Government should be more closely involved in steering groups for events that perhaps have a national dimension needs more consideration and I am grateful to the Auditor General for suggesting that.

The Convener: Do members have questions about the grant?

James Kelly (Glasgow Rutherglen) (Lab): After the Government signed up to the grant, it had to consider progress on the event. It says in the Audit Scotland report that you received "informal updates" on progress. Will you give a bit of detail about what that means?

Michael Russell: The steering group, as we are indicating, met on a regular basis. It started with quarterly meetings, then it met monthly and eventually there was a weekly meeting. The steering group included organisations with a connection with government, which were watching what was taking place.

Substantial sums of money are used in smaller or larger degrees to go to arts and cultural organisations of many types. There are processes from the grant-awarding bodies to ensure that that is the case. In this case, we were receiving information via the steering group. Of course, as the Gaelic proverb goes, at the end of the day the fisherman tells of his fishing. We would also have expected the outcomes of the event to be positive because we felt that there was planning with the steering group. That turned out not to be the case.

James Kelly: Did the informal updates relate to the feedback that you were getting from the steering group?

Michael Russell: The steering group was instrumental in ensuring in discussions with the group that it was going in the right direction.

James Kelly: Do you find it surprising that, in its monitoring of progress, the steering group was not receiving actual and year-to-date financial information on performance?

Michael Russell: As the Auditor General said in his report and in evidence to the committee, with hindsight there were questions about the quality of that information. At the time, I think that the group felt that it was getting the information that it needed. As the Auditor General said on page 1,

“Throughout the organisation of the event financial projections indicated that a small deficit was most likely”.

I think that, during the period up until the event, all the indications that the steering group had were that things were going in a positive direction.

James Kelly: However, you were receiving informal updates from the steering group. I find it staggering that a group that was monitoring progress was not receiving accurate financial information. Did the Government not pick up on and have concern about that?

Michael Russell: Had the group known that it was not receiving accurate financial information, I would find that staggering, too, but all the evidence is—again, it is in the Auditor General's report—that it is only with the benefit of hindsight that we know that to be the case.

Indeed, on the analysis of the figures that the Audit Scotland report gives, there were issues with the income undershoot that would not have been picked up until the event had taken place. That is quite clear. Some of those issues were to do with ticket sales on the day and at the weekend. I think that that explains where we are.

09:45

The First Minister: Remember that a steering group does not replace the board of directors. The board of directors has legal duties and a range of

other things. The steering group approach, which, as Michael Russell said, has been applied across a range of supported events, is taken to ensure that the event will be delivered as envisaged—in other words, that the grant from the public will result in the event that was promised. In fact, the tourism impact of the gathering turned out to be much larger than had been envisaged. The issue with the gathering is not the impact on Scottish tourism but the financial difficulties and debts of the company.

James Kelly: I understand the legal requirements on company directors, but I would have thought that, if a steering group was in place to monitor how the event was progressing, consideration of key financial information would have been part of its role. It is unusual, to say the least, that actual and year-to-date financial information was not being provided. I would have thought that the Government would have looked at the matter in the context of the updates that it was receiving.

Michael Russell: I have indicated what the steering group's role was and what information was being received, and I have said that, in hindsight, some of the projections turned out to be wrong. On the projections about the day and thereafter that were wrong, I do not think that any of the information that the group had beforehand would have told them that.

James Kelly: It is not surprising that the projections were wrong if it was not using actual financial information—

Michael Russell: It was using financial information, Mr Kelly, as I think all the reports show. Of course, there are questions, which you are raising, about some of the information that went to the group. However, it was using financial information.

James Kelly: What financial information did the Government receive in its informal updates from the steering group?

Michael Russell: We received information about whether the event was on schedule, planned and going to take place—in other words, as the First Minister said, on whether the event would be delivered. The information that we had all the time was that it would be delivered, which will be germane when we discuss the events of 28 April 2009 and thereafter. The information that we were receiving was that the event was going to be delivered. That was the most important information that we could have at that stage.

James Kelly: You were seeking broad-brush, high-level assurances, as opposed to financial information that might give an indication of how things were progressing—

Michael Russell: Not “as opposed to” financial information, Mr Kelly. That would be a misrepresentation. However, our view was that we had provided the grants for specific purposes—£80,000 for the Highland games and £20,000 for the education programme—and the indication was that those would be delivered.

James Kelly: Did you receive no financial information in your informal updates?

Michael Russell: If we were to check everything that was going on with every organisation with which we are involved every ten minutes, we would not do anything else. Our job was to ensure that the event would be delivered.

The First Minister: As I recall, it says in the Audit Scotland report that the steering group was receiving information on central, pessimistic and optimistic assumptions. The financial information that it received turned out to be wrong, but it was receiving financial information.

Anne McLaughlin (Glasgow) (SNP): Mr Kelly is concerned about the Government’s day-to-day involvement in the event. I am not sure what he is looking for and whether he expected you to be down there organising the event on the day. Was your involvement in the gathering different from the involvement that you would have in a similar event? Was your approach radically different from the approach that the previous Government would have taken? My understanding is that it was not. Were you doing anything radically different from the general approach to running events?

Michael Russell: I would have said not. We do our best to help and support where we can do, and it was important that we should secure an event that had such strong significance in terms of the multiplier effect, as the First Minister said.

I draw your attention to paragraph 36 of the Audit Scotland report, which says:

“Steering group minutes and discussions with members indicate that the group paid attention to maximising income and keeping costs down, while ensuring that the event attracted sufficient visitor numbers and made an impact.”

I would have thought that that was a reasonable degree of monitoring that provided information that was useful to all of us.

The First Minister: I understand from the timeline and the Audit Scotland report that Lord Sempill and Jenny Gilmour first approached EventScotland in February 2007. That was not when EventScotland, the City of Edinburgh Council and the LEC agreed to make the first grants. Given that the same steering group structure was used for other events, I cannot see why we would have had a different structure in this case. When we came into office, we did not say that we would change the structure of steering

groups for delivery of major events. In retrospect, perhaps changes should have been made, but we did not make them.

Jamie Hepburn (Central Scotland) (SNP): On pages 8 and 9 of the Auditor General’s report, it is indicated that, at one stage, The Gathering 2009 Ltd sought £205,000 of additional grant funding but the Scottish Government decided to provide £100,000. That suggests that, throughout the process, the Scottish Government did not have a blank-cheque policy towards The Gathering 2009 Ltd and that its requests were considered in detail and on their respective merits.

Michael Russell: Exactly so. The report also confirms—it is entirely clear—that the £100,000 that was awarded towards the end of 2008 was awarded for specific purposes that we wished to see delivered and which were delivered, and in a way that met Scottish Government objectives. That is why the commitment was made. The relationship is entirely clear. Equally, we did not support proposals that did not meet or were not central to our objectives, or which we did not wish to see delivered. That is entirely proper. Others would have taken the same view.

The First Minister: If I remember correctly, two things were happening at the time. First, the event was shaping up to be much bigger than had been originally anticipated. Secondly, The Gathering 2009 Ltd was seeking funds to support the broadcasting of the event. However, the Government took the view that that should be a commercial matter between The Gathering 2009 Ltd and the broadcasters. To be fair to The Gathering 2009 Ltd, by then we were into the financial crisis. It may have been much more difficult to secure broadcasting at the end of 2008 than it would have been at a different stage. Nonetheless, the Government decided to support specific educational and other initiatives as part of the gathering event but not to support what we viewed as being primarily a commercial activity—the broadcasting of the event.

Jamie Hepburn: Paragraph 17 on page 9 is relevant to the points that James Kelly and Anne McLaughlin have explored. It states:

“The Scottish Government followed its normal procedures for awarding grants”.

I presume that you concur with that conclusion.

Michael Russell: Absolutely.

Jamie Hepburn: On page 8, the Auditor General states:

“EventScotland concluded that Red Sky at Night Ltd had ‘good credit worthiness’”.

Red Sky at Night Ltd is the company with which the individuals concerned had been involved previously. Presumably, there were no concerns

about the history of the business activities of those individuals.

Michael Russell: I think not. In addition, we know that, from June 2007, The Gathering 2009 Ltd had been discussing its business plan with EventScotland. In July 2007, the three public sector funders—EventScotland, Scottish Enterprise Edinburgh and Lothian and the City of Edinburgh Council—agreed to provide a grant of £100,000 each. The event was well established and clearly had bona fides at that stage. However, when The Gathering 2009 Ltd came to the Government to request resources, we treated it in exactly the same way as anyone else. A substantial part—half—of its request was turned down.

Jamie Hepburn: I think that I am right in saying that Lord Sempill and Jenny Gilmour have confirmed that they have never previously been involved in a company in liquidation.

The Convener *indicated agreement.*

Jamie Hepburn: Thank you.

The Convener: We move on to the issue of the loan. Cabinet secretary, we are advised that, in April 2009, when you were in your previous role, the directors of the company met you and reported cash-flow problems. Did the suggestion of a loan come from them or from you?

Michael Russell: In my recollection, the issue did not arise at that meeting, at which the company was outlining its difficulties.

It is important to realise—and I think that this point has been confirmed in previous evidence—that the company came to see me primarily to discuss the broadcasting issue. I think that Paul Bush of EventScotland had suggested that the company come to see me. The broadcasting issue was giving the company great concern: the company had sought resource from us for broadcasting at the end of the previous year but had made no progress from then until April. The company brought its broadcasting consultant to the meeting—Sandy Ross, who I think will be known to the convener, as he was formerly a Labour councillor, among other things. During the meeting, it became obvious that the company was making no progress on the broadcasting issue. I found that surprising, given the importance of the event.

Towards the end of the meeting, the company raised the WorldPay issue, said that it was experiencing cash-flow problems, and explained to me what the problems were. At the meeting, all I said was that the issue concerned me and that I would have to consider the information that the company had given me. The question that arose was whether there was any possibility of

underwriting the cash flow from that point through until the event itself. A substantial sum of money was being held by WorldPay, which the company expected to rise to £0.25 million. To be fair to the company, the sum did indeed turn out to be £0.25 million, almost exactly. At the end of the meeting, I said that I would consider the matter. However, I do not think either that the company asked for a loan mechanism or that I suggested one. We got on to a discussion of whether there was any way of underwriting the cash flow.

The First Minister: Just to clarify, what the company was talking about was, in effect, a host broadcaster. Dozens of international broadcasters covered the event. However, they were not paying any money to do so but were covering it as news journalists. The Gathering was looking for a company to buy the broadcasting rights for the event. That is what they were struggling with.

Michael Russell: That would have given the company additional income, and it would have maximised the potential for international sales of, for example, the DVD and CD that it hoped to issue. The company did, in fact, issue both—but it was not able to market them because, by that stage, it had very bad credit problems.

The Convener: When did the issue of the loan first arise?

Michael Russell: After 28 April, the company produced further information that I had asked for. It looked at ways in which the Scottish Government might be able to assist it—whether through additional funding, through help for the company to negotiate with WorldPay, or through a loan. Scottish Government officials and I discussed the issue. As Minister for Culture, External Affairs and the Constitution at the time, I informed the First Minister of my discussions as part of my normal reporting to him. By round about 7 May, officials sought advice from the finance directorate as to whether a short-term loan would be possible. I know that the committee has been through this evidence with the former permanent secretary, but there was no indication that a short-term loan was anything other than possible. Officials then moved forward to detailed discussion with the organisation as to its plans and its financial projections. Eventually, we concluded that the offer of a loan would be appropriate. That offer was made on 1 June and accepted on 5 June.

The Convener: So the idea of the loan came from the Government, rather than from the company.

Michael Russell: By the time the options paper came out and the discussion took place, a number of possibilities were hardening up. The intention was clear: we wanted to support the company

through a short-term difficulty in order to allow it to hold the event—in other words, to allow the outcomes to be secured. Ways in which that could be done formed the discussion that took place. Eventually, the subject of the discussion hardened into a short-term loan. I think that that was regarded as the best and most appropriate way of providing assistance.

The Convener: The company did not ask you for a loan; your officials decided that a loan was the best way in which to move forward.

Michael Russell: As you will know, convener, their evidence indicated that they thought of a number of possibilities, one of which would have been some sort of loan assistance. In examining those possibilities, opinion within the Government eventually hardened up on the question of a loan.

The Convener: But the idea of a loan came from the Government side rather than from the company.

10:00

Michael Russell: I think that the evidence shows that that idea was probably current on both sides during the discussion. I do not think that it can be attributed to one side or the other.

The Convener: Well, except that you said earlier that, when you were looking at the range of options, that was one of the options that you had considered. You said that, in the initial discussions, the question of a loan did not come up, so it is quite clear that the germination of that idea was on the Government side rather than the company side.

Michael Russell: No, what I indicated was that, between 28 April and 7 May—I will repeat it, convener—a paper was produced, there were discussions about options, which included additional grant funding, helping the company to negotiate with WorldPay and a loan. I do not think that either side would have had a eureka moment. I think that what took place here was a productive discussion about possibilities that hardened up, certainly on the side of the Government, to the effect that this was the best way to do it.

The Convener: Yes, we can go back over the evidence, because my recollection is that the company said that there were other options. It is clear to me, anyway, that much of this discussion started from the Government side. Obviously, both sides would have agreed, ultimately.

The First Minister: Convener, Mr Russell kept me informed of this, but I think that it is pretty clear from the information that the company produced that it would have preferred a further grant to a loan.

The Convener: That is as may be, but I am just trying to find out where the idea of the loan came from.

The First Minister: As I think Mr Russell said, he asked for further information and, after that request, the company produced a paper that set out the difficulties and a range of options, one of which was a further grant and one of which was a loan. Mr Russell kept me informed of everything that was happening. He took the decision as a responsible minister. However, given that the very real possibility was that, because of the cash-flow difficulties, the event might not take place, I cannot believe that any other minister faced with that situation would have done anything other than to secure the future of the event. If the choice is between securing the future of the event by further grant or by a loan, then clearly the Government's preference will be to do it by a loan.

The Convener: Okay. You have identified a key issue there, First Minister. You say that, if the loan had not been made, there was a real danger that the event would not have happened. Ultimately, then, what the private sector creditors are saying is right, which is that they would not have been left out of pocket had the loan not been made.

Michael Russell: I think that the evidence that you had from Jamie Sempill indicated that there may well have been more private sector creditors before the event at that point than there were afterwards. That is not something that I know or do not know. However, I think that it would be wrong to assign causal inevitability in that way. No, I think that that is probably not right. Yes, I think that the event would not have taken place, but the number of people left in the lurch at that stage might have been greater, and might have included all those who had purchased tickets.

The Convener: Well, of course, and we can trace back to the evidence of that, but the fact is that the financial commitments made by a lot of the small companies that are now out of pocket were made after the loan was granted, so these small Scottish companies would not be struggling in the way that they are had that loan not been given.

Michael Russell: I think that this loan was made with the best intentions in order to secure the outcomes of the event.

The First Minister: Did Audit Scotland not comment directly on the circumstances? This is Michael Russell's area, so he will be able to help me with this, but Audit Scotland precisely commented on the position that the minister was in and said that it was "not unreasonable" to come to that conclusion. I repeat that I cannot conceive that any Government minister faced with that proposition would not have taken action to secure

the future of the event. The second argument is that, at that point, the evidence was produced that this was a cash-flow difficulty and that the funds were frozen in WorldPay. There was no reason to believe that the company would later run into financial difficulties to the extent that it did. What was likely, if the cash-flow position had not been resolved, was that there inevitably would have been financial difficulties with, according to the evidence of the directors, many more creditors affected than has subsequently been the case.

The Convener: I have two further questions; I will then bring in other members.

You knew at that point that the company was starting to face problems, and you were considering how it might be helped. What due diligence did you carry out at that stage before you decided to give a loan?

Michael Russell: We had been dealing with the company for some time; that has been made clear in previous evidence. At that stage, the company was working with the steering group on a weekly basis, and we thought that we knew quite enough about it to give it a short-term loan. We also knew that the moneys that were due to it more than matched the short-term loan. There was specifically a cash-flow difficulty—again, I am relying on the Auditor General's evidence. In those circumstances, we took the not unreasonable decision to provide a loan. The Auditor General said in his evidence that

"time was not on"

our

"side".—[*Official Report, Public Audit Committee*, 26 June 2010; c 1820.]

I go back to the First Minister's point about what others might have done in the circumstances. I was grateful to a former senior Labour minister for saying to me after my statement in the Parliament on 30 June that he did not think that any minister in any previous Administration would have made a different decision. I stand by that decision.

The Convener: Finally, the loan was secret. Why was it kept secret?

Michael Russell: It was not a secret loan. EventScotland was aware of it. In the circumstances, I think that it believed that it was best not to spread that information any further. However, it was not a secret loan.

The Convener: So the steering group knew about it.

Michael Russell: It was not a secret loan. EventScotland knew about it. Nobody in EventScotland suggested to us, and we did not suggest to it at any stage, that it should be secret.

It was felt that the information had gone as far as it should go in the circumstances.

The Convener: So the steering group and the City of Edinburgh Council did not know about it.

Michael Russell: It was not a secret loan in the terms that you have put it, convener.

The Convener: Did the City of Edinburgh Council know about it?

Michael Russell: It was not a secret loan in the terms that you have put it, convener.

The Convener: It is on the record that the City of Edinburgh Council—

Michael Russell: It is on the record that it was not, in my opinion, a secret loan in the terms that you have put it.

The Convener: It is on the record that the City of Edinburgh Council did not know about the loan. Jim Inch said to the committee—

The First Minister: Convener—

The Convener: Just let me finish what I am saying, First Minister; I will then bring you in. Jim Inch said to the committee:

"I believe that we were not aware of loans being made to the company, The Gathering 2009 Ltd, which meant that our position and our advisory group were compromised."

He said:

"we were let down by not having all the information to hand."—[*Official Report, Public Audit Committee*, 3 November 2010; c 2111.]

The First Minister: I was going to say that the Audit Scotland report points to that. In retrospect, I think that Audit Scotland is right. We should have insisted on EventScotland informing the rest of the steering group of the loan. That is a perfectly fair point to make.

Mr Frank McAveety (Glasgow Shettleston) (Lab): Who was involved in the discussions on the loan?

Michael Russell: I and my officials, who advised me, were involved, and at one stage the Scottish Government's finance director was consulted on the propriety or otherwise of the loan. The normal set of advisers was involved.

Mr McAveety: Was the permanent secretary ever involved?

Michael Russell: I think that the former permanent secretary has indicated to the committee that he was not involved and told you at some length why he felt that that was so. He has given evidence on that.

Mr McAveety: Given the importance of the event and the request for a loan, might it have

been appropriate for the former permanent secretary to have been involved?

Michael Russell: No. I rest entirely on his view of the matter, which is correct. He has made his view entirely clear.

Mr McAveety: I know from his letter that he has reflected on the issues. The word “reflected” is important in modern politics. Given that he had to make the final decision to write off the loan, might it have been best if he had known—

Michael Russell: No. He was entirely clear about why he felt that it was not necessary for him to have been told. I lean on that evidence.

Mr McAveety: How did you arrive at the sum identified for the loan?

Michael Russell: It seemed to meet the difficulty that the company had identified.

Mr McAveety: On the discussions about the loan, on reflection—there is a lot of reflection going on—do you agree with the First Minister that it would have been best to have informed the steering group of the loan?

Michael Russell: I think that EventScotland should have informed the steering group with our assistance, but there was no secrecy. Nobody was told not to do things. That is a key distinction.

Mr McAveety: If you were a member of the steering group, would you feel a bit out of sorts that no one had informed you of such a loan?

Michael Russell: I was not a member of the steering group. I cannot speculate on that.

Mr McAveety: If you were a member of any group that was trying to deliver a major project such as this—

Michael Russell: Mr McAveety, I am not going to speculate on things that I have no responsibility for.

Mr McAveety: Do you not think that it would have been appropriate for the people who were asked to deliver one of the major events that the country was putting on for the year of homecoming to have been given some information about the loan?

Michael Russell: We have both said—I concur with the First Minister—that it would have been better had EventScotland told the steering committee. However, I have also made the key distinction about the words used, which I put on record earlier.

The First Minister: You might remember, Frank, that the Government was not on the steering group. However, I have already said that, as Audit Scotland said, we should have insisted

that EventScotland inform the other members of the steering group.

I have to say that I would have been surprised if the other members of the steering group had not thought the move a good idea, as they were as anxious as we were to secure the future of the event. Nonetheless, it would have been proper of us to instruct EventScotland to inform the rest of the steering group. Incidentally, we did not instruct EventScotland not to inform the steering group. However, although we were not part of the steering group, formally, we should have instructed EventScotland to inform the other members.

Mr McAveety: What is the limit before you have to report a loan being made?

Michael Russell: I do not think that there was a limit on this occasion. The distinction that the permanent secretary made was that there were differences in terms of the sums of money that were being used by the Government. He said to the committee that he was not looking down his nose at the £180,000, but that it was not the largest sum of money that the Government was involved with.

I do not think that there is an absolute limit of any description but, in these circumstances, the advice of the finance directorate was that this was perfectly proper and that there was no need to raise the matter with the permanent secretary. He has not only confirmed that but concurred with it—after reflection, to use that important word.

Mr McAveety: Did you discuss with the permanent secretary how to handle the issue of the loan under the legal conditions relating to how loans are dealt with? He has discussed issues around the use of section 23 of the National Heritage (Scotland) Act 1985.

Michael Russell: Advice was given that the loan could be made under section 23, and that was the circumstance in which it was made. That was discussed with the appropriate officials. The advice was that that was how it should be done, and that is how it was done. Equally, it is clear that the advice of the finance directorate was that that was legitimate and that there was no need to report it elsewhere.

Mr McAveety: Is it normal for your officials not to inform the permanent secretary of a loan of such a scale?

Michael Russell: Yes, quite clearly so. In terms of the proper activities, the permanent secretary has confirmed that there was nothing wrong with his not being informed. The finance directorate has made that clear, and the permanent secretary has concurred with those views, even after reflection.

Mr McAveety: Are there any examples of similar loans being given without the permanent secretary being informed?

Michael Russell: I am unable to give you that answer. As the permanent secretary indicated, loans are not uncommon across a range of Government bodies.

Mr McAveety: Is it common that section 23 of the—

Michael Russell: No, this is the only occasion on which that route has been used. However, there are other pieces of legislation that are commonly used to provide loans, and I am sure that the permanent secretary is not informed of many of those loans.

Mr McAveety: But that provision is not commonly used.

Michael Russell: Section 23 has been used for a wide variety of cultural purposes, but not for loan giving, except on this occasion.

The First Minister: It would have been possible to allocate a further grant to the company, but the question involved a judgment about whether the company's arguments—which were verifiable—about an amount being effectively frozen in the WorldPay system were true. If the company's arguments were true, as seemed to be the case—and still seems to be the case—a loan, as opposed to a grant, seemed to be the proper way in which to deal with a cash-flow problem.

Mr McAveety: I am not disputing that a loan was probably a better course of action than a grant—the evidence indicates that it would have been daft to have given a grant, so a loan was a reasonable option. I have been asking about the process of information around that loan.

10:15

Nicol Stephen (Aberdeen South) (LD): Mr Russell, you seem not to like the word, but is it not a simple fact that this loan was kept secret from the partners in the event? They did not know about the loan, and they were not informed of it. Is that not a definition of something being kept secret?

Michael Russell: The phrase was not “kept secret”; it was “a secret loan”. I do not want to split hairs with you, Mr Stephen—or is it Lord Stephen these days? I accept the First Minister's view that it would have been better if EventScotland had told the other members of the steering group of the loan. However, at no time was I or any of my officials involved in an act of secrecy with regard to the loan. That is very important, in terms of how this matter is presented.

Nicol Stephen: So, you do not like the phrase, “secret loan”—

Michael Russell: It was not a secret loan.

Nicol Stephen: But you would accept that the loan was kept secret from those partners. Is that right?

Michael Russell: I would accept that the First Minister was entirely right to say that it would have been better had EventScotland communicated the information to the other members of the steering group. That is what I have said, on the record, and that is what I will continue to say.

The First Minister: EventScotland was not making the loan; the loan was being made by the Scottish Government. That information was given to EventScotland. I have said twice now that I agree with the fair point in the Audit Scotland report that we should have insisted on EventScotland informing the other members of the steering group.

Nicol Stephen: And you, as the Scottish Government, which gave the loan, had no responsibility to those other partners to tell them directly.

The First Minister: We should have insisted on EventScotland doing that. We were not on the steering—

Nicol Stephen: Why go through EventScotland? I am not clear why—

Michael Russell: We were not on the steering group.

The First Minister: EventScotland was part of the steering group. On reflection—to use Mr McAveety's term—and after reading the Audit Scotland report, I believe that it is reasonable to say that we should have insisted on EventScotland informing the other partners on the steering group.

Having conceded that point—which seems to me to be a reasonable one—I must say that I cannot believe that the other partners would have wanted anything other than that the loan should be advanced to meet a cash-flow difficulty and to enable an event in which they had already invested a substantial sum of money to take place.

It is also the case that other partners were doing their best, through the steering group, to assist the company in its cash-flow difficulties.

Nicol Stephen: I am coming on to that point, but I just want to be clear that you, as the Scottish Government—the organisation that granted the loan to The Gathering 2009 Ltd—did not feel any obligation to inform the other partners in the event directly, not through EventScotland, that the loan of £180,000 had been given.

The First Minister: We should have insisted that EventScotland, as a member of the steering group, inform the other partners.

Nicol Stephen: You feel that it should have been done through a third party, EventScotland.

Michael Russell: As it was the body that was running the steering group, I would have thought that that would have been entirely appropriate.

Nicol Stephen: On your point about the other partners agreeing on the need for loan, I would point out that, of course, they did not have the information that would enable them to make such a decision at that time—benefit of hindsight is a grand thing, is it not? Surely the crucial point is that the loan would have flagged up to the other partners in the event the financial difficulties that the company was facing. It would surely have been of immense benefit to those organisations to have learned about those difficulties at as early a stage as possible. In effect, what happened was that those financial difficulties were kept secret from those partners.

The First Minister: Around the time of the loan, the partners were presented with a financial estimate of the event, with a pessimistic main run and an optimistic scenario. That is in the documents and the Audit Scotland report. They were getting financial information on the course of the gathering.

Nicol Stephen: They were totally unaware of the cash-flow difficulties that were being faced by The Gathering 2009 Ltd.

Michael Russell: They were not. We know that the final pre-event projections in July 2009 showed the company's indebtedness quite correctly and included a series of projections based on pessimistic, likely and optimistic views of ticket sales, passport sales and other income. The company represented its situation perfectly accurately, and the steering group was involved in detail with the group in helping it to take the issue forward. It is one thing to criticise ministers or others, but a range of people were involved in the steering group and were providing strong practical help to The Gathering 2009 Ltd to ensure that, as the Audit Scotland report says,

"the group paid attention to maximising income and keeping costs down, while ensuring that the event attracted sufficient visitor numbers and made an impact".

Other actions were taking place at the same time.

Nicol Stephen: Do you believe that full and accurate financial information was being provided to the steering group members at that time?

Michael Russell: I think that all the indications suggest that the steering group was performing its

function, which is defined in paragraph 22 of the Audit Scotland report, and the directors of the company were working hard in order to deliver the event. You will know that the post-event analysis indicates where the problems were and that there was a slight overspend and a considerably smaller amount of income than had been anticipated. You will also know that one of the reasons that was given for that was the weather on the weekend and that there were other reasons to do with ticket sales. Those are the reasonable analyses that were done.

The First Minister: The two pieces of information that belie what you are saying, Nicol, are in the Audit Scotland report. The entry on the timeline for 8 July 2009 says:

"Public sector partners agree to explore the possibility of bringing forward remaining grant instalments to aid cash flow."

The entry for 16 July 2009 says:

"Final pre-event budget financial projections are provided to the steering group. Anticipates a deficit of £223,000 (pessimistic), a deficit of £49,000 (most likely) and a surplus of £118,000 (optimistic) based on ticket sales".

The steering group was receiving financial information and was being told about the cash-flow issues that the company faced.

It is important to emphasise that, when Michael Russell decided to advance the loan, he was given information, which he had no reason to doubt and which was verifiable, that an amount more than covering the loan was held in the WorldPay system. In that sense, it was a genuine cash-flow issue. An amount due to the company was held within that payment system, and the loan was designed to ease cash flow against that company asset.

Nicol Stephen: If that was the case, why were no protections built into the offer of loan to ensure that the funds that were due to the company from WorldPay were received by the Scottish Government?

The First Minister: That is an interesting point. The issue of confidence in what the company was telling people is relevant.

The issue has been floated elsewhere of whether the Government should have taken, or in some way asked for, preferred creditor status in relation to the loan. I am not sure that that would have been justified, because why would the Government want—

Nicol Stephen: I am asking about any protection. As far as I can see from the letter of offer of loan, no protection was asked for.

The First Minister: I am going through the sorts of protection that might have been sought. One is preferred creditor status. There are some

difficulties with preferred creditor status. If you seek that, it rather implies that you do not accept the information that you have been given, and it would put the Government in a different position from other potential creditors. The question whether it would be impossible to secure the loan against the assets of WorldPay is more interesting. That is one of the lessons that might come out of this affair.

Nicol Stephen: So none of those options was considered at the time. Is that correct?

The First Minister: When the Auditor General said that giving the loan was not unreasonable, he also said that

“time was not on anyone’s side”.—[*Official Report, Public Audit Committee*, 23 June 2010; c 1820.]

Nicol Stephen: An unusual letter, dated 1 June 2009, was sent by Carolyn Gardner of the Scottish Government to Lord Sempill regarding the authorisation of the loan. It talks about a grant being made—schedule 1 of the letter is a grant claim form, which reads:

“We hereby claim total grant of £180,000”.

The first paragraph of the letter makes it clear that the money is intended to be a short-term loan, and the second paragraph discusses the repayment terms, saying:

“I am therefore requesting that The Gathering 2009 Ltd repay the £180,000 in full within 14 days of your receiving payment from World Pay”.

There seems to have been no effort to ensure that that was followed up on.

The other interesting thing is that the letter talks about the state aid de minimis rules. Can you explain those rules to me, with reference to the ceiling of €200,000? Can you also say why the loan seems to have been counted under the state aid rules while other payments from the Government were not? It seems to me that the document has all the signs of being, as you said, thrown together in haste, without clarity and without proper protection of the public purse.

The First Minister: I did not say that it was thrown together in haste. I said that, as the Auditor General said,

“time was not on”

the Government’s

“side”.—[*Official Report, Public Audit Committee*, 23 June 2010; c 1820.]

Michael Russell: I am happy to provide a detailed written briefing on the issue of state aid and de minimis aid. As a former Deputy First Minister, Nicol Stephen knows that it will not be possible for me to go through what is a huge

number of regulations and rules in detail between now and lunch time.

I entirely refute—

Nicol Stephen: Mr Russell—

Michael Russell: If you will allow me to finish my answer, you will be able to ask another question.

I entirely refute the view that the loan was either thrown together or utterly unusual or irregular. I go back to the key point. If Lord Stephen is suggesting in any way that we should not have provided reasonable assistance to allow the event to take place, that is a legitimate point of view, but casting aspersions on Government documents or on information provided is not the way to do that. Lord Stephen clearly disagrees with us. He does not think that the loan should have been provided, and that is a legitimate point of view. If the committee is asking for a briefing on state aid, I can give one, but it will be lengthy.

Nicol Stephen: Why does the document refer to grant aid being given?

Michael Russell: Because we had not given a loan under section 23 of the National Heritage (Scotland) Act 1985 before. As the first paragraph of the letter of 1 June refers to a “loan”, I would have thought that people reading the letter would have realised that it was a loan.

Nicol Stephen: So the words

“We hereby claim total grant of £180,000 in respect of the above period in accordance with the terms and conditions of the offer of Grant dated 18 May 2009 and the Schedules attached thereto”—

Michael Russell: A loan is a loan is a loan. It was clearly a loan. It was known that it was a loan.

Nicol Stephen: So the word “grant” is an error. Is that right?

Michael Russell: A loan is a loan is a loan.

The First Minister: I am sure that the letter makes it clear that it is a loan, and I am sure that Nicol Stephen would not want to say anything other than that. The documentation makes it clear that it is a loan, does it not?

Nicol Stephen: I am clear that it was eventually understood to be a loan, but when the letter was sent out, clarity was not uppermost. The protections that were given to the Government and the taxpayer as a result of the loan offer letter were, it is fair to say, non-existent. The First Minister is smiling, but I regard this as extremely serious. Let us be clear that £180,000 of Scottish Government money—taxpayer’s money—was thrown out of the window as a consequence of that letter.

Michael Russell: I am sorry, but that is not so.

Nicol Stephen: No protections were built in—

Michael Russell: Not so.

Nicol Stephen: That is factually accurate.

Michael Russell: It is clearly not so.

Nicol Stephen: Was the money ever repaid, Mr Russell?

The First Minister: We have an Audit Scotland report that considers whether it was wise to offer the loan, and concludes that, in the circumstances that Mr Russell faced, it was not an unreasonable thing to do. Most of the time, when Audit Scotland considers ministers' actions and concludes that they were not unreasonable, that is regarded as a general indication of a verdict on what the minister did. Nicol Stephen clearly does not regard it as such; fortunately for him, he was not facing the circumstances that Mr Russell faced.

Nicol Stephen: I asked a very simple question. Was the money ever repaid?

The First Minister: Clearly the money has not been repaid, as everyone knows.

Nicol Stephen: Were any protections built into the offer, to secure the WorldPay money?

Michael Russell: The offer was for repayment. That was clearly the protection that was felt necessary at the time. The Audit Scotland report and other comments have made us consider whether we should improve things in such circumstances, and I am willing to consider that.

The construction that you have put on the events is neither fair nor accurate.

Jamie Hepburn: If the *Official Report* records laughter when Nicol Stephen was speaking, I hope that it reflects that the laughter was at him and not with him.

Mr McAveety: Oh, come on. Behave yourself.

The Convener: Mr Hepburn, we do not need personal insults.

Jamie Hepburn: Okay; I withdraw the remark.

Mr Stephen suggests that the £180,000 was not well spent. What were the economic effects of the gathering and homecoming to Scotland?

10:30

Nicol Stephen: Convener, can I place it on the record that I have never said that in this committee and that, as far as I can recall, I have not said that at any time? It would be helpful if members did not make personal comments about individual members of the committee or put inaccurate words into committee members' mouths.

The Convener: Okay. The point is noted.

Jamie Hepburn: Can I suggest that Nicol Stephen alluded to it, convener, if he did not outright state it?

The Convener: Can we get on with questioning the First Minister and the cabinet secretary?

Jamie Hepburn: I asked a question.

The First Minister: As the committee will know, there was an independent examination of the economic impact of both the gathering and homecoming. The evaluation showed that the economic impact of the gathering to Scotland was rather more than £10 million and to the city of Edinburgh rather more than £8 million. In terms of its economic impact, the gathering was undoubtedly a success. It far exceeded original expectations, including those of the public sector bodies that supported it.

The difficulty with the gathering is not the expenditure of public money, because the public money delivered a substantial, huge and beneficial event. The difficulty with the gathering is twofold. First, the financial difficulties of the company have resulted in a substantial number of small private sector creditors not being paid or having very little prospect of being paid. Secondly, the chances of staging another highly successful tourist event in future have been damaged. However, in terms of its economic impact, there is no question but that the gathering, like homecoming, exceeded original expectations—in the case of the gathering, by a very substantial margin.

Jamie Hepburn: Would either or both of you agree that defining all things unknown as “secret”, as some members seem to be suggesting, is unhelpful to say the least, if not probably sensational and misleading?

Michael Russell: I think that I would be happy to agree with that, but I would add to the First Minister's remarks with a quotation from the manager of the Holyrood hotel, who had his entire hotel booked during the gathering by members of clan Donald. He stated:

“Although we expected there to be increased interest because of the Homecoming, we never thought there would be as much as this.”

Both the gathering and homecoming had a direct impact on the hospitality sector and the tourism sector in Scotland. One of the individuals who turned up was quoted in a newspaper saying that she was

“truly proud ... The joy and excitement I felt ... filled my heart and soul with happiness.”

A whole number of people thought that it was an immensely significant event and a whole number of people benefited financially from it.

The Convener: Jamie Hepburn can have a last question.

Jamie Hepburn: I have two more questions, if that is all right, convener.

Mr Russell, you have stated clearly that officials from the finance directorate sought advice on your instruction regarding the provision of a loan. I believe that the Audit Scotland report reflects that and that you were advised

“that there was no barrier to offering funds”.

I take it that you agree with the findings of the report, and I suggest that that indicates that this was not done on a whim; it was considered in some detail.

Michael Russell: It certainly was not done on a whim. The timeline shows that very serious consideration was given to what should take place and what the mechanism should be to take things forward. I think that the Audit Scotland report reflects that. The permanent secretary has given very clear evidence on the considerations that were brought to bear and the solution that was eventually found. I again lean on that evidence.

Jamie Hepburn: On the convener's point about the subsequent effect on other businesses—the company's creditors—I presume that the loan was awarded not on the basis that The Gathering 2009 Ltd was going to go into administration or liquidation. I suppose that essentially this is the question: the Scottish Government does not have a crystal ball, does it?

Michael Russell: We were dealing with an organisation that had started to deliver the event in 2007 and which was the only organisation that was able to deliver it, because of the involvement of the Standing Council of Scottish Chiefs. It had been working with the steering group since February 2008 and had been funded by the Scottish Government to deliver certain clear objectives in the grant that went to it at the end of 2008.

In all those circumstances, we would have felt, and did feel, that we were dealing with an organisation that had run into a short-term difficulty caused not only by the WorldPay issue but by the recession, which was biting very deep. In those circumstances, a short-term measure to assist it through that difficulty was—I am sorry to keep quoting the Auditor General—“not unreasonable”. I stand by that, and I stand by the remark that I referred to from a senior Labour minister. It was not unreasonable and I believe that it was a decision that any minister in my position would have made; it was clearly designed to ensure that the outcomes were achieved.

The First Minister: I have three quick points to make. First, the loan was offered not because it

was envisaged that the gathering would fail, but to allow it to succeed; that was the intention.

Secondly, the evidence from the directors of The Gathering 2009 Ltd was that there would have been more creditors if the event had not gone ahead. That is their opinion, and it would seem to be a likely outcome, although it is subject to different interpretations.

Thirdly, there can be no doubt that if the event had not gone ahead, £10 million less would have been spent in the Scottish economy and £8 million less in the Edinburgh economy. There is no question about that, and there would also have been 280 fewer jobs in Scotland last year.

Anne McLaughlin: To go back to the convener's point, when it came to making a decision on whether to provide financial assistance as a grant or a loan, you decided to give the loan. In making that decision, did you think about the private creditors and local businesses that were going to participate and had already participated in the run-up to the event? Did you aim to help or hinder them?

Michael Russell: I was mindful in the discussions that took place that there would have been a very severe effect on those who were already involved and who were creditors. We are talking about a decision that was made during May, which was roughly two months before the event took place. A large number of people and organisations were already involved and were expending considerable time and money. That would have been a major problem.

It was in my mind that if the event did not take place, that would have had a severe financial effect. It would also have had a financial effect on those who had booked to come, the transport companies that were involved and the hotels that had bookings. Given those circumstances, it seemed to me to be—I go back to this point—a “not unreasonable” decision to make.

Anne McLaughlin: Obviously I understand that, as did the Auditor General.

You said that you do not like to speculate, but perhaps you will speculate on this. Let us say that you decided that you did not want the extra £10 million for the Scottish economy, were not bothered about the extra £8 million for the Edinburgh economy or concerned about the other creditors whom Lord Sempill says probably would not have been paid if the event had not gone ahead—I hate the term “no-brainer”, but that is a bit of a no-brainer. If you had decided to say, “No, we're not going to support you”, and the event had subsequently collapsed, and therefore nothing happened that weekend and there was no gathering, what do you think the response would have been from the rest of the Parliament?

Michael Russell: I hate to speculate, and I think that I should not, having refused Mr McAveety. However, I will just say that I suspect that I might have been in front of this committee for that decision. Perhaps we should reflect on that.

The First Minister: Mr Russell made the decision, and he informed me about it. He got the information. I note the evidence from Lord Sempill, who was led by Lord Foulkes into saying that my private secretary phoned him to arrange the meeting. We now know that that was Mr Russell's private secretary—there is no doubt about that.

That puts me in the position of saying that I cannot believe that any other minister in any other Government who was faced with the set of circumstances that Mr Russell faced would have made any decision other than to help the company to secure the future of the event, for all the reasons that Anne McLaughlin has cited.

Sarah Boyack (Edinburgh Central) (Lab): You said that, without the loan, it is unlikely that the event would have gone ahead and rightly made the point that many creditors have not been paid for the event. What is your view about their expectations, given that the Government was clearly fully in support of the gathering? You have said that you were not formally involved in the steering group, but Government organisations were involved in it. Do you have a view on that? Are you aware of creditors' views that the Government's involvement in the steering group—albeit informally, through Government organisations—gave it some kind of responsibility, having kept the gathering going at a point at which it might have collapsed?

The First Minister: I am very aware of and sensitive to the creditors' position. When we come to discuss the efforts in which I was personally involved to secure the event's future and the creditors' position, I will be able to demonstrate that awareness. Many of the 400 events for homecoming were supported directly by the Government, but the Government does not take on liability for private companies that pursue events. The Gathering 2009 Ltd is a company limited by guarantee and was established before the Government took office. The fact that an event is supported by the Government and the existence of a steering group, which is the case for many events, do not mean that the Government takes on a company's liability, which rests with the company's directors. A steering group does not replace a board of directors, legally or in any other way.

As Sarah Boyack must know, if by supporting a company by Government grant the Government took on liability, we would make no Government grants. If the Government took on liability for a company by setting up a steering group, we would

set up no steering groups. No Government at any time or in any place could take on commercial risk, which—rightly—falls on the company. No steering group can replace a board of directors, which is liable for the company's position.

I hope that I will be able to demonstrate that I had great concern for the creditors' position. I hope that we will move on to that issue, so that I can explain what I was trying to do. However, the Government cannot take on liability for a company by virtue of giving it a grant or setting up a steering group. That cannot be done.

Michael Russell: As I pointed out earlier when the member was not here, the steering group model is used widely. There were advisory steering groups for the MOBO awards and the Ryder cup. Paragraph 22 of the Audit Scotland report states:

"As the event was run by a private sector company, the steering group had a purely advisory role and could not enforce any actions or changes. The company, as the event owner, had the power to make all commercial decisions."

That is not only the reality but the law.

Sarah Boyack: I was responding to the comment by both of you that, without the loan, it is unlikely that the event would have gone ahead and that people provided services on the basis that they thought the Government supported the event and wanted it to go ahead. I have been left high and dry by what you have just said. Without the decision to go ahead, a number of people would not have spent money and provided resources. As a result of what has happened, those people have not been paid.

The First Minister: The loan was extended with the intention of securing the event. If the event had not gone ahead and income had not been generated from it, many creditors would have been in the position you describe. Our intention in advancing the loan was to secure the future of the event and allow it to proceed successfully. We and the steering group had every indication that there was a good chance that that would happen. The loan was made with the intention of securing the future, not in anticipation of the event's failure. If we had not extended the loan, the risk of failure and of the event's not taking place would, at the very least, have been very high.

The Convener: You have said a couple of times that, because the event went ahead, a number of people were paid and that, had it not gone ahead, many more people might have been left out of pocket. Are you saying that, because the event went ahead, a number of creditors were paid? Some have not been paid.

The First Minister: I understand the point you are making. When evaluating how many creditors

there would have been if the event had not gone ahead, I was relying on evidence from the company's directors, who made that point to the committee. When the loan was extended, all we could know was that if the event did not go ahead there would be significant detriment to the Scottish economy and significant damage to our reputation, and that a significant number of creditors would not be paid. As I have just said to Sarah Boyack, we extended a loan with a view to the event's being successful, so that no creditors would not be paid.

10:45

James Kelly: I will return to the process that was followed and pick up on points that Nicol Stephen made. In response to Nicol Stephen, the First Minister said that he was confident that up-to-date and accurate financial information was in place. When the company told the Government via Mr Russell in April 2009 of cash-flow problems, what financial information did it produce to show that it had those problems?

Michael Russell: As I said, we received a detailed paper from the company that set out the cash-flow difficulties and outlined a range of ways in which the directors thought the Scottish Government could help them. Thereafter, considerable interaction took place between officials and the company to discuss the difficulties and the directors' projections. It took from the directors' meeting with me on 28 April until 1 June to offer the loan because a detailed understanding of the WorldPay situation was needed.

Mr Kelly will remember that the directors told me—and confirmed in their evidence to the committee—that the recession had created shortfalls in sponsorship. As a result of that and the fact that they could not draw down the WorldPay money, they were suffering cash-flow difficulties. That was the situation that we tried to address.

James Kelly: Were you presented with an up-to-date cash-flow statement and associated financial statements that included year-to-date financial information?

Michael Russell: I have indicated that the detailed paper that we received set out the cash-flow difficulties and a range of ways in which they would be helped. Real information was provided on the real cash-flow difficulties and the solutions that would be required.

James Kelly: Did you see a cash-flow statement?

Michael Russell: I believe that my officials saw all the information that the company could provide, which included cash-flow statements.

The First Minister: The point about WorldPay and the amount that it held was verifiable and verified.

Michael Russell: The amount that was returned from WorldPay after the event was exactly what the directors said it would be.

James Kelly: That would be verifiable if you had an accurate and up-to-date cash-flow statement. You are confident that that information was provided?

Michael Russell: It was verified.

The First Minister: I am saying that the amount that was held in WorldPay was verifiable and verified.

James Kelly: Did you or your officials view a cash-flow statement?

Michael Russell: Officials viewed all the information that the company provided, which included cash-flow statements. They also had verification of the amounts that WorldPay held. As the Auditor General's report says, the details of the company's income, expenditure and projections were discussed with the steering group regularly.

The Convener: To save time, perhaps you could ask your officials to write to us on whether a statement was seen.

Michael Russell: I will ensure that my officials provide additional information to the committee.

James Kelly: Was the information shared with the steering group?

Michael Russell: The steering group had the information that it received all the time. The Auditor General examined that and had discussions with the steering group. Paragraph 25 of the report says:

"Some steering group members told us that the financial projections were difficult to understand but they did not doubt the reliability or accuracy of the figures. The group challenged the financial information, discussed the information presented and, where necessary, asked for revisions and updates. For example, from May 2009 onwards, the company responded to the group's suggestion to provide financial projections based on three different scenarios".

The Auditor General concluded—and I agree—that

"The financial information provided by the company to the steering group could have been better".

That is one lesson that needs to be learned, but it shows, as do other points, that the steering group received detailed financial information.

James Kelly: If we accept what you tell us—that you or your officials had an accurate cash-flow statement—you possessed more information

than the steering group. [*Interruption.*] Let me finish. Why did you not share that information with the steering group? Paragraph 24—which you did not read out—says:

“From April 2009, the financial information provided did not include figures for actual income and spend to date, but was based on forecasts of total income and spend for the event.”

You tell us that you or your officials had an accurate and up-to-date cash-flow statement, which the steering group did not have, so why did you not share that with the group?

Michael Russell: With the greatest respect, Mr Kelly, that is not what it says.

James Kelly: I have just read out what it says.

Michael Russell: Paragraph 25 is entirely clear that the group was receiving information of a comprehensive nature. I am not sure that this is taking us anywhere but, if you go further on, you will see that the reality of the outturn is that the income that they eventually received was less than projected. At the end of the day, even the cash-flow information and the projections that the group was receiving were affected by the actual ticket sales at the event and during the weekend. The financial difficulty arose neither in the projections nor even in the short-term cash-flow situation, which was rectified by the Scottish Government's decision to provide a loan, but at the end when there was a small overspend and a considerable undershoot in ticket sales. Those sales were the result of the weekend's activities.

James Kelly: It is laughable to suggest that accurate financial information was available when the steering group was not viewing actual and up-to-date spend.

Can I finally ask—

Michael Russell: I am sorry, but that is not what the report says.

The Convener: Hold on, Mr Russell.

James Kelly: On the basis of discussions that you and your officials had on the cash-flow difficulties, what information, if any, did you pass to the steering group?

Michael Russell: We have made that clear on a number of occasions. Mr Kelly, I must return to the point that the basis of my decision was entirely reasonable. That has been confirmed by a range of individuals. I am sorry that you do not find it reasonable, but it was a reasonable decision that was taken in the best interests of the event, those involved in it and what was going forward. I think that that stands.

James Kelly: Is it not the case that you kept the information secret from the steering group?

Michael Russell: No, it is not the case.

James Kelly: What information did you give to the steering group then?

Michael Russell: I repeat that what you have said is not the case.

James Kelly: But you have not been able to give us details about it.

The First Minister: Let me answer your question in this way, James. The key information that was needed with regard to the cash-flow advance was to find out whether in WorldPay a sum was indeed being held that the company could not access. We will provide the detail that the convener asked for about the other information that officials had.

As the Auditor General's report makes clear, the steering group was getting financial information. It then asked for more financial information and pessimistic, most likely and optimistic scenarios, and the report shows that it was presented with the scenarios that it wanted as close to the event as 16 July 2009. The steering group was not short of information. The difficulty lay not with the information that it was being provided with, but with the fact that the eventual overrun exceeded even the most pessimistic scenario with which it had been presented. The overrun did not match the information that it had been provided with. I am quite certain, though, that you have been around governance and certain companies long enough to know that such an occurrence is, in itself, not unusual.

Willie Coffey (Kilmarnock and Loudoun) (SNP): First of all, I apologise for my voice this morning, convener.

This is the Public Audit Committee's sixth meeting on the matter of a £180,000 loan. I have to say that we must be getting perilously close to spending the same amount of money on this investigation.

The First Minister has put on record the £8 million return to Edinburgh from the event. Was it possible to make any kind of assessment of the recoverability of the loan, or was it set in the context of the wider benefit not just for Edinburgh but for Scotland?

Michael Russell: Clearly we would have wanted to recover the loan. That was the purpose of making a short-term loan and the letter in question makes it quite clear that we wanted the money back once the cash-flow difficulty eased—which, I point out, would have happened immediately once the money held in WorldPay was paid out. That money was, I think, due to be paid immediately after the event; however, it was finally paid not the Monday after the event but the Monday after that. We would have wanted that

money back by the end of August. That did not happen because, as we now know from the analysis, ticket and other sales were lower than expected and some spending was higher than expected.

No doubt this will come out in questioning later on, but the accountable officer—the permanent secretary—had to make a decision on how we could assist taking forward the idea and the intellectual property. That was of great benefit in ensuring the prospect of future success and that the creditors were paid. Clearly the issue became germane at that stage.

The First Minister: I accept that there are some lessons to learn. Indeed, we have already alluded to one—insisting that EventScotland informs the rest of the steering group—but if the public investment and return are evaluated by the normal criteria, it is clear that the event generated £10 million-plus for the Scottish economy. The issue here is not the public investment itself, whether it be from the City of Edinburgh Council, the LEC at the time, EventScotland or the Scottish Government, but the fact that all those bodies and, indeed, Scotland have had a substantial return exceeding the normal ratio that one expects from tourist events. With great respect to the committee, I do not think that that is the central issue. There are certainly lessons to learn, but the event generated a massive return to the Scottish economy at a time of great economic difficulty.

Where we need to explain what we tried to do is the position that we took with regard to the ability to hold future events, given the financial collapse of The Gathering 2009 Ltd, certain reputational issues and the situation with small creditors. Those are the real issues that we as a Government and you as a committee should be examining and facing.

Willie Coffey: I have never fully understood WorldPay's role in withholding the income from advance ticket sales, which, after all, is what has possibly led to these discussions. Do we have a clearer understanding of why that happened? Was any pressure brought to bear on WorldPay to release that income?

Michael Russell: Jamie Sempill has already given the committee an indication of the issue. Under the agreement that the company had signed with WorldPay, the money would not be released until after the event; indeed, such money is usually held by WorldPay until after events. Coming back to Mr Kelly's celebrated cash flows, I point out that the company had budgeted on the basis that the money would not be required to pay bills until after the event. The shortfall in sponsorship that had been recorded—and which was subsequently made up—and the fact that the company had to pay some bills earlier than

expected led to the cash-flow difficulty, which could have been removed had the company been able to draw down the WorldPay money. It was not able to do so, which is where the difficulty arose. As I have said, that is in Lord Sempill's evidence.

The Convener: On the potential purchase of The Gathering 2009 Ltd, the Audit Scotland report clearly indicates that the First Minister was very closely involved with these matters. Indeed, he has said so himself. We also know that it was a private limited company with two directors. Did the directors know that you were trying to sell the company?

The First Minister: First, let me set out the sequence of events. I met the company directors on 14 August for what was meant to be a general debrief on the event. At the meeting, I was made aware of the company's belief that it had made a loss; it did not know what the loss was and, obviously, we asked for comprehensive information to be provided. The directors then met Mr Russell on 9 September, by which time the extent of the losses was beginning to emerge.

I was anxious to do two things: to secure, if possible, the position of the private sector creditors and to enable a position by which the gathering could be held again. My view was—and indeed remains—that, given the extent of the losses of The Gathering 2009 Ltd, I could not envisage circumstances in which, even if we had wanted to, we could have given the company a post hoc or after-the-event grant. I did not regard that as the right thing to do and, in any case, I was informed that it was not possible. Another solution had to be looked for and, if possible, found.

The Convener: Yes, but my question is fairly simple. Did the private company know that you were phoning people—for example, the chief executive of the tattoo—to ask whether they would purchase it?

The First Minister: The basic answer is that I informed the company of the meeting that I was calling and to which I had asked the tattoo and the City of Edinburgh Council and, after that meeting, gave it a debrief of the progress or lack of it that had been made.

The Convener: With due respect, First Minister, I am not asking about that. Were the directors of the company aware that you were phoning people to ask whether they would consider buying this private company?

11:00

The First Minister: The directors of the company were aware of the meeting, which was designed to try to find a solution for the company.

The directors were aware that that might well involve trying to find a purchaser for the company.

The Convener: Were they aware that you had phoned the tattoo?

The First Minister: You would have to ask them that.

The Convener: Well, we have and they said on record that they were not aware of your efforts to sell a private company. In other words, you were secretly making efforts to encourage the sale—

Michael Russell: There's that word again.

The Convener: I do not know what other word to use to describe it. The company directors have told the committee on record that they were not aware that the First Minister was trying to arrange the sale of their company.

The First Minister: I briefly met the directors of the company immediately after the meeting on 12 October with the Royal Edinburgh Military Tattoo Ltd and the City of Edinburgh Council to discuss progress. That is what happened. As we know, no decision was made at that meeting, but I certainly met the directors and told them about the progress or lack of it that had been made.

The Convener: Yes, but on 8 October you phoned the chief executive of the tattoo to ask him to consider the purchase of the company.

The First Minister: I asked him to attend a meeting on 12 October and whether the tattoo would be interested in taking over The Gathering 2009 Ltd.

The Convener: So is the Audit Scotland report accurate in its statement that on 8 October

"The First Minister phones the chief executive ... to ask him to consider the purchase of the company"?

The First Minister: It is accurate, but not complete. I asked the chief executive to bring his relevant officials and other members of the tattoo to a meeting on 12 October to discuss the potential for the tattoo to take over The Gathering 2009 Ltd. I had no way of knowing whether the tattoo could or would wish to do so. All I was able to do was call a meeting with interested parties to see whether a solution could be found. That was the purpose of the phone calls.

Why did I phone the tattoo? It is a well-respected company that for many years has run a highly successful event in Edinburgh. Why did I ask the City of Edinburgh Council? Given the economic impact assessment that we had carried out, which indicated a £8 million benefit to the city, it had a substantial reason for wishing a repeat of the event, if possible, as well as a substantial interest with regard to the fact that many of the company's creditors are based in the city. I

thought that they were the relevant bodies to call to a meeting to see whether a solution could be found. However, no decisions had been made before that meeting and, indeed, none could be made at that meeting. I met the directors following the meeting to inform them of progress or the lack of it.

The Convener: I presume that you are referring to the meeting on 12 October. The record shows that four days before that meeting you phoned the chief executive of the tattoo to consider the purchase of the company. According to the report, the meeting on 12 October involved

"representatives of the council, VisitScotland and the Edinburgh Tattoo to discuss potential purchase of the company by the Edinburgh Tattoo".

There is no reference to the directors of the company, which means that, by 12 October when the meeting was held, they still did not know that you were trying to arrange the sale. At what point did you tell the directors of the company that you were trying to make arrangements for others to purchase it?

The First Minister: I thought that I had just answered that question. I met the directors immediately following the meeting on 12 October.

The Convener: And you told them that you were attempting to make arrangements for the sale of the company?

The First Minister: I did, at that meeting on 12 October; I told them what had been discussed at the meeting.

In my view it was quite right to call a meeting of interested parties to see whether a solution could be found. Let me take a moment to explain the reason. I was informed of the company's difficulties. At that stage, Mr Russell was going on a ministerial visit—I think to India—so, as opposed to previously, when my role had been indirect because Mr Russell was the responsible minister, I decided to take a direct role in attempting to find a solution, because of the event's importance.

It is not possible for the Government retrospectively to allocate money to a company for an event that has taken place; our entitlement is to award money to a variety of companies to secure an event. We are, quite properly, not able retrospectively to grant money. We are also not able—I investigated this—to purchase a company beyond the value of that company, which was why we had been having the company valued. Therefore, the only solution, if a solution were to be found, was to find or help to find an alternative purchaser of the company. That was the only alternative to liquidation. I thought that it was a quite proper and active role of Government to see whether interested parties were prepared to take part in the process.

The calls on 8 October were not definitive; they were briefing calls on the situation that the company faced and to ask people to a meeting on 12 October. I have explained why I thought that the tattoo might be an interested party. It had informed me—unconnected with the gathering—that it was interested in diversifying its activities, and I thought that it might be a future partner in or purchaser of The Gathering 2009 Ltd. I thought that City of Edinburgh Council might be interested, given the economic benefits. Hence the request to attend the meeting on 12 October.

Michael Russell: Could I—

The Convener: Hold on a minute, Mr Russell.

I understand that, First Minister. The issue is that four days before the meeting on 12 October you picked up the phone to the chief executive of the tattoo and asked him to consider purchasing the company. The directors who owned the private company were not aware that you were making efforts to sell it—

Michael Russell: I can help you, convener—

The Convener: Let me finish. The directors have said that on the record. It is highly unusual for the First Minister of Scotland secretly and behind the backs of directors to try to make arrangements to sell a company. Have you approached parties about buying another company, in circumstances in which the company's directors did not know that such efforts were being made? Has that been done before?

Michael Russell: The directors of the company did know, because on 30 September I met them to discuss potential courses of action. That discussion included the possibility of the company being purchased by other parties. In those circumstances, the directors were perfectly aware that that was a potential course of action.

The Convener: But did they—

Michael Russell: It was a potential course of action for the reason that the First Minister gave and to ensure that people who were owed money by the company could be paid. In those circumstances, on 30 September the directors were aware of the actions that were taking place. That was entirely clear.

The Convener: Did they know that on 8 October the First Minister had phoned the tattoo?

Michael Russell: They knew that, after 30 September, the people who were involved—I think I left on 9 or 10 October—would take strong, positive, helpful action to try to assist the company to move forward from the situation it was in. That is what they knew, and they concurred with that, because it was helpful to them.

The Convener: They told us that they were not aware that the First Minister had phoned the tattoo. You cannot confirm to us—

The First Minister: You are talking about two different things—

The Convener: Of course they are two different things. That is what I am asking you—

The First Minister: Allow me to answer, then. You said that the directors were not aware of the phone call on 8 October. I have explained that the phone call on 8 October was made to invite the tattoo to a meeting to see whether it was able to purchase or was interested in purchasing the company. The City of Edinburgh Council was invited on the same basis. I briefed the directors of the company as soon as the meeting had taken place. The phone call was merely to invite people to a meeting and to give them the circumstances of what it was to be about.

In response to your earlier question about whether I have ever been involved in attempts to take over failing companies and secure good for the public in jobs and investment, the answer is many, many times, both as a constituency member of Parliament and as First Minister of Scotland.

The Convener: First Minister, that is not the question that I asked you. You are answering a different question. I asked—

The First Minister: Convener, you cited a different part of the record. You said that they were not aware of a phone call, but they were most certainly briefed on the meeting as soon as it had taken place.

The Convener: They have told us on the record that they were not aware that you were trying to sell the company, and the other—

Michael Russell: They were briefed on the actions that were taking place.

The Convener: Excuse me, Mr Russell. The other question that I asked was whether you have been involved in any other efforts to sell privately owned companies where the directors of those companies were not aware of such efforts.

Michael Russell: That is not what happened on this occasion. On 30 September, they were perfectly aware of the potential courses of action, which included getting someone else to buy the company. They were perfectly aware of that, so you are not asking an accurate question.

The Convener: We can check the records, but the record shows that they said that they were not aware.

First Minister, why did you, rather than your officials, make the phone calls to fix up a meeting?

The First Minister: I did it, rather than Mr Russell, because he was going on a ministerial visit.

The Convener: No, I asked about your officials.

The First Minister: I often phone people, if I am inviting them to meetings, to brief them on the background. I do not always do it via my officials. When it comes to inviting people to a meeting where officials and everybody else will be present, there is absolutely nothing wrong with the First Minister of Scotland doing that.

As far as the phone call to Major General Euan Loudon is concerned, the particular reference was that he had said to me at the tattoo that year that the tattoo was interested in diversifying its activities. For example, it had planned a number of events in Australia, I think, and we had co-operated as part of the homecoming whereby the tattoo held, for the first time, four tattoos around Scotland. The reason for phoning Euan in that way was that I knew that the tattoo as a company was interested in diversifying its activities. The purpose of the phone call was to see whether he was interested enough to come with his chief executive, I think, to a meeting the following Monday. I made the phone call to invite him to a meeting.

I made a similar phone call to Councillor Cardownie. Why Councillor Cardownie? Because he is the councillor in charge of events in the city of Edinburgh. I had done a press conference with him on the winter programme for Edinburgh. I thought that those were the suitable people to ask to come to a meeting to explore the possibilities. Along with, of course, all their officials, my officials and the other interested parties, they would get round the table to see whether a solution was possible. I was trying to find a solution, convener, and if the solution had worked, this committee meeting would not be taking place and everybody else, including the small creditors, would be extremely happy.

It depends what you believe your job is. I think it is the job of the First Minister to try to facilitate a solution that will benefit people. I make absolutely no apology for trying to do that.

The Convener: Your officials were aware of the calls that were being made. They kept a record of the calls that were made and they were aware of their content.

The First Minister: They were aware that I was calling people to invite them to a meeting. It is obvious that they were aware of that, because I think that I am right in saying that the calls appear in the timeline of the Audit Scotland report.

The Convener: Some of the calls are in the Audit Scotland report. The ones on 8 and 12

October are in the report, but the phone call to the man in the pub to ask for help on 9 October is not included. Why was that not included?

The First Minister: I think that you are talking about the phone call to Councillor Cardownie. As I remember his evidence to the committee, when you—or someone on the committee—asked him whether he had ever received calls like that, he said that he had, when he was a Labour councillor, from Labour ministers. I phoned Councillor Cardownie to ask him and his officials to attend the meeting the following Monday. His whereabouts when I phoned him were not under my direction or in my gift.

The Convener: No, but you said that the calls were recorded and you referred to the—

The First Minister: No. I said—

The Convener: You said that the fact that the phone calls had been made was recorded, and you referred me to the Audit Scotland report. That report does not record the phone call that you made to Councillor Cardownie.

11:15

The First Minister: The fact that the call took place was certainly recorded in my records. The Auditor General is here. There is no secret about that call. It was made because, in my view, the City of Edinburgh Council had to be part of the solution, if one was to be found. When Councillor Cardownie came to the meeting, he came with a range of officials from the council, as I expected him to do. I made the assumption, as Major General Loudon did, that he would have informed the chief executive and leader of the council that he was attending such a meeting. Those things seem pretty obvious, convener.

Jamie Hepburn: There is clearly some concern around the committee table that you made those telephone calls personally, First Minister. There seems to be a feeling that it was somewhat extraordinary for you to have picked up the telephone and used it yourself. That suggests that some people around the committee table have trouble using a telephone in person. I am a little confused, because I think that it was perfectly ordinary for you to pick up the telephone and call whoever you thought appropriate. Indeed, I think that the permanent secretary confirmed to us that it is not outwith the Scottish Government's protocol for the First Minister to do so. Will you comment on that?

The First Minister: I admit that I make telephone calls to people on a large number of occasions. I believed that a meeting might offer a solution to a very difficult problem that affected a substantial number of people, as well as a way to

secure an event for the future of Edinburgh and Scotland, so I made the calls. I am proud and delighted that I made them. My only disappointment is that the solution that I hoped to find did not fall into place.

I have explained the reason for calling Major General Loudon and Councillor Cardownie and I am perfectly happy to talk about what transpired at the meeting. I certainly informed the directors of The Gathering 2009 Ltd what happened at it—or, unfortunately, what did not happen, because agreement was not reached—immediately the meeting had taken place.

I am not sure that, in any of that, I did anything other than what you would expect of an active minister. The reason that I did it was that Mr Russell, who had directly handled matters until then, was not available and I considered it important enough for the First Minister to take an active role in trying to find a solution.

Jamie Hepburn: It is useful to know that Mr Russell can use the telephone as well, First Minister.

I have a question similar to Anne McLaughlin's on the last area of questioning. It concerns a matter on which we focused, but it is a bit speculative so there is no obligation to answer. What do the First Minister and the cabinet secretary feel would have been the response from others—including other members present—if the Scottish Government had made no efforts to rescue the gathering, which was an international event as much as it was a company?

The First Minister: I think that people would have been astonished if they had not felt that the Government had done its utmost to secure the event's future and the position of the small creditors.

My view is that the public got a major return from the event for the public money that was expended. It was significantly in advance of what many other events have managed to generate and of what is normally forecast for a tourist and visitor event. In my view, public money was wisely expended on that substantial event.

The two outstanding matters that caused me a great deal of anxiety were the position of the small creditors and whether such an event could be produced in future in a way that generated not only a successful tourist and visitor event but a successful financial event for the company that staged it.

Michael Russell: We can go back and look at the press coverage of the weekend of the gathering; at the conference that Queen Margaret University, I think, held shortly after the event and at which its impact was discussed; and at

evidence from EventScotland that the gathering was an idea that was intended to roll forward and that even a small deficit was expected to be traded out by the sales of materials and the use of intellectual property.

In the great disappointment and the great difficulty that was experienced at that stage, with much worse income than The Gathering 2009 Ltd had expected, the challenge of whether it was possible to take the idea forward in the way that had clearly always been intended was being faced. That was a major challenge, and an enormous amount of hard work was done in September and October to make sure that that challenge was met, that the small creditors were paid, and that the idea could continue to grow and develop so that it could continue to contribute to Scottish tourism and bring overall benefits.

Jamie Hepburn: First Minister, you have mentioned the position of the creditors a number of times. Throughout the coverage of the episode, suggestions have come from some quarters that the Scottish Government does not care about the position of the creditors. I take it that, while the efforts that you made at the time that we are exploring were about securing the wider public benefit of a future similar event, the creditors were also uppermost in your mind.

The First Minister: That is correct. Those were the two outcomes that I was trying to achieve.

I have already said that the Government could not just buy the company because, under our normal practices, we are not allowed to. I suppose that I could have given a ministerial directive to do it, but under our normal practices, we cannot pay more for a company than it is worth. It seemed to me, however, that a potential solution was to find a third party to buy the company and take on its assets and liabilities, which were the private sector creditors. After discussion with the permanent secretary—and because the alternative was the liquidation of the company, in which case all public and private creditors would have received only a small percentage of what they were owed—it seemed to me to be possible for the public sector to make a contribution by writing off the obligations to the public sector on the basis that, if the company went into liquidation, the public sector could expect to receive little money anyway. It struck me that, if we could find the right purchaser, we could arrive at a proposition that would allow the company to be taken over, and the position of the private sector creditors to be secured. It could also secure the future of what was and still could be a highly successful event on the Scottish visitor calendar.

Jamie Hepburn: I refer to a letter that the committee has received from Dave Anderson, the director of city development at the City of

Edinburgh Council, dated 17 November 2010. In that letter, Mr Anderson says:

"I believe that the efforts of those involved, at the Scottish Government, the Council and DEMA, to rescue the Gathering as an event which had brought beneficial economic and tourism impacts to Scotland were well intentioned."

I presume that you agree.

The First Minister: They were certainly well-intentioned, but I am disappointed that they were not successful. The essence of the proposition that we were trying to argue contained the elements of potential success. I am happy to discuss with the committee what happened at the meeting of 12 October, and what transpired afterwards.

The Convener: Before I allow Nicol Stephen to come in, I will say that I am aware that the cabinet secretary has another committee meeting to attend. We understand why he has to leave.

First Minister, we have the option of continuing the meeting with you, or calling you back at the future date.

The First Minister: I am game to continue if the committee agrees.

The Convener: I appreciate that. Thank you. Mr Russell, you may leave whenever it suits you.

Nicol Stephen: I will start by asking Mike Russell when he was in India.

Michael Russell: I was in India from 10 to 16 October 2009.

Nicol Stephen: From the timeline in the Audit Scotland report, it is clear that the First Minister's involvement started on 9 September 2009—he can correct me if I am wrong—and that there was a whole series of meetings after that, some of which were internal. The meeting on 9 September was on the same day as Mike Russell met the company directors. There was then a follow-up meeting later in the day between Mike Russell and the First Minister.

The First Minister and the Minister for Culture, External Affairs and the Constitution met the directors on 16 September. The First Minister, Mike Russell and the Cabinet Secretary for Finance met on 29 September to commission a valuation of the intellectual property that the company owned. Then, of course, we move into the events in October that we have been speaking about, with the calling of the meeting and the telephone calls.

First Minister, you were heavily involved in all this throughout September. Why?

The First Minister: I was actually involved from 14 August. If you look at the information that has

been given to the committee, you will see that I met for a debrief with the company; I mentioned that earlier. At that stage, it informed me that it believed that it had made a loss, although it could not evaluate what that loss was. I obviously asked for comprehensive information to be supplied to the Government as quickly as possible. Up until then, Mr Russell had been the minister dealing with the event and he had regularly told me of the progress of the difficulties at our portfolio meetings—he had been the lead minister.

I met the directors of the company for what was meant to be a general debrief about an event that I had attended and they told me at that stage, on 14 August, that they considered—although they could not evaluate it—that the event had made a loss. I asked for information to be provided as quickly as possible. The meeting on 9 September, after Mr Russell met the directors of the company, was part of the process of his reporting back on the matter, as he had done many times before.

Michael Russell: I point out that I reported to the First Minister because I was in the First Minister's portfolio. The regular portfolio discussions took place as the reporting of a junior minister to the minister to whom he was responsible.

With that, I apologise but I must leave you. As you know, I am giving evidence to the Education, Lifelong Learning and Culture Committee on the budget.

The Convener: Okay. Thank you.

The First Minister: You are correct, Nicol, that we are coming to a period when, for a variety of reasons, I took a more direct interest.

Nicol Stephen: Both you and Mike Russell have referred to the normal actions that any First Minister or minister would take to rescue a company and protect jobs. I am just pointing out that, from my experience in Government, it is unusual for the First Minister to be as involved in an issue of this nature as is clear from the timeline, on which, by the way, the meeting on 14 August is not mentioned. You have given, as the reason, the fact that the minister who was directly responsible was going off to India. I understand how that would have applied in October, but it does not give a full explanation of why you met the directors previously and had other meetings in September.

The First Minister: I met the directors on 14 August for what was meant to be a general debrief on an event that I had attended.

Nicol Stephen: And on 16 September.

The First Minister: About the meeting on 16 September, the timeline states:

"The First Minister and the Minister for Culture, External Affairs and the Constitution meet with the directors to discuss potential courses of action".

I met the directors and Mr Russell.

Nicol Stephen: So, you did meet the directors on that date. The timeline is accurate.

The First Minister: On 16 September. Yes.

Nicol Stephen: Thank you.

The First Minister: You seem surprised about that. It is my style, as First Minister, to intervene directly in circumstances. I can think of another example in which I phoned to find a potential purchaser of a company. In the case that I am about to cite, it was a successful intervention. I phoned Scottish and Southern Energy because I understood, from sources, that it was interested in establishing a call centre. During that phone call, I was able to inform the company that Barclays was closing a call centre in Cumbernauld. The decision was obviously for Scottish and Southern Energy, not for me, but, partly as a result of that phone call, Scottish and Southern Energy decided not to proceed with an investment in a call centre elsewhere and, instead, chose to buy the call centre in Cumbernauld from Barclays. My involvement as First Minister contributed to that. I do not say that it was my decision—it was Scottish and Southern Energy's decision—but a direct intervention by me, as First Minister, making phone calls to see whether companies would be interested in a purchase, secured, if my memory serves me right, some 700 or 800 jobs in Cumbernauld.

I have a style that leads me to make direct interventions if I think that they can be helpful. Sometimes, they succeed; sometimes, they do not, but it is better to try than not to try.

11:30

Nicol Stephen: I put it to you that you intervened because you realised that, when the facts and the scale of the losses became clear and it became known that the company was spectacularly insolvent, leaving a considerable number of small creditors, you would be subject to considerable criticism and would be strongly attacked—in other words, the damage to your reputation and to that of your Government would be very great.

The First Minister: No, I was motivated by two interests. First, securing the interests of the small creditors was a major interest of mine. Secondly, I wanted to secure the future of the gathering as an event. The damage to the reputation of ministers in any Government who were not prepared to try to do things in the public interest would be much greater than the damage to the reputation of

ministers who made some attempt—it is far better to make an attempt to secure the public interest.

Nicol Stephen: In all this, did you or your officials offer to find a way to fund the company's private sector liabilities?

The First Minister: In conversation with my officials, I came up with a proposal that I thought might be a viable way forward for the company that would secure the private sector creditors. As Nicol Stephen knows, we could not bail out the past—it is standard practice not to give grants for things that have already happened. In addition, paying over the odds for a company raises state-aid issues. Having the company's assets valued was an important part of the process of trying to find a solution, but the Government could not pay £500,000 for something that was valued at £100,000. However, in my view, there was a way of securing the public interest through the proposition that was put first to the Royal Edinburgh Military Tattoo and subsequently, by the permanent secretary, to the City of Edinburgh Council; in fact, I think that the proposition came from the other direction—from Jim Inch.

It seemed to me that there was a possible way through, but the situation was extraordinarily difficult because of the size of the loss that the company had made. The essence of the proposal was to accept that the public sector—we—had received a substantial return from the event. We were armed with a report that demonstrated a benefit of £10 million to the Scottish economy and £8 million to Edinburgh. For me, the issue was not the public sector investment, which had secured a substantial return, but, first, to secure the position of the private creditors and, secondly, to see whether such a return could be secured on similar events in the future.

Nicol Stephen: Did you believe that another public sector organisation could underwrite the private sector liabilities and that the Scottish Government could not?

The First Minister: The convener asked why I contacted representatives of the Royal Edinburgh Military Tattoo to invite them to the meeting on 12 October. One of my reasons for doing so was that, initially, I believed that such an organisation would be able to underwrite the company's liabilities. At that stage, I did not know that the City of Edinburgh Council had an organisation with the potential to fulfil that role; I believe that I am right in saying that evidence that has been presented to the committee indicates that Jim Inch suggested that possibility to the permanent secretary the day after the meeting.

I invited the City of Edinburgh Council to the meeting on 12 October to see whether it could support the proposition that we were asking the

Royal Edinburgh Military Tattoo to examine, not to invite the council to take on that suggestion. I am pretty certain that the evidence that Jim Inch gave to the committee indicates that that did not occur until the following day, when Jim met the permanent secretary.

Nicol Stephen: Did you know about or in any way authorise an offer to the City of Edinburgh Council to provide it with funds to underwrite the private sector creditors? Jim Inch has made it clear in evidence that there was such an understanding and that such an offer was made during his meeting with the permanent secretary.

The First Minister: I was not at the meeting with the permanent secretary. What I authorised was the letter that was sent on 12 November that set out the Scottish Government's ability. The position, which, incidentally, was made absolutely clear at the meeting when we discussed the matter with the tattoo, is that the Government cannot offset the past. We made it clear that we could not give a grant directly or indirectly to pay for an event that had already taken place, but that what we could do—legitimately and properly, subject to an appropriate business plan—was give an indication of support for a future event. That it was in the Government's province to do.

As the permanent secretary also established, we could also write off the public sector credit—the obligations that were owed to the public sector—on the basis that, if the alternative was liquidation of the company, the public sector creditors, including the Government, were unlikely to receive much of a benefit anyway. Again, that seemed to me to be a proposition that allowed the possibility of a solution, one that would have met the position of the private sector creditors and secured the future of the event. Am I explaining this to you in a reasonable way?

Nicol Stephen: In those circumstances, how would benefit come to the private sector creditors? In short, how would the private sector creditors be paid off?

The First Minister: The proposition was as follows: the Government could both write off its own liability and encourage other public sector organisations to do likewise—the permanent secretary checked that with the accountable officers of those organisations—and it was entitled to give an indication of support not for the past but a future event. In return, the potential purchaser of the company—whether the tattoo, as was originally envisaged, or any other organisation such as DEMA, as was subsequently envisaged—would take on the private sector liabilities of the company. It seemed to be a perfectly reasonable and clear proposition.

Why should it be an attractive proposition? It would be such a proposition for anybody who believed that the future of the event was, potentially, highly successful in financial terms and, certainly, successful in tourist terms. I believed that there was a chance that the Royal Edinburgh Military Tattoo could be that organisation. As it happened, that was never put to the test before the company's board. After the meeting that took place with the tattoo, the suggestion was made—I understand that Jim Inch made it initially to the permanent secretary—that DEMA could be such an organisation.

Why would the City of Edinburgh Council be interested in such a proposition? It seems pretty obvious. First, because it would control and have secured the future of the gathering as an event generating £8 million or more in future for the Edinburgh economy. Secondly, the vast majority of the private sector creditors, as I understand it, were creditors around the city of Edinburgh. The proposition seemed to me to be pretty logical; I am only disappointed that the city eventually decided that it could not proceed with the arrangement. The intention, Nicol, was always to secure the private sector creditors' position, as well as the future of the event.

The Convener: You made an important point, First Minister, about the intentions of the City of Edinburgh Council. On 14 October, your private secretary phoned the chief executive of the tattoo to say that it need take no further action over purchasing the company. That was because, at that point, you believed that there was a solution with the City of Edinburgh Council that meant that you did not need to pursue the tattoo option. Is that correct?

The First Minister: That is correct. As you correctly surmise, the meeting on 12 October was principally about whether or not the tattoo might be interested in taking over The Gathering 2009 Ltd—the intellectual rights and the ability to hold gatherings in the future. Incidentally, apart from the diversification possibilities that the tattoo had already mentioned to me, it struck me as rather obvious that the tattoo could offer a gathering-type event in the city of Edinburgh.

Although I accept—I have no reason to question it—the suggestion from the directors of the company that their expenditure was basically in line with their forecast but their income was a shortfall, to my observation the pageant that was held on the Saturday night was clearly a one-off event—a one-stage show that must have cost a substantial amount of money. The obvious point is that the tattoo stages a similar show many times in the month of August and, for a small additional sum of money, could presumably stage a similar event that would be for any future gathering just as

effective as the pageant was for the gathering. It struck me that there were a number of synergies between what the tattoo does and what the gathering event tried to do.

You are correct in your question that after the meeting on 12 October there was a meeting on 13 October between Jim Inch and the then permanent secretary at which it seemed to emerge—I believe from the evidence from Jim himself—that an alternative purchaser of the gathering event might well be the City of Edinburgh Council's arm's-length company, DEMA.

The Convener: Just before I bring in Anne McLaughlin and Frank McAveety, I have a question on that point. The press release confirming that the council and DEMA would take over the liabilities was issued on 15 October. Deborah Smith, the acting director of the culture, external affairs and tourism directorate, wrote on 19 October:

"We are now clear from discussions with CEC that Destination Edinburgh Marketing Alliance (DEMA) are taking on The Gathering 2009 Ltd. The purchase will be taken forward by DEMA during the course of this week, and they will take on all resultant private sector liabilities."

However, we have heard from Jenny Dawe, who is the council leader, Councillor Cardownie, who is the deputy leader, the council chief executive and the director of corporate services that all of them attended a meeting before the press release was issued on 15 October and all of them were clear that they could not take on the liabilities. We then heard from Jim Inch that he made a suggestion to the permanent secretary about using the capital city fund or something of a similar name. They were all clear that they could not take on the liability, so why were you so clear that they were taking it on?

The First Minister: We had the belief that they were agreeing to do exactly that. That belief is supported by the press release that was issued on 15 October—a press release that I believe you have evidence to say was approved by the variety of people you mentioned. It was our firm belief that Edinburgh council had decided to do that.

On the capital city fund, the difficulty was exactly the same as the difficulty with retrospective payments by the Scottish Government. We were always clear that we could not give, either directly or indirectly, retrospective payments to meet the obligations of the gathering event that had happened. What we could do was make the offer to the Edinburgh tattoo, as first articulated at the meeting on 12 October, to give an indication of support for future events, subject to an appropriate business plan. That is exactly the offer that was put in writing on 12 November.

I have read the evidence from the representatives of the City of Edinburgh Council. I think that you would have to ask them again why, if they cleared the press release that said that they would take on the liabilities, they did not believe it to be true. At the meeting on 12 October, I explained at some length that the Government could not bail out the past but could support the future. I also explained the issue of the public sector liabilities and why, as an alternative to the company's liquidation, they could be written off. I do not know why Edinburgh council representatives believe that they did not understand that. I would have to surmise that at some point they changed their minds.

The Convener: You hit on an important point. We are clearly getting two contradictory stories: one from the Government that an agreement was reached and that Edinburgh council knew that it would take on the liabilities; and statements from Edinburgh council that say that it made it clear that it could not take on the liabilities. Both cannot be true, so you are right: we will have to probe—

11:45

The First Minister: You could rely on the press release that was issued by Edinburgh council, and whether or not it was approved by the variety of people—

The Convener: Absolutely, First Minister—further questions must be asked about that. Each of the four individuals to whom I referred said quite clearly that, at the meeting that they had to discuss the press release, they made it very clear that they did not agree with it. Someone, somewhere is not telling us the full story, and we will have to go back to them.

The First Minister: All I can put to you, whether there was a misunderstanding or a change of mind or heart or whatever, is that every action that the Government took indicates that we believed that Edinburgh, through DEMA, was about to embark on that course and was going to honour the terms of the press release that it issued. That was our firm belief as a Government.

The meeting on 12 October, as you rightly surmised, was principally to find out whether the tattoo would be interested in taking on The Gathering 2009 Ltd. The articulation of the position to the tattoo was exactly the same as what seemed to be the agreement with DEMA later. The proposition with regard to what the Government could and could not do was exactly the same.

It is obvious that we would not have phoned the tattoo a couple of days later to say, "Look, there's no issue in continuing with this", if we had not believed that Edinburgh was going to go ahead

under the auspices of DEMA. When I had the meeting on 12 October, I did not know that DEMA, as an arm's-length company, had the possibility of doing that; the question of whether it would or would not is different. As far as I know, that was not put to the permanent secretary until Jim Inch said it to him on 13 October.

The Convener: You have referred to the press release that Edinburgh issued—that is the press release that your officials prepared, which is unusual.

The First Minister: The reason for that is that we had, in the normal course of events, and in the hope and expectation that the tattoo would take on the proposition that was being put to it, prepared the press release, which was ready for that eventuality. That press release was offered to Edinburgh council in discussion with officials—I was not there. It was Edinburgh council that issued the press release and agreed it; it was not the Government.

The Convener: We can come back to that.

Anne McLaughlin: I want to come back on the convener's comments about the fact that you made phone calls yourself, First Minister. I was going to ask you to confirm that being First Minister does not render you helpless, and that you can in fact make phone calls, but Jamie Hepburn has already elicited a positive response from you on that.

I want to return to that issue because there have been subsequent comments about the different approach that you take as First Minister. It might be helpful if you say something more about your approach. When the Government came into office in 2007 I was not an elected member, but I was working for an MSP, and time and time again I heard senior people in Scotland talking about the refreshingly open and down-to-earth approach of the whole Government.

We have heard various comments today. The convener said that it was highly unusual that you took a proactive approach in trying to find a buyer for The Gathering 2009 Ltd. Nicol Stephen said that, in his experience of government, the First Minister's proactive approach is quite unusual. I cannot remember the exact words, but that was the sort of thing to which he was alluding.

Nicol Stephen: That is not true.

Anne McLaughlin: Can I just finish my point, and then you can come back in and correct me?

Nicol Stephen: Not if you misquote me.

Anne McLaughlin: In looking over the *Official Report* of the meeting in which Councillor Cardownie made the shock revelation that the

First Minister had called him, I noted that the convener said:

"Is not that highly unusual? The First Minister has this army of highly paid ... officials. Something is going wrong ... What kind of country are we running?"—[*Official Report, Public Audit Committee*, 3 November 2010; c 2118.]

Perhaps some members genuinely do not understand the different approach that the First Minister's Government takes. The suggestion is that something shady is going on when the First Minister of Scotland picks up the phone and makes a phone call. It would be helpful to hear a bit more about the different approach that our Government takes.

The Convener: As long as it is with specific reference to the gathering, because we are running out of time.

The First Minister: On the reasons for the phone calls, one was to Euan Loudon, because I knew that the tattoo was interested in diversifying, and one was to Steve Cardownie, because I knew that he was in charge of events at the City of Edinburgh Council. If another Edinburgh councillor had been in charge of events, I would have phoned them. I phoned the relevant people to invite them to a meeting. I thought that it was a good idea for me to phone people to get everybody who was needed at the meeting to be there.

Anne McLaughlin: I think that it has been suggested that, rather than you phoning, a better way of doing things would have been your officials phoning other officials to phone those people.

The First Minister: I regarded the matter as important. I wanted people to attend the meeting, and hoped that a solution might be found. There had been a substantial discussion for some days, if not weeks, about how we could square the circle, not of being able to support the past, but of finding a proposition that might be attractive for the future. That was what we were trying to do.

Incidentally, I did not have some eureka moment overnight. Providing something that was in the public interest but which met public obligations was not easy. Once we had a proposition, it was a question of who might be interested in taking it forward. That was the reason for the phone calls and the meeting. My only disappointment is that the solution that we offered was not eventually implemented. That we were not able to save not the company but the position of the creditors and the future of the event is my only regret in the matter.

Mr McAveety: The difficulty in our inquiry is that, across the range, inconsistent responses are being given on who was kept informed and what people were informed about. If we have an agenda of having refreshingly open government,

obviously, my reflection on that is to say that EventScotland should perhaps have told the steering group that The Gathering 2009 Ltd was in trouble. Can we get things clear? Was EventScotland told not to tell the steering group that?

The First Minister: No, it was not.

Mr McAveety: Absolutely?

The First Minister: To my knowledge. Mr Russell was the responsible minister at the time, so I can say only that, to my knowledge, EventScotland was not told not to tell the steering group that. However, I am sure that Mr Russell can check that. I have already said that, on reflection—to use Mr McAveety's word again—I accept that we should have insisted on EventScotland telling the steering group that, whether it wanted to or not. I believe that that is in Audit Scotland's report. That is the position that we should have taken, and it is one of a number of lessons that we can take from the gathering.

The Convener: We will not labour the issue. We can get confirmation outwith the meeting of whether EventScotland was told not to pass on that information.

Mr McAveety: A committee member referred to the letter from the director of city development at the council, Dave Anderson. The complete paragraph is quite revealing. I understand what happened, and I am not criticising anyone for trying to do their best. I recognise that the intention was to continue the gathering. Dave Anderson says:

"the speed at which events unfolded created an environment in which fully informed decisions were not always possible."

More critically, he says:

"Had the full picture of the Company's indebtedness been made clear from the outset I suspect that I would have advised against any attempt to rescue the event, at least in its current form."

That was said by an experienced officer in our capital city, who has probably engaged in a series of major events and with a series of organisations. It is worrying that he thought that

"fully informed decisions were not always possible."

The First Minister: I have not seen that letter, and I am not sure whether he was referring to the attempt after the event—

Mr McAveety: He was referring to DEMA's involvement.

The First Minister: I disagree with him. A proposition was put together that might have been attractive. At the very least, whether or not the officials and other people in Edinburgh realised that proposition, they must have been quite

attracted to it. I know that because we had a meeting on 12 October, the subject of which was whether the tattoo would be interested in the company. I think that Jim Inch said when he gave evidence that he ventured to the permanent secretary on 13 October—it was his idea—that DEMA might be an alternative organisation that could step into the breach. Therefore, at the very least, there was substantial interest.

Incidentally, I am not saying that, at that stage, the full evidence of the company's indebtedness was available, but a great deal of evidence was available, because we commissioned two reports. First, we sent in our own accountants, and then we commissioned a report on the company, because, with great respect to its directors, we wanted an independent assessment. We knew the extent of the company's indebtedness at that stage.

At the stage at which the meeting was held we knew, broadly, that just under £300,000 was owed to the public sector and just over £300,000 was owed to the private sector. We knew that it was possible—and, I think, right—for the public sector to offer to write off that amount, because we would not have got it, or much of it, back anyway if the company had gone into liquidation. Therefore, the extent of the obligation that would have to be taken on was known, at least in broad terms, and there was an interest in the proposition for, I think, perfectly legitimate reasons: Edinburgh council officials and councillors wanted to secure the future of the gathering; and there was a general wish to protect the position of the small creditors.

The position as to what the Government could and could not do was certainly articulated at that meeting and, with regard to the interest that the council showed the following day, it would not have taken the initiative unless it was interested or thought that it had the organisation that might provide a solution. I am only disappointed that that was not an initiative that carried forward. Incidentally, it took several months for Edinburgh to come to the final decision that it was not going to proceed. I do not think that the final decision was made until 20 January or something like that; it certainly took several months. Whatever the City of Edinburgh Council's decision-making process was, it was certainly not a decision that was taken quickly or lightly.

Mr McAveety: My final question also seeks clarification of previous evidence. Was the Government unaware of any previous business failures involving Lord Sempill?

The First Minister: I am not aware of any. Mr Russell said that in terms of the evidence. I am sure that he will also clarify that point.

The first question that the convener asked me was whether I had met Lord Sempill or Jenny Gilmour before and the answer is no, not to my knowledge—I have no recollection of meeting either of them. That is a matter for officials to identify.

The Convener: We can get that clarified.

The First Minister: I have no reason to believe that either has anything other than a proper business record. I understand that Jenny Gilmour's company had successfully delivered a number of events and I have no reason to believe that they have in any way behaved improperly. We all know that, unfortunately, the event made a very substantial loss.

Sarah Boyack: When you talked about DEMA not taking on the company and the fact that it took several months to find out from the City of Edinburgh Council that it definitively did not want to take on the company, you said that you could have issued a direction for the Government to take it over. Did you commission thought on why the Scottish Government should or should not take over The Gathering 2009 Ltd as an on-going company, if you thought that future opportunities would come from it? What was the rationale behind your decision?

The First Minister: That is what I said, and I considered the matter. I hoped that the independent valuation of the company that we commissioned—I think through EventScotland—would come to a larger sum, because I believed, and still believe, that the intellectual property and the information that the gathering has are valuable. For example, as I understand it, The Gathering 2009 Ltd has information on approximately 7,000 or 8,000 substantially well-off—by definition—people around the world who are interested in Scotland. That is, in my view, a valuable list of names. These are people who paid for the top tickets to come to the whole event. I was disappointed when the valuation of the company came in at a maximum of £100,000.

I had to accept the permanent secretary's advice that, to make a purchase at substantially more than that figure to meet the private sector creditors' claims, I would have had to give a ministerial direction against our accountancy rules. I have never done that. The option is open to ministers, but taking it would not have been advisable and I was strongly advised against it.

12:00

I was given three pieces of advice. The first was that we could not subsidise the past but that we could support the future. The second was that we had to be careful of state aid implications if we paid over the odds for a company. The third was

that, to purchase the company for more than the valuation, I would have to give a ministerial direction against my accountable officer. Given that, I tried to find a solution that was within the accountancy rules. I hoped and believed that such a solution had been found. I thought that a chance of success existed.

We had great co-operation from the other public sector organisations, whose accountable officers wrote off their liabilities. The tattoo did not jump at the opportunity at the meeting on 12 October, but its representatives said that, regardless of the decision that would have been taken by its board a few days later, they were anxious to support a gathering event in Edinburgh by—for example—following my obvious suggestion that a pageant would not be needed if a tattoo was available. People certainly had good will, even if the solution could not finally be if not agreed then delivered—I put it that way.

Sarah Boyack: Given that DEMA is a relatively small organisation financially, were you surprised that it did not want to take on the company and the future opportunities? When the council did not take on The Gathering 2009 Ltd, did that make you reconsider the issue? Did you commission a further report on the options?

The First Minister: No. On 13 October—I am looking at the reference—Jim Inch raised the possibility of DEMA buying the company, as he said in his evidence. I was confident for a substantial time after the press release of 15 October that what was announced in that would be delivered. I wrote to the council's leader on 28 October to thank her for the council's co-operation. I believed that what was announced would happen.

In the letter of 12 November, the Government gave the indication that it could give of its determination and willingness to support future events. The letter said that that would be subject to a business plan being submitted. I do not have the letter in front of me, but I think that the figure of £380,000 was mentioned.

At that stage, the proposition did not seem unreasonable. The council was enthusiastic and seemed to have agreed to the proposal, and the public sector was to write off its liability, as it was entitled to do, which would leave the private sector obligations to be met. Certainly, the council—via DEMA—would have had to meet those obligations, but it had an assurance from the Government that a future event would be supported by a substantial sum. In addition, the council had the guarantee that a future gathering would be held in the city of Edinburgh, because it would control the event, the intellectual property and the mailing list.

Despite the disappointment about what has happened financially, a future event—with the lessons learned—could be a substantial success for visitor numbers and tourism. If 30,000 ticket holders can be attracted—as with the gathering, although that was under the company's estimate—and 47,000 people come, in terms of footfall, to an event over a weekend, and if lessons are learned about running that event, that is not an event that does not have the potential to be a financial success as well as a tourism success.

Sarah Boyack: So you do not understand the refusal of the offer by DEMA or the council.

The First Minister: I can only speculate. I believed that we had reached an agreement. I believe that those involved changed their minds. I do not know what provoked that change of mind or whether everybody felt the same. I have no idea—you would have to pursue that elsewhere.

I know that we believed that an agreement had been reached. Everything that we did was on the assumption that that agreement would be forthcoming. I was deeply disappointed when that did not happen.

The Convener: Just for the record, the leader of the City of Edinburgh Council wrote to Iain Smith MSP, in his capacity as a committee convener—copied to you, First Minister—on 23 December 2009, saying:

“Much has been made of the News release on 15 October 2009, and having reviewed the process involved in compiling the article I consider that it was rushed and contained references which were both premature and somewhat misleading.”

We are obviously going to have to get to the bottom of this.

The First Minister: With respect, convener, that was more than two months after the press release.

The Convener: Yes, that is what I am saying: there are things that we need to explore further. The four key people involved all said that they were at a meeting to discuss the press release and they all disagreed with it, and yet, as you quite correctly said, First Minister, the press release went out in their name. Further questions need to be asked.

Nicol Stephen: On that point, when that letter came out from the leader of the council two months later, you must have been aware that the agreement that you thought had been struck with the City of Edinburgh Council was falling apart.

The First Minister: We certainly believed that it was in substantial trouble. I got news on 20 January that DEMA was now unlikely to purchase the company; that came from a meeting between my officials and City of Edinburgh Council officials. As the convener rightly said, just before Christmas

the leader of the council wrote that the press release had been “premature and ... misleading”, but there were also other statements around the same time. For example, the leader of the council said—I do not think that I am misquoting her, and I am sure that we can find the reference—that she was determined that future gatherings would be held in Edinburgh. I remember such statements.

Obviously, by the time of the council leader's letter two months later, we were aware that all was not as we had thought had been agreed. However, it was not until 20 January that I was told that DEMA was unlikely to go ahead with the purchase of The Gathering 2009 Ltd. It was waiting, incidentally, for a valuation report to be finalised. The report was finalised, as I understand it, around that time. DEMA's position, as I understand it, is that it was not until mid to end January that it decided that it was definitely not going ahead with the purchase of the company. At that stage, I believed that we had tried every recourse.

The Gathering 2009 Ltd was not trading; it had effectively ceased to trade, so I do not think that there was an issue—perhaps the Auditor General for Scotland can help us with this—of its trading improperly, because it was not trading. Its business had been transacted and done. Nonetheless, there has to come a time, if your efforts have not succeeded for one reason or another, when the process of liquidation has to take place. We must remember that the company had assets, albeit that they were valued by several reports at a maximum of £100,000. There is a process by which those assets have to be properly evaluated and distributed among creditors. Incidentally, I know that this is not necessarily the business of the committee, but I am slightly puzzled as to why that process is not complete. It is now some time since the company went into liquidation.

Nicol Stephen: I cannot see any indication in the timeline in the report of your involvement after the middle of October 2009. You have referred to a letter that you sent to Jenny Dawe, the leader of the council, on 28 October, in which you said:

“I am writing to you to signal how grateful we are for the continued co-operation between the City of Edinburgh Council and the Scottish Government in relation to the future of The Gathering.

I am delighted that the Council has recognised the significance of the economic benefits which can be realised from future Gathering events and I very much appreciate your foresight in this regard. I know that you are working through some complexities in the transaction”.

That seems to be the last record that I have or that the committee has of your involvement.

The First Minister: I approved the letter on the Government's intentions that went to the council

officials on 12 November. At that stage, we believed that the agreement stood. At that stage, we believed that the council required an in-writing indication of the Government's willingness to support future events. That is what we believed that the council required.

Nicol Stephen: You understand my point. Given the scale of your activity and your desire to help the situation, of which you have told us, why, after 12 November, were you not right on top of the situation again? Why did you not have a further meeting—perhaps not with the same large round-table group as before, but at least with the City of Edinburgh Council? Why did you not at least authorise your officials to go into intensive meetings with the City of Edinburgh Council to help to save the situation? The private sector creditors seem to have been hung out to dry from some date in October or perhaps early November until the insolvency in late January.

The First Minister: The letter of 12 November gave the council the information that we believed it was looking for—the information that we believed that the agreement was in place. There was certainly contact with officials, and the council's position was that it was waiting for the valuation report that it had commissioned, which I understand it eventually received formally on 27 January.

According to Nicol Stephen, I have gone from being overactive and overinterventionist, phoning people to try to get an agreement, to being—

Nicol Stephen: To complete non-involvement.

The First Minister: No. I thought that an agreement was reached. We proceeded on that basis. We sent to the council the information that we believed it required. The council's position was that it was seeking another valuation of the company.

Nicol, at some stage it might be a good idea to ask when exactly the council decided not to proceed with the agreement that it had made. If you are looking for explanations as to why that was the case, I can offer you a hypothesis, but I do not know whether the committee deals in hypotheses. If you want a hypothesis, I will give you one: I think that the council was frightened of the political criticism that it might face from other parties at a time of great difficulty in council finances. Perhaps that is what led to the change of heart that undoubtedly took place.

I tried as best I could, as First Minister, to find a solution. I believe that I was extremely active in doing that. I am disappointed that the City of Edinburgh Council did not keep to the agreement that I believed had been made and that was represented in the press release. I put it to you that when an agreement has not been possible, at

some point the normal course of a company insolvency has to take place. When the City of Edinburgh Council finally decided, on 27 January, that it was not going to go ahead and buy the company—the council confirmed that to us in writing on that date—I did not believe that it would be possible to find a buyer for the company under the circumstances.

The valuations were, no doubt, very fair in accountancy terms, but there is also no doubt that the valuation of the company and assets would deteriorate over time. Much of the valuation was based on the tourism and visitor success and the reputational value of the event. At some stage, it was necessary to accept that, despite our best efforts, the agreement that we thought was in place was not in place and the normal process of events had to take place. Unfortunately, that meant the liquidation of the company.

I understand that the council wrote to the Scottish Government—I presume that it wrote to everybody else as well—on 27 January, confirming that it would not be buying the company. On that day, the company went into liquidation.

Nicol Stephen: I put to you an alternative explanation. When you thought that responsibility for the private creditors had been shuffled off to the City of Edinburgh Council, you backed off. You felt that the buck had been passed to the council. From that date on, the Scottish Government did not give the assistance and support to the City of Edinburgh Council that Jim Inch, in his evidence, made clear had been expected.

12:15

The First Minister: I think that you are wrong, for two reasons. First, you are wrong, because the overall obligations involved both private and public sector creditors. Not only had the Government achieved, through the work of the permanent secretary, the ability to write off the obligations that were due to us, but the other accounting officers throughout the public sector had agreed to take part in the rescue attempt.

Secondly, the council was offered an indication from the Government that, subject to the correct business plan, a future event would be supported. I am pretty certain that a figure was in that letter—I am subject to correction on the matter—and that the letter indicated that the council could expect at least the public support for a future event that had been given to the previous event. I am pretty certain that the figure of £380,000 was in the letter, but certainly the indication was that the council could expect support up to the level of support for the previous event, subject to the business plan.

Therefore, in terms of the public sector obligations and in terms of an offer to the council on the future for an event that it would own, I think that the Government did everything that it possibly could do—within what we are allowed to do—to secure the future of the gathering. I believe that the council changed its mind. I am disappointed that it changed its mind, but eventually that was the decision that the council made.

Nicol Stephen: Is it not the case that if you had made an additional payment to the City of Edinburgh Council through the capital city fund, it would have been not a retrospective payment to fund the private creditors but simply an increase in the capital city fund? Was not that mechanism, which Jim Inch initially discussed with the permanent secretary, feasible and available to the Scottish Government? Is it not the case that if that mechanism had been used, the company would have been saved and the private sector creditors would have been paid off?

The First Minister: You should pursue that with the former permanent secretary, if you want to do so, because the advice that we received was that we were properly able to support a future event, in the proper way that events are supported, subject to a business plan, and we could give an indication to that effect. We did not receive advice that we could, in effect, distribute more money through the capital city fund—incidentally, the fund is meant to help Edinburgh to cope with its position as the capital city anyway—because that would be seen as a retrospective payment to meet a past event. That is the indication that we got. The offer that we made to Edinburgh—

Nicol Stephen: Why would it be seen in that way?

The First Minister: What would be the point of distributing to Edinburgh through the capital city fund money that was being offered to it through the normal approach to supporting a future event? I am unclear as to why Edinburgh should regard it as more appropriate to get an indication of support of £380,000—I think that that figure was in the letter—through the capital city fund as opposed to an indication of support for a future event, unless of course the sum that was being looked for was substantially greater than the sum that we were properly able to offer.

Nicol Stephen: The sum for the future event would properly have had to be spent on the future event. To do otherwise would have been an inappropriate use of public funds.

The First Minister: Well, exactly. That is what was in the letter of offer to the City of Edinburgh Council. I am quite certain that the former permanent secretary will back this up: the only proper way that we could offer funds was by

offering support for a future event, not a past event, based on an appropriate business plan. On that basis, we were able to indicate that support would be at least at the level of support for the previous event. That was a pretty substantial offer.

Nicol Stephen: You think that the capital city fund route would have been inappropriate and that purchasing the company through a ministerial direction, which would also have saved the company and allowed the private sector creditors to be paid, would have been inappropriate. You were not prepared to issue a ministerial direction in either case.

The First Minister: I have not issued a ministerial direction to overturn accountancy advice—

Nicol Stephen: Well, I have done. It can be done, First Minister. It is a perfectly—

The Convener: Please let the First Minister speak.

The First Minister: I am not disputing for a second that it can be done. I have given the reasons why I did not think it proper or appropriate to go against my accountancy office advice, particularly when I thought that an alternative position could be arrived at. I am deeply disappointed that the alternative approach did not turn out to be successful.

I am perplexed and astonished by your suggestion that substantial efforts were not made. Substantial efforts were made. I find it difficult to understand why minds changed on the matter. When the press release was issued—and approved, I understand—by the responsible people in the City of Edinburgh Council, there was no doubt of the direction in which a solution was to be found. There was no doubt that, at the meeting in relation to the tattoo, it was made clear that although the Government could not bail out a past event, it could support a future event. To me, those matters were perfectly clear. People are always entitled to change their minds, but it is unfortunate that that happened.

The Convener: When was the City of Edinburgh Council told that the capital city fund route could not be used?

The First Minister: Discussions were taking place between the permanent secretary and Jim Inch. I think that you would have to ask them for the detail of that. There were also telephone calls between John Elvidge and Tom Aitchison. My understanding was that what the City of Edinburgh Council needed to complete the arrangements that it had undertaken was an indication, in writing, of support for the future event. That is what I believed to be necessary. I approved the letter that was sent on 12 November, which indicated that

support. You will really have to ask the permanent secretary, Jim Inch and Tom Aitchison about the detail of their discussions.

The Convener: Thank you, First Minister. The committee will need to ponder a number of issues. You referred to inconsistencies in the evidence that we heard from Scottish Government officials and City of Edinburgh Council officials. We will need to take that up with the council. I think that you also acknowledged that there needs to be more openness and transparency on some matters that relate to the loan. There is also the question of the attempt to find a buyer. We will need to consider those matters.

Thank you for coming and for giving us extra time beyond what was agreed. We will reflect on what you and Michael Russell said and we will come back to you in due course.

The First Minister: I thank you and the other members of the committee for your courtesy. I have tried to get across to you the timescale that was involved when Mr Russell had ministerial direction over the matter and the timescale around and reasons for my personal involvement. The final thing that I want to say is that at all times, Mr Russell and I acted with the best of intentions in terms of securing the position of the private creditors and securing the event for the future benefit of Scotland.

The Convener: Thank you.

12:23

Meeting continued in private until 12:33.

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