



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Thursday 3 March 2011

Session 3

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## Scottish Parliament

*Thursday 3 March 2011*

[The Presiding Officer *opened the meeting at 09:10*]

### Business Motions

**The Presiding Officer (Alex Fergusson):** Good morning. The first item of business is consideration of business motion S3M-8053, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Damages (Scotland) Bill.

*Motion moved,*

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

Groups 1 to 3: 15 minutes.—[*Bruce Crawford.*]

*Motion agreed to.*

**The Presiding Officer:** The next item of business is consideration of business motion S3M-8054, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Property Factors (Scotland) Bill.

*Motion moved,*

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

Groups 1 to 4: 15 minutes

Groups 5 to 9: 30 minutes.—[*Bruce Crawford.*]

*Motion agreed to.*

## Scottish Parliament Elections

**The Presiding Officer (Alex Fergusson):** The next item of business is a debate on motion S3M-8058, in the name of Alex Salmond, on the 2015 election. Time for speeches is tight.

09:11

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** On 5 May, the people of Scotland will have the opportunity to ensure that their voices are heard and to give us as politicians their feedback on our performance. More important, they will have the opportunity to tell us what the priorities for our country should be and how they should be tackled. That direct engagement is a key benefit of devolution on which we must build.

Last November, we debated the forthcoming clash of the alternative vote referendum and this year's Scottish parliamentary elections. The arguments for avoiding the clash centred on issues such as respect. The Parliament's status as Scotland's key legislative body must be recognised, and the importance of the issues on which we decide needs to be given proper regard.

Another issue was focus. We recognised that important matters need to be given the space and time that they deserve. Clarity was also raised. Each election must be given due prominence and one must not overshadow the other. Campaigns for more than one legislature should not take place at the same time.

Putting the voter first was another issue. After the 2007 elections, Gould said that

"the voter was treated as an afterthought".

We need to consider voters first and avoid adding complications when they are not needed. We also need elections to be properly administered. We must ensure that people know whether they are eligible to vote, that those who are eligible to vote can do so and that voters have clarity about the issues that are being voted on.

Although a majority in the Parliament called on the United Kingdom Government to prevent the clash in May, the UK Government refused to do that. The Parliamentary Voting System and Constituencies Act 2011 received royal assent on 16 February so, on 5 May, people will vote on reforming the voting system for future elections to the Westminster Parliament as well as on the priorities for Scotland. That is regrettable, but electoral administrators will continue to work to ensure that both polls are properly delivered and that our electors can cast their votes. I put on record my thanks for those efforts.

As we all know, the clash this year is not the only one to be caused by the UK Government's legislative proposals. The Fixed-term Parliaments Bill will establish five-year terms at Westminster, and the first election that is scheduled to take place under that arrangement will be on the first Thursday in May 2015, which is the same day as elections to this Parliament are meant to take place.

The UK Government's proposals risked the integrity of the campaign process and of our elections and would have complicated matters unnecessarily for our voters. The Scottish Government and many others objected to the UK Government's proposals and made the case for a policy change on that important issue. We argued that a risk of campaign confusion would exist—with two separate electoral contests would come two simultaneous campaigns. Parties would campaign on UK-wide and Scottish issues and we would run the risk that the national UK media's coverage of the UK campaign would dominate Scottish issues, which would be sidelined.

I am pleased to say that the UK Government recognised the concern about the coincidence of elections. In response to widespread concerns about the clash of dates in 2015, the Presiding Officer brought together party leaders from across this Parliament to reach a common position. Last month, the Minister for Political and Constitutional Reform wrote to the Presiding Officer to offer to table an amendment to the Fixed-term Parliaments Bill to enable elections to the devolved Administrations to be moved by up to one year in either direction.

Today's debate represents our response to the offer. The motion invites the UK Government to avoid a clash of dates by moving the next Scottish Parliament election after May 2011 to May 2016.

However, we do not simply need a fix for 2015; we need a fix that, barring unforeseen circumstances, will ensure a permanent separation of election dates. We have sought the UK Government's agreement that it will consult on moving Scottish Parliament elections to a five-year cycle. The motion looks forward to our taking part in a full consultation about the future electoral cycle. If the motion is agreed to, it will provide a strong indication to the electorate about when it can expect the next Scottish Parliament elections to take place. We expect the UK Government to table amendments to the Fixed-term Parliaments Bill before the dissolution of this Parliament. The public need to know who is making the decisions on Scotland's key issues and for how long they will do so, so it is only proper that the motion gives an expected date for the next Scottish Parliament election.

For the longer term, we should seek views on whether five-year parliamentary sessions are desirable but, as we in Scotland are not currently empowered to do that, we must rely on the UK Government to act. It should do so sooner rather than later. The decision cannot be made solely by politicians, Parliaments and the devolved Administration in isolation; we must also ask the public for their views. Do our electorates want Governments to stay in power for longer periods? Will that enhance or hinder democracy? We talk a great deal about being shown respect, but we must also show respect to the people of Scotland and allow them to participate in making these important decisions.

I welcome the recognition of the need to avoid a clash in 2015 and the UK Government's offer of movement on that. It is only right that each election, whether for the UK Government, the Scottish Parliament or local authorities, is given its place. By supporting the motion, we can enable that to happen.

I move,

That the Parliament notes the potential clash of UK and Scottish general election dates in 2015; invites the UK Government to set the next Scottish general election after 5 May 2011 for Thursday 5 May 2016, and looks forward to UK Government consultation on a legislative provision that would set apart UK and Scottish general election dates on a permanent basis.

09:16

**Pauline McNeill (Glasgow Kelvin) (Lab):** The Scotland Act 1998 was the end result of years of campaigning and consultation on a devolved Parliament for Scotland. It represented an opportunity to style a different way of conducting and electing a Parliament, and to adopt a different system and approach from Westminster. That was to be achieved through a new voting system, the adoption of a committee system that was to be central to our Parliament's openness and accountability, and the use of a four-year fixed-term system.

The UK coalition could have adopted a four-year fixed-term system for the UK Parliament instead of the five-year system, but it did not. The coalition's political agenda and its harmful cuts and tax rises will be tested at the next general election. The UK Government opted for a longer fixed-term session immediately, despite the resulting clash with elections to the devolved Parliaments of Scotland and Wales.

It all began last summer when the Secretary of State for Scotland, Michael Moore, wrote to our Presiding Officer to consult on our Parliament having the power to move the Scottish Parliament election six months on either side of the fixed date in May 2015. That could have meant a three-and-

a-half-year parliamentary session, but it would not be credible for a new Government to take forward its programme in three and a half years. It could also have meant a four-and-a-half-year session and a winter Scottish Parliament election six months after a general election, when the electorate would, arguably, be suffering from voter fatigue. The parties that contested such an election would be stretched and at a disadvantage in communicating their message to the electorate so soon after a general election.

It is argued that a clash could have happened anyway—it may have, although I do not believe that that was that likely—but that does not justify Westminster's decision to cause a clash in 2015. We would rather not be in this position. We would prefer the UK Government to have respected our established four-year fixed terms and worked around that.

The lessons of the 2007 election, which were the subject of the Gould report that Jim Mather talked about, tell us that the use of two types of voting systems in elections that are held on the same day can lead to problems. We cannot ignore the principle of the Gould recommendations so soon after the chaos that ensued in that election. We owe it to voters to make that our primary concern. That is not the only reason for avoiding a clash, but it is a key consideration. It is not only that voters would have to deal with voting in two parliamentary elections on the same day; there would be many practical disadvantages.

There would be two high-profile campaigns; arguably, Westminster would dominate the airwaves, although it could be the other way around. It could cause confusion for voters when they watched the health debate being conducted around England and Wales in the national news, as we have a clearly distinct national health service in Scotland that is not accountable to Westminster. It is not a key factor, but political parties would have to split their resources in two big election campaigns. Those resources are necessary for parties to get their message across to the electorate.

Given the establishment and use of television debates in recent years, it would be hard to strike a balance between two large elections, to ensure that there was fair coverage—leaving aside the arguments that we have had in the past about fair time for additional parties. We do not want to put to the electorate on the key date a crowded agenda that involves the additional member system, with constituency and list candidates, alongside a first-past-the-post system or, depending on the result of the forthcoming referendum, a new alternative vote system.

With two elections on the same day, election communication would be unbelievable for the

voter. I am sure that those who are already campaigning are getting grumbings from voters about the amount of communication that they get for one election, which would be doubled if we held both elections on the same day. Political coverage, which is important for voters, would also be more complex.

We are voting today to avoid a clash in 2015. People must be able to hold both Parliaments to account for what they do. The best way of doing that in the UK and Scottish elections, in the interests of democracy and accountability, is not to hold the elections on the same day. For that reason, the Parliament has no real choice but to vote today to give the electorate a clear choice. The next Parliament and Government should serve for five years to avoid a clash. As Jim Mather said, it is essential that—whoever is in charge—there is full consultation with the electorate, to allow them to have their say on whether there should be a permanent move to avoid such a clash in the future.

09:20

**David McLetchie (Edinburgh Pentlands)**

**(Con):** As all of us know, one of the key features of the coalition agreement between the Conservative and Liberal Democrat parties was the introduction of a bill to establish fixed-term Parliaments for the House of Commons and to fix the date of the next general election as 7 May 2015, after a successful five-year term of office.

In the second reading debate on the bill in the House of Commons, the Deputy Prime Minister, Nick Clegg, described the measure as a simple constitutional innovation but one that would have a profound effect, because for the first time in our history the timing of general elections would not be a plaything of Governments. I agree with Nick. However, it is not a constitutional innovation as far as the mature democracy that is the Scottish Parliament is concerned. We are about to complete our third four-year fixed term. For two of those terms, we had a coalition majority Government; latterly, in the third, we have had a single-party minority Government.

A number of other permutations may evolve in years and parliamentary sessions to come and be similarly put to the test as to their sustainability, but I suspect that that will have little to do with whether the Parliament's term is fixed or flexible. However, if we look at the comparative evidence of parliamentary democracies around the world, we must acknowledge that fixed-term Parliaments are more the norm than the exception, so the innovation that has been introduced for the House of Commons should be welcomed. I have no doubt that the political cycle at Westminster will adapt to the certainties surrounding future election

dates, just as we have done here in Scotland for this Parliament.

When it became apparent at an early stage that the introduction of a five-year fixed term for the House of Commons would result in a coincidence with the 2015 Scottish Parliament elections, there was an unseemly degree of parochial hysteria on the part of some.

We seem to have quite forgotten that this Parliament is a devolved Parliament—a creature of statute that was passed by our sovereign Parliament in Westminster, in which Scotland is fully represented. However, it was certainly valid to point out that it would be undesirable to have two elections to two separate Parliaments on the same day, and that an adjustment to the timetables would accordingly be appropriate. To its credit, Her Majesty's Government recognised that at an early stage and has been engaged in dialogue with this Parliament, and with leaders of the parties in it, to achieve a resolution of the clash of dates. The outcome is reflected in the motion that has been lodged today in the name of the First Minister, with the support of the other leaders of the parties represented in this Parliament. That is important.

Today we are, in fact, agreeing to a legislative consent motion. When it is enacted in the Fixed-term Parliaments Bill, the measure will establish beyond question that the new Scottish Parliament, which we are about to elect on 5 May, will endure for a five-year term, to be departed from only in the same exceptional circumstances—and on a weighted majority vote—as is the case with our present four-year fixed term. In consequence, we will all know when we stand, where we stand and for how long we will sit, if elected.

Thereafter, as Pauline McNeill and the minister have said, we will need a consultation on the duration of subsequent sessions of the Scottish Parliament, and on whether we should change permanently from a four-year fixed term to a five-year fixed term. That can be done in a more leisurely manner in the course of the next session of Parliament. That is reflected in the terms of the motion, for which I signal the support of the Scottish Conservative and Unionist Party.

09:26

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** It is absolutely clear that the next UK parliamentary election would—if action were not taken—coincide with the scheduled Scottish parliamentary elections in 2015. All four leaders of the political parties represented in the Parliamentary Bureau, together with the Presiding Officer, have joined together to request the UK Government to amend the law to ensure that the

immediate problem of a clash of elections in 2015 will be avoided.

The motion before us, if we vote for it at decision time, will invite the UK Government to amend legislation going through Westminster to set a date in 2016 for the next but one election to the Scottish Parliament. The UK Government has indicated that it will do that if two thirds of MSPs support the motion at decision time.

The motion before us also looks forward to the UK Government's commitment to consult on a proposal to set apart UK and Scottish Parliament general election dates permanently. That separation of dates is not a foregone conclusion. However, the consultation would quite rightly be the process by which everyone in the land could submit their views. Those views would be considered by the UK Government as part and parcel of the consultational, and constitutional, process.

However, we must not assume that everyone is too concerned about a permanent clash of election dates; I am sure that many people believe that having elections on the same day is a good idea. It often increases turnout and participation, engaging more people. We saw that when we had separate council elections and then when we had elections to councils and the Scottish Parliament on the same day, when turnout increased. We are all concerned about turnout, as was Gould. Of course, having elections on the same day would save the taxpayer money. We in this chamber must not assume a monopoly of wisdom.

As the minister said, on 5 May we will have, together, a referendum on voting reform for Westminster—long-overdue voting reform—and a Scottish parliamentary election. I certainly do not see that as a problem. I do not see there being a real problem with Scottish voters going out and putting three crosses on three ballot papers. It is a simple process; it is a simple issue. In itself, having elections on the same day is not a problem—depending on the type of elections.

However, let me be clear—if the motion is agreed to tonight, that will simply be an expression of this Parliament's view. I am sure that our Westminster Parliament will, as indicated, amend the law accordingly.

The setting apart of the UK and Scottish general election dates on a permanent basis will depend on a successful consultation process, in which everyone has the right to have their say. It is not about politicians stitching up a deal; it is about properly consulting people throughout the land.

The Liberal Democrats will support the enabling motion—it is an enabling motion; David McLetchie called it a legislative consent motion and it is similar to an LCM—so that we can give a clear



indication to the UK Government to go ahead and amend the Fixed-term Parliaments Bill.

09:30

**Patrick Harvie (Glasgow) (Green):** I am happy to point out to Mike Rumbles that all five political parties in the Parliament have signed up to the motion. I am sure that his remark was not an indication that the respect agenda is slipping.

A lot of nonsense has been spoken about the respect agenda. No sooner had the phrase surfaced than the UK Government decided to gatecrash our next two elections. When people respect one another they do not wait to be asked to show consideration for one another—they offer it automatically. That is the sign of respect, and I do not think that such respect currently exists—

**Mike Rumbles:** That was not very respectful.

**Patrick Harvie:** I meant on the part of the UK Government, not Mike Rumbles.

The principle of fixed-term Parliaments is important. Westminster sometimes likes to portray itself as the mother of Parliaments in a mature democracy, as though age and maturity are more important than relevance and modernity. However, there are serious limits on voters' power to create change at Westminster: the first-past-the-post system is one of them; a lack of transparency, before the Freedom of Information Act 2000, was another; and elections that are set by ministerial whim is another. It is good that Westminster is at last starting to catch up with modern democracies, by eliminating those barriers.

If each election that takes place is to receive the appropriate focus, it is important that elections are separated. As members said, in essence there are two options for the permanent separation of elections. One is to have four-year terms at all levels. Can we imagine having an election every year? We would vote on 1 May, every May. Do the voters deserve no respite from our continual demands for their attention and votes?

The option of four-year terms at all levels is unlikely to be adopted, given that the European Parliament and Westminster Government are pretty solidly focused on five-year terms. The other option is for every election to be on a five-year cycle. That would at least give us a break every five years. There would be one year in which there was no election—what a luxury that would be.

Whatever option we go for, the Scottish Parliament should have the ability to set its own voting systems and other internal processes and procedures and its own electoral cycle. I urge Liberal Democrat and Conservative members to speak to their colleagues in London, and I urge the Scottish Government to speak to the Government

in London, to urge the UK Government to include in the Scotland Bill provision for the Scottish Parliament to make its own decisions on such matters.

**The Presiding Officer:** I call Stewart Stevenson. You may make speech number 401, but you have only three minutes, Mr Stevenson.

09:33

**Stewart Stevenson (Banff and Buchan) (SNP):** Thank you, Presiding Officer.

When I consider the signatories to the motion and what I have heard in the debate thus far, I suspect that there will be a degree of unanimity at decision time.

When we look at the processes of democracy it is always useful to consider history and experience elsewhere. The President of Iceland, for example, is elected for a single year and he or she may not stand again for a further 10 years after one term of office, because the presidency is a symbolic role. In Australia, at Prime Minister's question time, each question is timed out after seven minutes, whether or not the participants have finished.

Perhaps the example that touches most vividly on the issue that is before us comes from the United States, where people are faced with a vast array of propositions, which might be associated with presidential or state elections. It is worth considering the effect of such an approach. As is the case here, in the US there is space in the media for debate about only one essential election, which is generally the presidential election, the gubernatorial election or the elections to the Senate. The propositions—we would call them referenda—receive scant attention.

There is a real danger when a series of unrelated decisions that an elector has to make are drawn together to be dealt with in a single visit to the polling booth. I apply that not only to the coincidence of a UK Parliament election and a Scottish Parliament election but, of course, to the forthcoming referendum on the alternative vote, about which there has been no public hubbub and little comment. Not a single constituent has raised it with me.

Let us not imagine that we are introducing something new with AV. We used to have multimember, single transferable vote seats in the Westminster Parliament. The last general election in which that was the case was 1945. We saw the ludicrous situation of Graham Kerr, a Conservative who received 1,361 votes in the first ballot in an overall vote of 32,786—4.15 per cent of the first-preference votes—nonetheless getting elected on the second ballot.

Perhaps the Conservatives will support the AV referendum after all, because it certainly can lead to results for them. However, we need to have the debate, and we can do that only if there is time for it.

It is a great pleasure to speak on the motion. I, of course, will support the unanimity that I expect to see at 5 o'clock and I hope that everyone else will do so as well.

**The Presiding Officer:** That concludes the debate on the 2015 election. We must now move to the next item of business, which we will do speedily because time is tight for that debate.

## **“Session 3 reports of the Public Audit Committee—key themes”**

**The Presiding Officer (Alex Fergusson):** The next item of business is a debate on motion S3M-8005, in the name of Hugh Henry, on “Session 3 reports of the Public Audit Committee—key themes”.

09:36

**Hugh Henry (Paisley South) (Lab):** I am delighted to open the first ever debate sponsored by the Public Audit Committee of the Scottish Parliament.

Since 1999, and particularly over the past four years, the committee and its predecessors have played a vital role in holding to account those who are charged with spending taxpayers' money. Indeed, the role that the committee plays has been recognised by others outside the Parliament.

We have been supported in that work by a tremendous clerking team present and past. On behalf of committee members, I thank the clerks for doing so much to enable us to do our job.

I also pay particular tribute to Audit Scotland and the Auditor General for Scotland for the outstanding reports that they prepare. The quality of those reports has enabled the committee to carry out its work much more effectively and robustly.

Over the past four years, a number of issues have arisen time and again. I will focus on those in my speech but, before I do so, I will highlight two areas of frustration for the committee, which I hope the Parliament will reflect on.

The committee is unable to consider any matter unless it is the subject of a report that the Auditor General or, occasionally and exceptionally, the Parliamentary Bureau lays before the Parliament. Many people believe that we have the power to initiate debates or inquiries, but we do not. To be frank, neither the committee nor Audit Scotland could cope with an unending stream of demands via the committee, but some thought needs to be given to matters of significant public concern that may be worthy of investigation.

The second frustration pertains to local authority-related expenditure. The committee is unable to investigate reports from Audit Scotland or the Accounts Commission that relate to local government issues and cannot investigate situations in which auditors have qualified the accounts of a local authority for a number of years. That is an issue of significant concern involving substantial amounts of money. Given the significance of local government expenditure,

which ministers authorise, should a committee of the Parliament not be allowed to investigate publicly stated concerns about the use of public money when auditors have articulated worries? Similarly, the committee was unable to investigate the recent controversy over Strathclyde partnership for transport's use of funds, because SPT is sponsored by local authorities. Despite significant reporting and worries, we were unable to consider the matter.

The first of the key themes that I want to address is governance or, more to the point, poor governance that has resulted in poor decision taking.

The committee conducted an inquiry into the 2006-07 audit of the Western Isles NHS Board. Our report highlighted a number of issues in relation to governance. At the time of the 2006-07 audit, the board had reported deficits for the previous four years. The committee learned that the board did not have a fully costed clinical strategy, which had a detrimental impact on the board's finances. We were shocked to discover that the health board, which was short of cash, was paying for three chief executives at one time.

The committee was concerned that there was some evidence in the health service—and possibly the wider civil service—of a culture where poor performance is not addressed. It would appear that, rather than address the problem, the health service can move staff who underperform to other posts at a similarly senior level. The avoidance of hard decisions should not be tolerated. The committee has therefore called for a strengthening of the procedures for tackling poor staff performance. Failure should not be rewarded.

Another example of poor financial forecasting was the introduction of the national concessionary travel scheme, where the cost of electronic ticketing machines rose from £9 million to £42 million. In that case, there was a complete absence of detail as to how the initial £9 million was calculated, which the committee finds worrying and unacceptable.

The need for early intervention by the Scottish Government, particularly where nationally significant projects or policies appear to be going wrong, was also echoed in the committee's report "Major Capital Projects". The committee learned that the Government's chief civil servant was not routinely made aware of developing problems across Government departments. The committee regards that as inadequate and has called on the Scottish Government to consider adopting formal reporting and audit trails based on systematic time and cost reporting. It is astonishing that the Government's chief civil servant should be unaware of developing financial problems across Government departments.

The committee is not able to issue a formal report on the Edinburgh trams project. We hope that our successor committee will have the opportunity to consider Audit Scotland's recommendation about Transport Scotland playing a more significant role in the project.

Generally, the committee welcomes the infrastructure projects database, which should help with monitoring the progress of projects with a capital value of more than £5 million.

However, the committee has concerns about how difficulties that public bodies or policies run into are communicated to and between senior Scottish Government staff. The committee believes that governance and accountability relationships between the Scottish Government and public sector partners need to be strengthened to engender a more collaborative approach. With less money available, the Scottish Government and the wider public sector need to work together. That issue was highlighted in the Auditor General's report "Maintaining Scotland's roads".

I turn to the issue of transparency or, often more accurately, the lack of transparency. During the past four years, the committee has not always been able to assure itself that taxpayers' money has been used wisely and appropriately. Similarly, there have been occasions when the committee has been unable to determine why and how decisions were made.

I have already outlined the inability of civil servants to explain how the original estimate of £9 million for the introduction of ticketing machines was calculated. In our report "The First ScotRail passenger rail franchise", we said that we were not able to determine what payments had been made to a departing member of staff because of a compromise agreement that had been signed. The committee believed that it was important to be able to investigate the circumstances of that person leaving and how it related to the extension of the franchise, but we could not get to the bottom of that matter.

The committee has welcomed the steps taken at United Kingdom level to publish the names and job titles of senior civil servants with a salary of more than £150,000 a year, but we believe that more should be done, especially in relation to payments to departing staff. There needs to be greater transparency and openness.

The issue of transparency featured in the committee's recently published report "The Gathering 2009", which highlighted a failure by the Government to alert partners to a significant loan. There was also a failure by the Government's chief civil servant to keep a record of discussions with a senior staff member from the City of

Edinburgh Council, and the committee heard differing accounts of that meeting. Those issues were part of a wider report that highlighted major concerns about the way in which senior representatives of the City of Edinburgh Council operated. That is something that both Government officials and the City of Edinburgh Council should address.

I turn to data collection and the measuring of quality. The collection of robust and verifiable data is vital to enable the Scottish Government and public bodies to identify where productivity and efficiency savings can be made. The committee is concerned that it has not always been able to determine whether services have been delivered as efficiently and effectively as possible because the data that are collected nationally have not been sufficiently robust. One such example is highlighted in the committee's report "Overview of mental health services". A target for reducing the rate of increase in antidepressant prescribing had been set by the Scottish Government, but the committee learned that information on the number of people on antidepressants was not being collected. As a result, the factors that led to the quadrupling of antidepressant prescribing could not be clearly identified, which meant that it was more difficult to identify how to tackle the issue effectively.

The committee welcomes the Scottish Government's change in focus from tackling prescribing to targeting access to psychological therapies, but we question why a target was set without corresponding work being undertaken to identify how best to measure progress against it. The committee also welcomes the statistics on outcomes and outputs that have been provided on the Scotland performs website. However, until that information can be linked to expenditure, it will be more difficult for service providers to make informed decisions on how best to provide services cost effectively while maintaining service quality.

The next session of the Parliament will bring with it a whole series of financial challenges both for the Parliament and for the Government, irrespective of who is in government and who is elected to the Parliament. The Public Audit Committee is now well established and I hope that the next committee will continue to rigorously seek out and identify areas where savings and efficiencies can be made to ensure that public funds are used properly to deliver high-quality services. In its key themes report, the committee lays down a challenge to the next Government, suggesting ways in which it can assist in ensuring that public funds are used effectively, economically and efficiently.

I thank the Presiding Officer and the Parliament for allowing our committee to do the work that it has done over the past four years. I hope that we have discharged the function that was given to us and that the next committee in the forthcoming session will be able to continue that work.

I move,

That the Parliament notes the conclusions and recommendations contained in the Public Audit Committee's 1st Report, 2011 (Session 3): *Session 3 reports of the Public Audit Committee – key themes* (SP Paper 559).

09:48

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** I welcome the opportunity to debate the Public Audit Committee's first report of 2011, on the third parliamentary session. I have listened carefully to Hugh Henry's comments in setting out the contents of the report and will address those in my speech.

The committee's report has assessed a number of the ways in which the Government can improve how it operates. Those observations are especially relevant as we enter a period of significant financial constraint in the years ahead. Mr Henry highlighted a frustration about the scrutiny of local authority finances. Although I understand the committee's frustration, many of the issues that Mr Henry highlighted—which are serious and significant—can be pursued by the Accounts Commission in its own investigations and scrutiny. That has been done on several occasions when local authorities have performed poorly. Nevertheless, I understand the point about completeness of perspective that Mr Henry makes on behalf of the committee.

The committee's report identifies three themes: transparency, governance, and data collection and the measuring of quality. The permanent secretary of the Scottish Government, as the principal accountable officer, has provided the committee with a full and detailed response that addresses each of those themes. In that response, the permanent secretary emphasises that the Scottish Government is fully committed to ensuring that its use of public funds is as transparent and accountable as possible. The response also sets out examples of the many improvements that the Scottish Government has made to its processes. Many of those improvements were made in response to previous recommendations that have been made by the committee.

On the issue of transparency, the committee reports that its ability to hold the Scottish Government and public bodies to account has been compromised by difficulties in obtaining financial and decision-making information.

Examples are cited that relate to the disclosure of senior salaries, the payment of compromise payments and the need for improved guidance on the use of public funds.

Ministers recognise the importance of transparency and scrutiny in relation to public money and have a range of robust arrangements in place for the disclosure of financial information. Indeed, some changes have been made recently to increase transparency, which is an acknowledgement of the focus of the committee.

Members will be well aware of the provisions of the Public Services Reform (Scotland) Act 2010, which imposes wide-ranging duties on the Scottish Government and public bodies to publish a range of financial and other information. That regular reporting will add significantly to the culture of transparency because it will require the public disclosure of information that was not previously disclosed.

Other initiatives are under way. For example, as Mr Henry said, last June the names and job titles of senior civil servants earning over £150,000 were published by the United Kingdom Cabinet Office. In addition, last October we published information on senior civil servants earning more than £58,000. The senior civil service is a reserved matter and we await guidance from the Cabinet Office on further disclosure.

In terms of payments arising from any compromise agreement, Audit Scotland has full access to the details of any such agreement and will disclose the position if the "Scottish Public Finance Manual" rules are breached in any way. I can confirm that no compromise agreement has been entered into with a civil servant in the Scottish Government since 2008. In the interests of further transparency and in line with guidance that was issued by HM Treasury last August, we will disclose details of exit packages in a note to the Scottish Government accounts.

The committee also raised the issue of governance, particularly the need for policies and projects to have good financial and outcome measures at inception and for robust governance arrangements to be in place to manage the project or policy. Significant improvements are being made in that area.

We have made progress on implementing recommendations in all four of the committee's work streams with regard to major capital projects. The roll-out of the infrastructure projects database and the establishment of a new infrastructure investment board stand out as two recent significant developments. Our on-going work programme of developments and reforms has delivered improvements in the way in which we manage our capital projects. That work will play a

vital role over the period of the next spending review, helping to deliver value for money and maximise the economic impact of capital investment.

On good governance more generally, we are focused on providing and promoting clear leadership and strategic direction across the public sector. We are also ensuring that regular dialogue takes place at a senior level between the Scottish Government and chief executives and chairs of public bodies, and that day-to-day working-level engagement also takes place.

Public bodies already have access to guidance such as the "Scottish Public Finance Manual", which deals with risk management, among other things. Public bodies must also have an agreed management statement that sets out respective roles and responsibilities. We are preparing revised guidance and will take account of the committee's report and recommendations in doing so.

As a specific example, constructive engagement and close alignment between the Scottish Government and public bodies is essential. We are revising and updating guidance on relationships between the Scottish Government and public bodies, and the "On Board" guidance for members of the boards of public bodies.

I want to highlight the points about governance that Audit Scotland made in its recent report on capital projects. It said that, in recent years, the Scottish Government has strengthened leadership and oversight of the capital investment programme and that

"The accuracy of cost estimating has improved in recent years."

It also said:

"The Scottish Government is improving its project monitoring and management of the capital programme through developments such as the new Infrastructure Investment Board"

and the establishment of the Scottish Futures Trust. In all those areas, I acknowledge the absolute importance of projects being well founded, well designed, well programmed and well costed. The measures that are now in place have significantly strengthened our ability to monitor performance and ensure that wise decisions are taken.

The third theme of the committee's report is data collection and measuring quality. That is an important issue, and I suspect that, in some areas, it is the most difficult one to address. One of the big policy shifts that the Government has undertaken has been to radically improve the pace of focusing on outcomes in policy making, but Mr Henry makes a fair point. To complete that

process, one would need to be able to see how funding directly relates to outcomes. I am not going to stand in front of members and say that such a system is about to be enacted and it is all sorted out, because the process of moving from what is essentially a portfolio-based and programme-based budgeting structure in the Scottish Government to what I acknowledge would be a desirable focus on the outcomes that we intend to achieve and how resources can be channelled to meet those outcomes is immensely complicated.

In many areas, the data that are published are required to conform to the UK Statistics Authority's code of practice for Government officials. That code of practice requires official statistics to be produced to a quality level, and we have assembled many of the statistics that are publicly available in the format on the Scotland performs website, which Mr Henry welcomed. That essentially gives a day-to-day and regularly updated assessment of the performance not only of the Government but of Scotland as a whole in achieving particular objectives. Some of that work is clearly founded on the work that is undertaken in the Scottish household survey, the health survey and the crime survey as major evidence-gathering sources for the achievement of outcomes. The quality of the information is strong and is based on the Government's requirement to ensure that statistics—which are produced independently, I might add—conform to the requirements of the UK Statistics Authority's code of practice.

The committee has produced thoughtful and powerful reflections on the way in which public funds are used. The questions involved are important, and they preoccupy me in undertaking my responsibilities and the civil servants who are responsible to me for the policy area. I assure members that the Government is taking seriously the thinking and contents of the Public Audit Committee's report and that, where we can change practice to improve performance, we will undoubtedly take the opportunity to do so.

09:57

**David Whitton (Strathkelvin and Bearsden (Lab)):** I welcome the chance to be involved in the debate. The Public Audit Committee is one of the most important committees in the Parliament and its work under the leadership of its convener, my colleague Hugh Henry, has rightly been recognised.

During session 3, the committee has considered and reported on matters such as free personal and nursing care, the financial fiasco surrounding the gathering event, police call management, and progress on planning for the delivery of the 2014

Commonwealth games. In total, it has considered 15 new reports from the Auditor General, of which 13 have been section 23 reports, which examine the economy, efficiency and effectiveness of the public sector, and two have been section 22 reports, which look at the audit of accounts of individual public bodies. As we have heard, all those issues are important and have raised more than a few concerns in Scotland. The committee concluded that several of the issues on which it recommended that action be taken have arisen in more than one report.

The issues have been grouped into three key themes, which we have heard Mr Henry and the cabinet secretary comment on. I, too, will start with transparency. With other members, I have long called for greater transparency in our dealings with quangos and other public bodies, such as in the salary and bonus payments to senior staff of Scottish Enterprise and Scottish Water and those within the senior management ranks of the national health service. As the cabinet secretary mentioned, the climate is changing. During times of financial constraint, the transparency of decisions on the expenditure of public money becomes essential as attention focuses on ensuring that value for money is achieved. That is particularly the case when it comes to delivering public services with reduced resources. Throughout the public sector, greater transparency is becoming the norm, and alarming as some of the stories may be—such as the one about £20,000 being paid to a celebrity hypnotist by Skills Development Scotland to tell unemployed teenagers how to think—the reality is that we need that transparency. It is, after all, taxpayers' money that is being spent.

The committee has concerns that, despite the increased public scrutiny of how and where taxpayer funds are used, it has not always been able to assure itself that public funds have been spent in accordance with the "Scottish Public Finance Manual" or that the expenditure has represented effective, efficient and economical use of the money.

The ability to scrutinise and hold to account those responsible for the use of public funds is directly influenced by the availability of information. As Mr Henry said, the committee has found on occasion that its ability to hold the Scottish Government and public bodies to account has been compromised by difficulties in obtaining the relevant financial and decision-making information.

Frankly, that is not good enough. One clear example was from the agreement to extend the First ScotRail passenger rail franchise. Much of the committee's report focused on the declaration and management of the share interests of the

former director of finance at Transport Scotland during the negotiations over the franchise extension, the circumstances of his departure and the quality of the evidence given to the committee. In particular, the committee expressed concerns that the disclosure of potential conflicts of interest did not take place much earlier during the former finance director's tenure.

The committee recommended that the Scottish Government consider whether standard processes beyond those attached to the recruitment procedures should be adopted to manage potential conflicts of interests. It also recommended that Transport Scotland ensure that minutes of meetings are robust and more accurately reflect the participation of individuals with a pecuniary interest in the business of the meeting.

Like others, I watched the Public Audit Committee meeting yesterday, at which it took evidence from Transport Scotland. I have to say that I remain far from impressed with evidence from Transport Scotland's senior officials, which it could be said still leads to a certain lack of transparency.

In another example, on 3 March 2010, the committee published its report on the Cairngorm funicular railway, commenting on issues arising in relation to risk identification and evaluation, costs and benefits, the timing of Highlands and Islands Enterprise's actions, and future plans for the railway. Again, it was difficult for the committee to gain information because of commercial confidentiality. It recommended that the Scottish Government consider producing guidance on how public bodies working in partnership with private organisations, such as banks, could approach the issue of financial confidentiality in a way that promotes transparency in the use of public funds.

The Public Services Reform (Scotland) Act 2010 imposes wide-ranging duties on the Scottish Government and listed public bodies to publish a wide range of financial and other information. It is important that we can identify expenditure on things such as public relations, overseas travel, hospitality and entertainment, and external consultancy. As someone who in a past life was involved in bidding for and securing contracts in the public sector, I have always been conscious of the need for accountability.

We have to come into the real world. After financial disasters such as Enron, the corporate reporting environment has changed dramatically in recent years. We cannot hide behind the public sector banner. Corporate reporting should be our byword. Government can no longer be restricted to a few press comments and financial statements if pushed; a broad range of additional information must also be disclosed.

Transparency enables Government, ministers, the public, creditors and market participants to evaluate the condition of an entity, be it a Government programme or a non-departmental public body. Transparency increases confidence and it is through work such as that of the Public Audit Committee that the Parliament can be confident that that is happening.

**The Deputy Presiding Officer (Trish Godman):** I call Jackson Carlaw. Mr Carlaw, you have a tight six minutes.

10:03

**Jackson Carlaw (West of Scotland) (Con):** Thank you, Presiding Officer. I hope that this will be a relatively brief contribution in any event.

Like others, I begin by acknowledging the role of the Public Audit Committee and in particular the convenership of Hugh Henry, which as others have said has been recognised elsewhere and by Parliament. It is important that that should be so and that the committee should be on form at this time, because the work that it does is crucial in the current climate. David Whitton detailed at some length many of the important contributions that the Public Audit Committee has made.

At this time, when the economy is under the pressure that it is and public expenditure is under the scrutiny that it should be, it is important that the work of the Public Audit Committee is listened to and respected. The concern that it expresses—that it is not always able to assure itself that public funds have been spent efficiently—is something that the Parliament, in this session and the next session, must deal with and determine how to tackle. The report is intended to stimulate that debate and, in his opening speech, Hugh Henry detailed the themes and posed several key questions for Parliament to consider and address.

The report talks about accountability and governance and, indeed, the failure at times to tackle poor governance. I note that the committee

"believes that ... failures, particularly those at a senior level should be more rigorously challenged, rather than people simply being moved to other posts, often in senior positions."

That is a fault not just in the public sector and in Government but in the private sector, where such a move is very often seen as the easy solution. That said, I suppose that, unlike in the public sector, incompetence in the private sector is not being underwritten by public money and there is a need to address such issues more directly. For example, we have got a bit too used to allowing the NHS to pay out record compensation levels of, say, £35 million without necessarily tackling the causes behind such a payout in the first place or

addressing the lack of proper accountability and governance that it represents.

The committee is quite critical of Transport Scotland and the electronic ticketing fiasco. It really beggars belief that something budgeted at £9 million ended up costing £42 million. I am also bewildered at the complete lack of understanding of the whole process that would be involved that the committee managed to establish. Those of us who travel abroad, including, I imagine, everyone in the chamber, are quite used to arriving in other countries and buying a kind of smart card that allows access to buses, trains, the underground—if such a thing exists—and various attractions. The whole operation seems to be run in a perfectly competent way. Then visitors come to Scotland, where we are unable to implement any kind of integrated system or, where we manage to implement a limited system, we do so at a quantifiable and subsequently proven public cost.

I think that the public find all of this confusing. After all, our nation produces more than its fair share of dry and deeply intense chartered accountants, who, in my limited experience, rarely leave their windowless offices other than for the occasional trip to Murrayfield. One would have thought that, with all that expertise, our nation would have been one of those most able to ensure that, when it embarks on public projects, it does so with a degree of accountability and good governance.

Hugh Henry mentioned the possible future implications of the trams and we should, of course, remember what happened with the Parliament building and electronic ticketing. However, as convener of the Forth Crossing Bill Committee, I am concerned about any potential implications if we do not ensure that the Forth crossing project has the very best governance, transparency and accountability. After all, if its budget were to have a similar overrun as that for electronic ticketing, we would be looking not at a £2.1 billion project but at a £10.5 billion project.

**John Swinney:** I sympathise entirely with the member's point but I wonder whether, in the interests of completeness, he will also reflect on the fact that Audit Scotland was very complimentary about the way in which Government now manages capital projects.

**Jackson Carlaw:** I was just about to mention the cabinet secretary's reassurance to the chamber that the accuracy of cost estimating has improved. I am happy to hope and believe that that is the case, as must everyone else. I know that, as a level 3 expense, the project costs will be examined in some detail by the Parliament but after all the dry runs of the other projects that have been mentioned, which, over time, have proven to be things that we have been unable to contain, we

are about to embark on the very biggest of them all and we have to know and be sure that we will exercise that responsibility effectively.

The third parliamentary session is reaching its conclusion and we are about to embark on the fourth session. I, like others, have been talking about the need for this Parliament to consider reforming itself. I believe that there are lessons to be learned from the past three sessions and that there are ways in which this Parliament might operate better. In a parallel way, the report suggests that we need to stimulate another urgent debate on the need for further public scrutiny and our ability to scrutinise public performance; to that extent, I am very grateful for it and am happy to endorse its contents.

10:09

**Nicol Stephen (Aberdeen South) (LD):** The Public Audit Committee is a vital committee of our Parliament. Democracy is about more than simply the right to vote. The ability to scrutinise and challenge ministers and the Executive—collectively the Government of our nation—is a crucial part of the checks and balances that underpin a modern, effective democracy.

The Public Audit Committee does outstanding work. I will be standing down from Parliament shortly and would like to place on record that it has been a great privilege to work with all members of the committee. However, I give special mention to Murdo Fraser and George Foulkes, and to the convener, Hugh Henry, who does outstanding work on the committee. Thanks should also go to the committee clerks, who do excellent work, and to Robert Black, the Auditor General, and his team at Audit Scotland. As Robert Black recently highlighted, before we had the Scottish Parliament the chances of a senior Scottish civil servant being brought before a scrutiny committee in the Houses of Parliament in London was about as likely as being struck by lightning. That has changed, and the Public Audit Committee regularly scrutinises and challenges ministers and civil servants.

The committee bases its work on the excellent work of Audit Scotland. It has produced many outstanding reports, which have been referred to already this morning. However, I believe that the powers of the committee should be extended to enable it to carry out special inquiries that are not always triggered by Audit Scotland reports and, in certain circumstances, to scrutinise the work of all areas of the public sector, including local government. Scottish ministers do, after all, have the power to intervene when local government goes badly wrong and something as serious as a qualified audit report for a particular council should not be solely the responsibility of the council that is



being criticised. Hugh Henry gave a strong example in SPT.

I am impressed by the Danish system of audit and scrutiny, in which recommendations cannot be avoided or wriggled away from by evasive ministers or civil servants. They continue to be worked through and measures that are agreed with the public audit committee must be responded to, because that is built into the Danish system as a fundamental principle.

Our principle in Scotland is that public money should be well spent, wisely spent and, unless there are exceptional reasons, spent with the full knowledge of taxpayers who fund those public services. Openness and full transparency are what we call for.

I want to touch on two areas, the first of which relates to revenue budgets and revenue expenditure. In that area, revenue budgets change year on year so significantly that like-for-like comparison can be very difficult and more continues to need to be done to tackle it. That can be a challenge for ministers as well, but unless we have good year-on-year comparison over an extended period, that is a weakness.

Another area in which the committee has taken a leading initiative is the important process of giving much greater scrutiny to money actually spent rather than simply comparing this year's budget with last year's budget. That is an important change.

The second area that I want to touch on relates to capital budgets and capital expenditure. Too often, we get those not just wrong but spectacularly wrong. Major capital projects require regular, hands-on, proactive management. Big projects can have costs that are not updated for years and years. That is difficult to understand or justify, and it is still happening in Scotland. We should be entitled to expect that capital projects are well managed and regularly monitored and that costs are accurate, dependable and regularly updated. In some cases, that continues not to be the case. Some such projects are big and important. There are many examples of spending going wrong in Scotland. Sadly, I suspect that that will continue.

Finally, there are the people involved. The most important point is that there are many excellent staff working in our public services. However, the staff are not exclusively excellent and too often the Public Audit Committee discovers situations in which mediocre civil servants, or good civil servants without the technical skills or experience required, are given major—sometimes momentous—and costly decisions to make, to implement and to deliver. Sometimes, those individuals appear to continue in senior positions

or even to receive promotion within the civil service despite their failings or mediocrity. Loyalty to the system sometimes seems to be regarded as more important than expertise, ability and delivery.

It is important that the Public Audit Committee highlights examples of best practice and encourages the very best in all aspects of public service. However, it must also, without fear or favour, continue to shine a light into those murky areas where performance is poor. It must uncover shortcomings and weaknesses, not only of senior civil servants and quango chiefs, but of Government ministers. That is the committee's duty, and it fulfils that duty with great professionalism and huge dedication. It has been my privilege to serve on it.

10:16

**Jamie Hepburn (Central Scotland) (SNP):** As I was appointed to the Public Audit Committee only in November of last year, I was not part of many of the discussions that shaped the reports that the committee has produced in this session and which in turn we consider today. However, some weeks after I joined the committee, it was given the committee of the year award, which might or might not have been a coincidence.

The committee has established a reputation for robust and rigorous scrutiny of the work of the Scottish Government and other public bodies in Scotland. As Nicol Stephen said, it is a vital committee and I have enjoyed participating in its proceedings during the final months of this Scottish parliamentary session. I echo the comments of Hugh Henry and Nicol Stephen in thanking committee colleagues and the clerks for their help and support. I also thank the Auditor General for Scotland, who is in the public gallery, and Audit Scotland for the quality of their reports.

That such scrutiny can take place at all is a tribute to the first phase of devolution since 1999. Before that date, decisions that affected Scotland were generally taken by a small cabal of Scottish Office ministers, often with little electoral mandate. Scrutiny, when it came, was dependent on time being available in the cumbersome structures of the Westminster system and on the willingness of back-bench members of Parliament from Scotland to make those structures work. In short, the Westminster system traditionally did not lend itself to the highest standards of transparency. We should therefore be encouraged that devolution has improved the transparency and accountability of decision making in Scotland. That is true in relation to the legislative scrutiny and investigations that subject committees carry out and particularly in relation to the Public Audit Committee's role in casting its eye over the wider

public sector, following on from the reports of the Auditor General.

The report that is before us is a useful summary of the main themes that can be drawn from the various investigations that the committee has carried out and the reports that it has issued since 2007. The themes of improving transparency, data collection and governance throughout Scotland's public sector provide a useful basis for understanding how we can ensure that decisions are made as effectively as possible, especially given the constrained economic circumstances in which we find ourselves. The late makar, Edwin Morgan, in his poem to mark the opening of the Scottish Parliament building, said:

"Light of the day, shine in; light of the mind, shine out!"

Transparent decision making in the clear light of day is the first step in a robust scrutiny process.

The committee has pushed hard for disclosure of information on the use of public funds, especially as regards salaries in the civil service and non-departmental public bodies. As the cabinet secretary said, matters concerning the senior civil service are reserved to Westminster, but I welcome the Scottish Government's confirmation that it seeks to comply with Cabinet Office regulations on the publication of information about senior salary levels.

The Scottish Government has taken steps to answer issues that the committee raised about the handling of commercial confidentialities during the awarding of public procurement contracts. The Government actively discourages the use of confidentiality agreements in such contracts and procedures are in place to ensure that as much information is available as possible under the terms of freedom of information legislation. That is important in further enhancing the principles of transparency.

Measuring the effect of policy decisions, and especially spending decisions, is important for informing future decision making and for evaluating the on-going impact of those policies. The provision of accurate and timely statistical information and qualitative data, where appropriate, allows effective monitoring and evaluation of policy impacts.

The committee has considered the provision of information on a range of topics and policy areas, and the report considers in particular the availability of statistics on free personal and nursing care, health care quality, anti-depressant drugs, and the broader sweep of data on national outcomes. A proper balance has to be struck for all those things, and nobody would wish to imagine that the Public Audit Committee was asking for excessive additional resources to be spent on monitoring outcomes at this time of a

squeeze on public sector finances. Although additional information is useful for casting light on the utilisation of public resources, the cost of gathering such data must be proportionate to the expenditure that is being analysed generally.

The Scottish Government has taken steps since 2007 to make reports on its policy successes and national indicators available to anyone who is interested. The Scotland performs website, to which the cabinet secretary referred, provides an at-a-glance snapshot of how Scotland and its Government are doing. It represents a new standard in governmental accountability, which enhances the already wide range of statistics and data that are available from a number of different official sources.

The final major theme to emerge from the work of the Public Audit Committee this session was the need for good governance in the public sector. In particular, effective management, monitoring and decision-making procedures in health boards and in the development of major capital projects are cited as examples of where getting it right is important. Guidance exists to ensure that those structures operate effectively, and I understand that all health boards have now completed a self-assessment process using the Scottish Government's health board development diagnostic tool, which has led to an improved process of induction for new members of health boards.

The Public Audit Committee has played an important role during this session of the Scottish Parliament. Its work is vital for the role of the legislature as it holds the Executive to account. In that regard, the Scottish Government has responded positively to the committee, as was reflected in the cabinet secretary's opening remarks today, and in the Government's written response to the report, which the committee considered yesterday.

I welcome this opportunity to raise the various themes that have been discussed by the Public Audit Committee over the past four years. As I said, the committee has an important role to play, working with the Scottish Government to ensure transparency in public expenditure and in the outcomes from that expenditure. I wish whoever forms the Public Audit Committee in the next session well with the task.

10:22

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** First, I tender my apologies. A prior commitment means that, after making this speech, I have to go and meet representatives of a significant organisation in my constituency.

I echo what fellow members have said about the work that has been done behind the scenes, by the clerks and the support structure around the Public Audit Committee and by the staff of the Auditor General in compiling the various reports. David Whitton identified that there were 15 new reports from the Auditor General's office, which indicates the level and thoroughness of the work that has been undertaken.

I pay tribute to my colleague, Hugh Henry, and acknowledge the recognition that he has received for the committee of the year and politician of the year awards. Those of us who understand European history admire places such as Catalonia, one of the autonomous regions of Spain. Among the social activities there are the castells: the wee guy at the top of the human tower is given the great opportunity to see the world round about him and get all the praise. However, Hugh only got to the top because of the hard work of all those at the bottom of the committee, day in, day out, week in, week out. Congratulations to him on that—he can reflect on that as he looks at the visions of Scotland from the top, with the politician of the year award.

I thank the Cabinet Secretary for Finance and Sustainable Growth for his measured contribution. That was perhaps not the John Swinney that I remember from some of the budget debates, but the gentler, softer John Swinney. I know that he is part of a programme of activity for my own rehabilitation, and I appreciate his recognition of that. Thanks for that, John.

Several important issues have been touched on already. Transparency and the way in which we gather information are key themes; the way in which we examine overall governance issues is also key.

We had a fantastic opportunity this week when we heard from the chief executive of Transport Scotland. That was a classic case not of what the minister was saying, or even of what the record said; it was more a reflection—in fact, we almost had a theological debate about the meanings of good and bad, with regard to good and bad governance.

We in the committee can produce a series of recommendations, and the minister can respond positively, as he has done in the paper that was produced for the committee. However, like everything else in life, it is what happens between the lines that is important—the understandings, the acknowledgements and the direction.

One of the key concerns that I and my committee colleagues have experienced is that as we probe the people who give evidence, particularly senior civil servants, we find that there is an incredible capacity among them for not quite

being able to recollect what the discussion might have been at a particular moment in time, and it is therefore difficult to gather that evidence together. That is probably true of the previous Administrations as much as it is of the present Administration.

**John Swinney:** In the interests of maintaining recollections, I point out that the Government's response to the committee comes from the permanent secretary, not from ministers. That should give him some comfort that the leadership direction from the permanent secretary—what he says to civil servants—is essentially set out in the context of that response.

**Mr McAveety:** That exemplifies the difficult nuances with which we are dealing. When we have, with that understanding, probed some of those folk who have appeared at committee in the past few months, we do not quite get those responses.

However, that is a general issue in Scotland. As a small country, we still need to ensure that those who speak on our behalf—whether they are directed by ministers or operating in a broad policy area—reflect the direction of travel for which ministers are ultimately accountable, as Mr Swinney is aware.

The second issue around governance was something that arose from a number of key inquiries. It is clear that the gathering was a difficult inquiry overall, but a key issue was information sharing, and the question of who took responsibility and when they did so. I always use the metaphor of Scottish country dancing at school: people know what the rules are, and they have been told that they have to do it, but ultimately they are not too happy about who they will be dancing with; I am sure that the feeling is mutual across the room.

The issue is that we do not get a sense from those organisations about how the Government should work. I wanted to put one particular question to the finance secretary—I apologise that I cannot be back for general questions because of my previous commitment. In the very complicated discussions on the trams, one issue was whether there were any discussions with ministers, prior to the tram money being acquired by a decision of the Parliament, on a policy of good governance, so that Transport Scotland—the key Government agency—would step back from the day-to-day activity of the trams project board because it had previously been involved in the board.

I did not quite get the answer that I was looking for the other day, but I am sure that John Swinney will respond to that in an honest and transparent way, and we will get a clearer answer.

I want to touch on two other things, although I am conscious of time. One is the issue of what we do with regard to the investment programme. We have had honest disagreements about the Scottish Futures Trust, but it is clear that a vehicle exists there that has been doing some work, although it is perhaps not as public in its delivery as I would like it to be.

There is an issue around utilising better ways of pulling together capital investment in Scotland. It would be helpful to have some transparency in relation to the structure of an organisation such as the SFT and how it will get to the next stage, to which I understand the minister is very committed.

As a final point, I went over to the United States a couple of years ago as part of a parliamentary delegation. We saw the core model for Scotland performs, which was based around the state of Virginia's modelling for data collection. It was very impressive, but people said the same thing that we are hearing in today's debate. How do we get beyond those statistics to change the way in which things are delivered on a day-to-day basis? It is much more complicated than people initially thought.

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

**Mr McAveety:** I hope that the minister will reflect on those things in his response at the end of the debate.

10:28

**Jamie McGrigor (Highlands and Islands) (Con):** I welcome the opportunity to take part in today's debate. As Jackson Carlaw has indicated, the Scottish Conservatives value very highly the work of the Public Audit Committee. I welcome the report's key themes, and I pay tribute to the committee members and the committee clerks and support staff for producing a sensible and very useful report, and for all their work in the current session of Parliament.

The committee has in this session produced some excellent reports that have been of genuine importance to my region of the Highlands and Islands. Those include the 2008 "Report on the 2006/07 Audit of the Western Isles Health Board" and the 2010 "Review of Cairngorm funicular railway", both of which addressed significant issues of public concern.

More widely, the committee's other reports this session have been especially good, such as those on free personal and nursing care and palliative care, and the review of the First ScotRail passenger rail franchise.

I agree strongly with the committee's recommendations and requests for updates from

the Scottish Government, particularly on the need for maximum transparency in the use of public funds and the decision-making processes of ministers and officials. As the committee suggests, the Government should provide an update on how it proposes to increase transparency in those key aspects.

In the context of financial transparency, I will touch on the gathering in 2009, which David Whitton mentioned, and on the committee's good report on it, which was published last week. There could be no more appropriate case in which more financial transparency was needed from the Scottish Government. It is a sad and damning indictment of the Scottish Government's handling of the affair that the report concludes that all due diligence was not undertaken before the Scottish Government provided a public loan; that the permanent secretary was not informed of the loan; and that the Scottish Government has undertaken no internal audit in relation to the gathering. Where were the caution and care for the interests of taxpayers' money? Where were the caution and care for the wellbeing of the small businesses that ended up losing money for a job well done while the Government crowed over the gathering's success?

My wish for greater financial transparency, as suggested in the report's key themes, is driven by a desire to protect small businesses from facing financial hardship as they did after The Gathering 2009 Ltd collapsed. It is shameful that, to this day, a group of 12 creditors of The Gathering 2009 Ltd—from caterers to public relations professionals—is still trying desperately to obtain payment of £110,000. They are small companies, which are the backbone of our economy. They deserve far better from the Scottish Government, which—arguably—steered and controlled the one-off stand-alone event.

Losing money because of one's own mistakes is one thing, but the bitterest pill for small businesses is not to be paid for work that was well done in good faith, because that leaves a rotten taste. The creditors are adamant that, had the Scottish Government not extended a loan of £180,000 to The Gathering 2009 Ltd, the event would have been cancelled. That would have been highly embarrassing for the Government, but at least the creditors would not have incurred debts. As the key themes report suggests, transparency might have prevented financial hardship in our small business sector.

The committee slates the City of Edinburgh Council's role in the sorry saga. I hope that those who are involved will be fully held to account and that that will happen next week.

**Jamie Hepburn:** Jamie McGrigor talked about good faith. Does he accept that the Government

acted with good faith to try to save the event because it already had creditors? If the event had collapsed, creditors would not have been paid. Part of the motivation for trying to find a new buyer was to help creditors. Surely the Government acted with good faith.

**Jamie McGrigor:** I hardly think that the Government acted in good faith when what was going on was not transparent.

The committee plays a vital role in the Parliament's workings and I am confident that it will continue to do so in the next session. As the key themes report concludes, the pressure on public expenditure for the foreseeable future means that the report and its findings are even more timely, so it is even more important that its recommendations are adopted, whatever the make-up of the next Scottish Government might be.

10:33

**Anne McLaughlin (Glasgow) (SNP):** Debates such as this are significant and have the potential to be very beneficial. The process of producing a report to highlight key themes that have reappeared before the committee and which have been of particular concern has been a worthwhile exercise. That said, the committee is soon to be dissolved, so the exercise will be truly worth while only if the Parliament in the next session, the next committee and the next Government take heed of the concerns. I urge them to do so, because we have the opportunity to bring about improvements.

Initially, I will focus on one of the report's three themes—data collection and measuring quality. As a new member of the Parliament—never mind the committee—early in 2009, I had much to take in, and nowhere more so than on the committee. The first time that I became aware of a data collection issue was during our deliberations on the Auditor General's report "Drug and alcohol services in Scotland" in spring 2009.

In a previous role, I worked hard to fight the closure of a residential alcohol rehabilitation centre. I joined campaigners in arguing that the move towards home-based treatment was not sufficiently tested to argue that it would achieve better outcomes. Naively, I asked the campaigners for their killer statistics that would prove that their way was tried and tested, but they had none. All that they had was anecdotal evidence and short-term data. I was again naïve in thinking that that was a one-off, and that it was an issue just with that project or that area, because when I found myself studying the Auditor General's report I discovered that in that case—and, as I later found out, in many others—there was a real dearth of data and data sharing. On something as important

to our communities as drug and alcohol services, that was extremely worrying.

One shining example of good practice was highlighted in the Auditor General's report. In the West Lothian Council area, at least, there was appropriate and detailed outcome measurement, and an outcome-based system was used for commissioning services, which made sense. That was great for looking at what was effective in West Lothian, but what of the wider Scottish context? Did we have the detailed information to advise practitioners in drug and alcohol work about what worked best for particular types of people? Did we study practices in European countries where deaths from alcohol and drug abuse were dropping, while deaths in this country were rising? Did we have the comparisons to allow us, as the Public Audit Committee, to say that public money was being spent appropriately? The evidence told us that in all three cases we did not. Coming at the issue so soon after my election, when I was still able to see things as a non-politician, I was shocked.

The present Government has made remarkable progress in having a drugs strategy that operates on a national basis, although I find it breathtaking that it was the first such strategy to operate in Scotland.

I have to say—and I will do so gently—that there have been times when, as a member of the Public Audit Committee, I have felt frustrated by the party-political basis on which the committee's discussions have seemed to take place. To me, that is not what the committee should be about. For example, the fact that a disproportionate amount of our time was spent on a relatively small amount of expenditure was due, I firmly believe, to the political capital that was seen to be there for the taking. Eleven sessions were held on the gathering. I accept what Jamie McGrigor says, but we must remember that that event generated £8 million for the economy of Edinburgh alone. In contrast, only three sessions were squeezed in on the Edinburgh trams project, which is costing us dear on a daily basis—although we all hope that the mediation that starts next week will work. My point should be self-evident.

It often felt that the committee's remit extended only to scrutinising the expenditure of the current Government and not to scrutinising that of the previous Executive. It was as if problems with data collection, transparency and governance were the result of SNP decisions rather than long-term issues that had been overseen by the previous Executive. It was interesting that members were astonished or outraged at a compromise clause in a senior civil servant's contract—we have heard that again today—which led to suggestions of secrecy within the SNP Government, yet the very

members who were so astonished were in government when the procedures for those compromise clauses in contracts were drawn up. I often found myself resisting the temptation to say, "If you feel that strongly about it, why didn't you do something during the eight years you were in power?"

**Jamie McGrigor:** Will the member take an intervention?

**Anne McLaughlin:** No.

That said, I believe that the Public Audit Committee fulfils a vital function. I agree with Hugh Henry that the committee's remit ought to be broadened so that we can initiate reports, although I think that it is important that we guard against taking a partisan approach to that.

Like my colleagues, I thank the clerking team past and present for always being on the ball and keeping us informed at all times, and I pay tribute to the Auditor General for Scotland Robert Black and his entire team. I have learned more on the Public Audit Committee than anywhere else in my two years as an MSP, and that is largely due to the quality of the reports by the Auditor General's team and the quality of the people who come to every meeting, each of whom is completely on top of their game. I have waited two years for one of them to say, "I don't know," or even just to falter slightly, but it has never happened. They are experts in their field. I pay tribute to the Auditor General and all his team, and thank them for the tremendous work that they do, which I believe has enabled the Public Audit Committee to perform as effectively as it has done.

10:39

**James Kelly (Glasgow Rutherglen) (Lab):** I welcome the opportunity to take part in the debate and tender my apologies, because I will have to leave before the end to attend an urgent meeting on a constituency matter.

Like other members, I congratulate the Public Audit Committee's members and clerks on the work that they do. I pay particular tribute to Hugh Henry, the committee's convener. The committee's work was recognised at the Scottish politician of the year awards; the award that it received was richly deserved. The committee does important work.

I disagree completely with the tenor of Anne McLaughlin's remarks. The committee has not limited itself to scrutinising aspects of the Government's work over the past four years; plenty of the reports that come before it make comparisons with what happened in previous years. The cabinet secretary referred to capital projects. The committee was complimentary about

the improvements that have been made to monitor and measure such projects.

The key themes are governance, transparency and accountability, and they are brought out in a number of the committee's reports. The First ScotRail franchise report highlighted serious concerns about the lack of a documented business case on whether the franchise should be extended. It was a case of government by PowerPoint. The information may have been available in different files and sources. However, when in my previous life as an internal auditor I asked an organisation to provide a business case, I expected to see it in a file, properly documented. We did not get that in this case.

Astonishingly, it transpired that Guy Houston, the previous finance director of Transport Scotland, held shares in FirstGroup at the time that discussions were taking place about whether to extend the franchise. Not only was that quite staggering, but it was difficult for the committee to establish whether Mr Houston was involved in any of the discussions about extending the franchise. Initially, the committee was told that he was not, but it transpired that he attended meetings relating to the issue. To me, that showed that there were some difficulties with the civil servant. Hugh Henry was right to take a robust approach with the permanent secretary. It is important that, when a civil servant appears before a parliamentary committee that is scrutinising aspects of work, they realise that they must be open and transparent and must take the committee seriously. It is unacceptable for civil servants to be, at best, inconsistent in some of their explanations.

The examination of the First ScotRail franchise report raised a number of key issues, some of which fed into the committee's work on The Gathering 2009 Ltd, which Jamie McGrigor has highlighted. The Government gave a loan of £180,000 to the company. The lack of robust checks and due diligence around The Gathering 2009 Ltd raised concerns about what was involved in passing over the loan. Those were compounded by the fact that the Government did not join the steering committee and did not pass on to it information that the loan had been made. In fact, the First Minister admitted to the committee that that approach was not correct. In addition, the steering committee lacked accurate and up-to-date financial information to examine, which led to some of the problems. The people who suffered at the end of the day were the creditors, because they were left in the dark about what discussions were taking place.

On capital projects, as I said earlier, I recognise that some improvements have been made in measuring up-to-date information, which is

important, as Nicol Stephen said. However, the revenue consequences of capital spend are also important. A recent Audit Scotland report highlighted that in forecasting future spend there are difficulties in establishing future revenue because of factors such as depreciation, so that issue must be looked at.

This debate has been worth while. There are lessons to be learned around accountability and transparency. I compliment the Public Audit Committee on its effective use of parliamentary resources.

10:45

**Iain Smith (North East Fife) (LD):** I apologise to those who will speak in the closing part of the debate because I, too, have a prior engagement and will not be here. School pupils from my constituency are visiting the Parliament and I am hosting a meeting with them.

This will probably be the last opportunity for me to speak in a debate at the same time as my esteemed friend and colleague Nicol Stephen, who as we know is retiring from the Parliament this year. He has made a significant contribution to the work of the Parliament and, indeed, to the previous Administration as a minister and Deputy First Minister. His contribution to the Parliament will be deeply missed, but I am sure that he will be a great asset to another place.

I, too, can have a bit of reflected glory, because I was once a substitute member of the Public Audit Committee. Indeed, I attended one of its meetings back in 2008. It is perhaps not as much reflected glory as Jamie Hepburn's, but I can make some claim to have been part of the Public Audit Committee's success in becoming committee of the year, which included the work of the convener, Hugh Henry. However, it is of some concern to me that the Public Audit Committee should be committee of the year. Surely it is a reflection of failure somewhere within the system that the committee must take actions that draw such attention to it. The Public Audit Committee should be able to sit in the background doing its work quietly and not have to make headlines and jump up and down.

**Willie Coffey (Kilmarnock and Loudoun) (SNP):** Will the member take an intervention?

**Iain Smith:** I will just finish this point, then I will let the member in.

I was particularly concerned that in the report on the First ScotRail passenger rail franchise the committee had to make fairly strong recommendations and express its concern about being

"given incomplete or incorrect information on a number of occasions."

The report also stated:

"The Committee's work has been frustrated by having to prise information from senior civil servants and having persistently to question responses given."

The report concluded:

"The Committee is of the view that openness and transparency are the best means by which to remove any public concerns about the conduct of public bodies."

Surely civil servants should give accurate information from the start and the committee should not have to prise out that information. I understand that the committee's persistence has led to it receiving awards, but surely that should not be required.

**Willie Coffey:** The member said that the recognition afforded to the committee was an indication of failures in the system, but it is not, because that is not what audit is about. It is about identifying opportunities for improvement. What the member said about failures is the classic mistake that people who do not understand audit say about it.

**Iain Smith:** I think that the member misses my point, which is that the awards have come to the committee because attention was drawn to it through its persistence in prising out information that it should have got right away. It should not have to prise out such information and should not be in the public limelight as much as it is.

A couple of particular issues arose from the report on the First ScotRail franchise. I want to highlight one in particular, which is included in the key themes report that we are considering today, at paragraph 16, in relation to compromise agreements. It is important that such agreements are clarified, because there is concern that they can be used, particularly by arm's-length bodies and quangos, to prevent proper scrutiny of certain items. That clearly happened in the case of the First ScotRail franchise consideration, and there is a risk that it could happen in other cases. I hope that the Government will take on board the Public Audit Committee's concerns about that.

I want to talk about the gathering, to which Jamie McGrigor referred. I was one of the two MSPs who referred the matter to the Auditor General in the first place. His report led to the Public Audit Committee's consideration of the gathering.

The First Minister is well known for trying to claim that the Scottish Government's actions were vindicated by the Auditor General, by taking slightly out of context his comment in oral evidence to the committee that

"The ... Government, I guess, would have taken the not unreasonable view that in order to allow the event to proceed it should assist".—[*Official Report, Public Audit Committee*, 23 June 2010; c 1820.]

However, my concern is about how decisions were taken, and the Government has yet to provide an adequate response in that regard. The temporary loan of £180,000 might have been reasonable if the money had been properly guaranteed against the cash flow for which it was put forward. It was needed, apparently, because there was a problem to do with getting the income from ticket sales, which was being held in an account by WorldPay. Surely it would not have been beyond the realms of possibility directly to have guaranteed the £180,000 against the income stream that the loan was supposed to deal with.

I am even more concerned that there appears not to have been a robust analysis of the event's finances at the point when the loan was made, to determine whether cancellation or continuation was the best way forward. There is some evidence that The Gathering 2009 Ltd was insolvent by then. As Jamie McGrigor suggested, the small businesses in Edinburgh and throughout Scotland that became creditors might have been better off if they had known that, because they might not have offered their business to the event and thereby incurred losses. It might be that losses would have been greater if the event had been cancelled, but we have no way of knowing whether that is the case, because no robust analysis was undertaken.

I find it staggering that loans of public money of more than £250,000 were written off within days of the company's financial circumstances becoming known. That is incredible, and I cannot understand why it happened. It normally takes a considerable amount of time, sometimes years, before a debt of that nature—

**The Deputy Presiding Officer (Alasdair Morgan):** You must finish now.

**Iain Smith:** Let me finish my sentence, Presiding Officer. It is usually years before such debts are written off by a public body; that does not happen immediately. The Government must explain why the loans were written off so rapidly. It seems to have got its priorities wrong.

10:51

**Willie Coffey (Kilmarnock and Loudoun) (SNP):** I will be staying for the entire debate.

It has been an enormous pleasure to serve on the Parliament's Public Audit Committee for the entire parliamentary session. Contrary to popular belief, the committee is one of the most interesting and challenging committees in the Parliament. It covers every area of the public sector in Scotland and offers members a real opportunity to learn

how Scotland works. One minute we might be looking at the cost of hip replacements in the NHS; the next we might be skiing down the slopes of the Cairngorms, clutching the audited accounts as we go. The diversity of the committee's agenda was as fascinating as it was challenging. I recall spending many a late night poring over some new aspect of the public services and trying to give of my best to hold it to account.

A mention of audit is usually the signal for our colleagues to announce that they have something else to attend to and scurry off to the garden lobby. Little do they know that they are missing a great opportunity to get their teeth into just about every corner of the public sector. Our members know the value of the experience and jealously guard the committee's reputation.

Audit, of course, is about looking at systems and processes, taking a snapshot in time, reporting what is observed and recommending actions for improvement. It is not about blaming and finger pointing—although the temptation to do that when politicians are in the frame is sometimes overwhelming. In the main, Audit Scotland's reports have painted a picture of excellent service delivery in Scotland, which we should recognise.

Guiding the committee on its merry way are, of course, Audit Scotland, led by Robert Black, the Auditor General for Scotland, who is in the public gallery, and our hard-working team of clerks. Audit Scotland's reports are superb. They provide us with a framework that allows us to examine various services in minute detail. The quality of reporting and the advice that is given are of great benefit to the committee and ultimately to the Government in planning future services—the advice must surely be the best that any Government could wish for. Our wonderful clerks hang it all together. Their diligence and skill in interpreting members' views have been a great help to everyone who has served on the committee.

During the past four years we have been on quite a journey together. We have looked at a wide variety of areas in Scottish public life: police call management; local authority audits; numerous NHS services—one or two members mentioned our visit to the Western Isles; major capital projects; prisons; the Commonwealth games; public finances; the Cairngorm funicular; civil contingency planning; the national fraud initiative; VisitScotland; the gathering; and the ScotRail franchise.

I am sure that members recall the visit to our committee in December 2009 by members of the Northern Ireland Assembly, including members from Sinn Féin, the Social Democratic and Labour Party, the Democratic Unionist Party, the Ulster Unionist Party and the Progressive Unionist Party,



who all worked together with us, here in Scotland. That was a wonderful day.

For me, one of the most important messages to come out of Audit Scotland's reports is the clear need for our public service providers to adopt recognised management systems, to invest time and energy in the planning and cost estimation phases for capital works in particular, and to learn lessons by doing thorough post-project evaluations to assist them with future service design. That was a recurring message throughout the past four years, and I am hopeful that our public service providers will fully embrace that wise advice from Audit Scotland and our committee.

Our meetings were not without their lighter moments. I recall that the committee flew into Stornoway one day in an aeroplane that sounded and looked more like an oven on wings. We had great hospitality, and I recall one of our members, Stuart McMillan, rushing off after the meeting to get his order of Stornoway black pudding before he left. We heard the business plan for the Cairngorms ski facility that might have ended up not involving any skiing at all. That was a bit concerning. We also heard some classic "Yes, Minister"-type responses from some of our civil servants, who are occasionally masters of the evasive, but in a very polite way. We were told about some unfortunate people in hospital who were forced to remain there for weeks on end because there were no buses to get them home. We eventually ran out of adjectives and were right sair astonished on many occasions. We have been astonished this morning as well.

My personal favourite must surely be the much-loved Queen's and Lord Treasurer's Remembrancer, which I am sure I do not have to remind members had no accountable officer for months on end and did not produce any accounts for two years. However, nobody noticed until Audit Scotland came along. I recall fondly the comments of Mr Phil Grigor of Audit Scotland, who announced to a stunned committee that it was

"A treasure trove"

worth £5 million and that

"anything that comes out of the ground that is of value ... is passed to the state ... Anything that belongs to no one becomes the King's—or the Queen's, in this state—is the remembrancer's mantra."—[*Official Report, Public Audit Committee*, 17 June 2009; c 1175.]

It was the only time that I saw the convener stumped for words. It was a classic moment in the life of the Public Audit Committee. Who said that audit cannot be fun?

The Scottish Parliament's Public Audit Committee, aided and abetted by Audit Scotland, delivers a hugely important service to the people

of Scotland. The system that we have is respected throughout Europe and should be cherished.

In line with its own preaching, the system should also look at ways of improving. A thought from me is that the committee, Audit Scotland or some other body could take on the role of checking up on whether Scotland's public services have paid heed to the recommendations that we have made over the course of our work.

I commend the committee's report to the Parliament.

10:58

**George Foulkes (Lothians) (Lab):** I join in the effusive congratulations to my colleague Hugh Henry on his tenacious work as convener of the Public Audit Committee, which culminated in his award as politician of the year and the committee's as committee of the year. As Willie Coffey ably illustrated, it has been a fascinating committee on which to serve.

There is an almost symbiotic relationship between the Auditor General, who is exceptional, his talented staff and a committee that has pursued issues like a ferret. That has been one of the positive achievements of this third parliamentary session.

It has not escaped notice that the cabinet secretary needs eight civil servants to enable him to respond to the debate. The committee has exposed the lack of transparency in the civil service with the frankly inexcusable cover-up of the arrangements for payments to get rid of embarrassments in high office. I welcome the cabinet secretary's assurance on that.

On data collection and quality measurement, the committee has shown up the inadequacy of information in policy formation for sensitive policy areas such as children in care and free personal and nursing care for the elderly. More recently, we have been concerned about governance arrangements in the delivery of the Edinburgh trams.

I will mention some of the matters about which I have had particular concerns. The first is the intransigence of civil servants about even considering a national non-emergency number to relieve the pressure on 999 calls. In the case of evidence to the committee, that intransigence amounted almost to dumb insolence.

The second is the way in which the Scottish Government seemed totally blind in its determination to press ahead with the Forth replacement crossing, irrespective of the open-ended nature of its cost and the effect on other capital projects, not just in transport but in health and education.

**Joe FitzPatrick (Dundee West) (SNP):** Will the member give way?

**George Foulkes:** No.

That is a looming fiasco, which a future Public Audit Committee will have to look at.

The third is the unacceptable and unexpected cost increases for electronic ticketing machine technology on buses to calculate the use of buses by elderly and disabled people, which Hugh Henry mentioned.

The fourth is the failure of ministers to protect the public purse. Time and again, we have seen money thrown at projects without prior scrutiny and planning.

Most of all, I, as a former councillor on the City of Edinburgh Council—in the days when it was effective and efficient and Labour controlled—have been astonished and embarrassed by revelations of how dysfunctional the current Liberal Democrat-SNP administration in Edinburgh is in both the delivery of the trams and the organisation of the gathering 2009.

On the trams, there has not been leadership from the council. Its leader and deputy leader have failed to take responsibility and have made no substantive attempts to resolve the mess. They have been content to sit on the sidelines while the contractors fight it out. That is perhaps understandable, given that we are led to believe that Councillors Dawe and Cardownie do not even talk to each other. The project has been jeopardised by their serious lack of commitment and organisation. The fact that 78 per cent of the funding for the project has been spent and only 28 per cent of the project has been completed says it all.

On the gathering, the council leader and deputy leader have tried to wash their hands of any responsibility for the misleading press release that gave creditors the deliberately false impression that their outstanding debts would be paid—the press release was designed to do just that. It might have been drafted by the Scottish Executive, but it was issued by the council.

The shoddy evidence that the councillors provided to the Public Audit Committee does not stack up. Both the leader and deputy leader said that they were horrified that the press release went out when it did, but according to the council's own senior media officers, Ms Isabell Reid, head of communications, and Stewart Argo, media manager—not junior officials, as the councillors called them—the timing of the press release was discussed in considerable detail and agreed by the councillors.

Councillors Cardownie and Dawe were aware that the situation with the Destination Edinburgh

Marketing Alliance had not been resolved, but at no point did they instruct their senior press officers to stop issuing the press release. In fact, they both gave verbal approval for its issue.

Those are just a couple of examples of the catalogue of inconsistencies in the councillors' evidence.

I welcome the decision of the Conservative group on the City of Edinburgh Council to table a motion of no confidence in those two councillors. It is essential that they are held to account for their mishandling of the whole affair.

As Jamie McGrigor said, we must also keep up the pressure on the council to pay the small companies that gave their services in good faith and which are still owed substantial sums of money. Given that Anne McLaughlin said that people in Edinburgh and the council made money as a result of the gathering, that responsibility is even stronger.

Councillor Dawe is refusing to use the increased capital city fund to pay the creditors. However, given that the council saw fit to pay Portakabin, a multimillion pound company, it has an even greater responsibility to pay the small businesses in Edinburgh, which need the money more.

I heard today that there is more still to come out in relation to the gathering, particularly in relation to the First Minister's involvement in this grubby affair. It will be for a new public audit committee to look into that. I wish it well. I will watch it from afar.

11:04

**Nicol Stephen:** As many members have highlighted, the Public Audit Committee is a fascinating and endlessly interesting committee of which to be a member. It ranges over many important areas of the public sector in Scotland and it achieves its successes because of a big team of dedicated and professional people. It has been one of the major success stories of devolution. It is something new, something different and something that has worked extremely well.

In my view, the key people in achieving the good reputation that the committee now has are not the politicians; they are the Auditor General, Robert Black, and his team. Robert Black deserves singular praise for all that he has done to establish the reputation of Audit Scotland and the Public Audit Committee.

The Government is a big organisation, and things go wrong in big organisations—sometimes badly wrong. I have already touched on that. As a big organisation, the Government collects massive amounts of information and data. Are they useful to the organisation? Are they used at all by the

organisation? Do they improve the organisation? I will address two reports that highlight the issue.

In researching the committee's report on the Audit Scotland review of orthopaedic services in the NHS, we discovered huge variations in costs between health board areas, including the costs of operations and the costs of devices—often the same devices, which were being used in hip replacement operations and knee operations. However, those data were not being collected, analysed or used by the Government until Audit Scotland came along and triggered the report. They should have been, because it would have made a significant difference if they had.

There was also the committee's report on looked-after children in residential care in Scotland. The issue remains one of real national shame—we should be doing more for those looked-after children. It became clear to us that there was little or no knowledge of what worked or did not work in other countries. No data were collected on the issue and no attempt was being made to learn from the best practice of other nations. That, surely, must be a weakness.

The Public Audit Committee has also uncovered some very bad mistakes. The treatment of the private sector creditors of The Gathering 2009 Ltd has been shocking. There was no Government inquiry or follow-up when the loan was lost and there was a failure to secure the loan against the funds that would become available from WorldPay.

Mistakes were also made in the review of the First ScotRail passenger franchise, with Transport Scotland displaying poor handling of conflicts of interest.

Then, there was the trams project. The committee was staggered by a new principle of Government that seemed to emerge yesterday, whereby the Government should step back from partnership or participation in the management of a project if it is the major funder of the project. If that new approach is an example of what was described yesterday as good governance, my question to the minister is this: does he feel that that example of good governance has worked, and has it been effective?

We continue to be dogged by big overruns, poor practice and poor management in major capital projects, and the problem will not go away. I do not suggest that only the Scottish Government faces major challenges in that respect, nor that the situation is confined to the UK—it is an international problem. Nevertheless, it is a major issue that will continue to create big challenges for the Government and will be an important area of work for the Public Audit Committee.

The committee has explored in detail other issues that have not hit the headlines in quite the same way, but which have revealed staggering mistakes, as well as weaknesses. I am thinking of our discussions on the Western Isles NHS Board, the Mental Health Tribunal for Scotland, the Cairngorm funicular railway and the Queen's and Lord Treasurer's Remembrancer.

The work of the committee is wide ranging and endlessly fascinating. Inevitably, it focuses on the major issues, the big challenges and the bad mistakes. Sometimes, those mistakes do not involve huge amounts of money, but are no less important, because they have a high profile or raise crucial issues. We should continue to go there. No issue of significance or importance should be too small for the committee to scrutinise and study.

I wish the members of the next committee and its support team, both in the Parliament and in Audit Scotland, all the very best. I will miss being involved in its work. I hope and believe that it will continue to carry out its work in a fearless and fair manner.

11:10

**Jackson Carlaw:** As this debate on the Public Audit Committee has progressed, I have wondered whether the committee might conduct an audit of the capacity of, and stamina required by, members to survive its length, as colleagues seemed to drop off one after another.

The motion was introduced effectively by Hugh Henry. I was impressed by the commitment that the cabinet secretary gave with regard to the non-signing of future compromise agreements and I enjoyed Mr Whitton's characteristically dry contribution. It was so dry that, as Mr Whitton told us that he had been responsible for procurement in a former life, the scales fell from my eyes and I began to wonder whether he had been one of those dry, deeply intense chartered accountants to whom I had referred. I see that he is shaking his head, which reassures me. However, he did justice to the litany of examples of poor governance and lack of transparency. In his opening and closing speeches, Nicol Stephen demonstrated the characteristic freedom of perspective of the soon-to-be departed.

Following the opening speeches, Jamie Hepburn canvassed himself as a poster boy for the committee's recent recognition, and Frank McAveety characterised Mr Henry's position by referring to the Catalan tower that he had ascended and from which he now looks. Of course, politics is a dangerous game and those at the top of any tower have to be concerned about the colleagues pushing behind them, who may be

only too keen to push them off—no doubt to be caught by the arms of the country dancing classmates of Frank McAveety, with whom there seems to have been some previous altercation.

Jamie McGrigor cut through much of the academic, collegiate atmosphere of the debate to illustrate a recent example of poor governance and a lack of transparency in relation to The Gathering 2009 Ltd.

Willie Coffey did his triumphant best to make the lot of the Public Audit Committee sound like a barrel of fun. He is clearly persuaded but, although we accept that it is an important committee, those of us who are agnostic on the issue are not altogether persuaded that it is the key source of hot entertainment in the Parliament. Nonetheless, I respected and enjoyed his speech.

We heard a characteristically trenchant speech from George Foulkes, although his idiosyncratic views on the Forth crossing are not exactly the ones that I was trying to allude to. I do not necessarily see it as a fiasco waiting to happen, but as a fiasco that must be avoided. That is why it is imperative that the Public Audit Committee and Parliament have the ability to scrutinise it with all necessary diligence. Nonetheless, I look forward to further trenchant comments from George Foulkes, even if they are made in his dotage on the red leather elsewhere.

The key point in the debate is the need of the Parliament and public to be reassured about the governance and transparency of major public sector projects. Earlier, I said that the public are bewildered by our seeming inability, at times, to give effect to good governance and transparency. However, a better word than “bewildered” might have been “embarrassed”. When we find that we have been unable to contain the costs of a project and, for example, it has gone from £9 million to £40 million, people feel that it reflects badly on Scotland and belittles our reputation as a country of good governance and transparency, and that it belittles the reputation of the Scottish Parliament as a body that can bring about proper scrutiny in such matters. That is why we have to have a Public Audit Committee that is as effective as this one has been and which, in the next session, must have the ability to scrutinise further and deeper still.

11:13

**David Whitton:** As I said in my opening remarks, the Public Audit Committee is an important committee of this Parliament, and it is true to say that its work has been noted at home and abroad. Last year, I undertook a trip to Macedonia on behalf of the Westminster Foundation for Democracy to meet members of

the Macedonian Parliament to discuss budget and financial matters. I did my best to explain how our budget system works, but the members were more keen to have a detailed explanation of how the Public Audit Committee works. Those who were most enthusiastic were members of the opposition parties, although members of the governing party also took a keen interest. Subsequently, that group of Macedonian MPs paid a reciprocal visit to Edinburgh, where, I believe, they also had a briefing on the work of the Public Audit Committee. I think that those members would have been interested in this morning's proceedings.

We have listened to a debate on the Public Audit Committee and, as I said earlier, we welcome the key themes that have emerged from its inquiries in session 3. Labour members also welcome the Scottish Government's response to the committee's report.

It has been said that the Public Audit Committee exists to help to ensure that public funds are spent wisely. It holds to account those who are charged with spending taxpayers' money. We can add to that the briefings from the Auditor General—who has rightly been praised this morning—on Audit Scotland's forward programme of performance audits, the annual report for 2009-10, the code of practice and the national fraud initiative. There has been no room for complacency.

As other members have commented, it is little wonder that the committee has twice won the committee of the year award. Its convener, Hugh Henry, was politician of the year this year. It says something about politics in Scotland that the convener of the Public Audit Committee is the politician of the year. Perhaps that highlights some of the issues that Mr Carlaw raised.

Many have commented on the committee's merits. As I said earlier, it has a hugely important role, and it covers important issues. Its workload this year has included many important examinations, such as the overview of mental health services, the audit of Transport Scotland and the overview of NHS Scotland's performance in 2008-09. Many other subjects have been touched on. It has been said that all that work has been done without fear or favour. The First Minister has been summoned to give evidence, and the former permanent secretary—the former top civil servant in Scotland—was on the end of a number of torrid interview sessions. Those in the most senior positions of a number of public bodies have been called to account at various times, and that is how it should be. Transparency and the measuring of quality and governance demand that high level of interrogation.

I will comment briefly on some of the other speeches that have been made. Nicol Stephen paid particular tribute to the senior members of the

committee: Murdo Fraser, George Foulkes and Hugh Henry. Imagine being summoned to be questioned by those three. I was going to say that they are three grumpy old men, but it suddenly occurred to me that Mr Fraser is, of course, a lot younger than I am.

I thought that the debate would be fairly consensual, but Anne McLaughlin spoiled that a bit by claiming to detect party-political bias in some of the investigations. I gently point out to her that, in my opening report, I mentioned Western Isles NHS Board and the Cairngorm funicular railway, and Jackson Carlaw raised the issue of concessionary ticket machines. All those issues arose under the previous Administration, and they were all examined in detail by the committee.

As ever, Mr Willie Coffey rose to the occasion. He linked hip replacements to ski resorts—I wonder where the connection is—and mentioned the committee's meeting with Northern Ireland Assembly members of all political colours. It is a pity that such harmony did not exist after last night's old firm game. His phrase of the day came when he commented on the evidence of some civil servants. He referred to "masters of the evasive". I will certainly file away that phrase for future use.

Another area of concern to the committee, which has been mentioned before, is the collection of data and the measuring of quality. Those things are not always as easy they may seem to be. The report highlights that the charges that are levied by Scotland's 32 local authorities for free personal nursing care do not match up, and that has caused problems, as the data that the local authorities collected did not provide an adequate basis for the Scottish Government to know how much had been spent by them on free personal care or to make adequate projections of future costs. Although the figures on free personal nursing care are published as national statistics for Scotland, I welcome the news that the Scottish Government has been working with the Convention of Scottish Local Authorities to develop a new data collection process that records eligibility criteria and the waiting times of clients who receive a new free personal care service. I understand that that is to be made available on 29 March.

It will be interesting to see the revised guidance on the relationship between the Scottish Government and public bodies, which is also due to be published later this year. Whatever that guidance is, the Public Audit Committee's work will remain an important part of the Parliament's work. In my opening comments, I referred to Macedonia. The Macedonian Parliament—which is, like the Scottish Parliament, a young Parliament—is keen to know how it can hold its Government and civil servants to account. It is a tribute to the work of

the Scottish Parliament's Public Audit Committee that it is being recognised in that way, and I wish it well in its continuing work in the next session.

11:19

**John Swinney:** Let me begin with two discordant notes—I will get them out of the way.

First, it is nice that some members have remained for the closing speeches in the debate, which perhaps could be considered in all the reflection about the way in which Parliament disports itself in its business. If members want to hear the responses that are articulated, it would be nice if they would stay around. That applies to the committee's deputy convener, as it does to me or anyone else. That is the first discordant note out of the road.

The second discordant note is that Mr Whitton stole my thunder—I hope that it will be the last time he ever does that. There has been a sense in some of the debate that the past four years have been the first time there has been a problem with a publicly financed project. Mr Whitton generously acknowledged, however, that a number of the projects that were talked about and which required scrutiny had been the subject of decision making long before the current set of ministers came to office.

In a sense, that sets the standard for the role of the Public Audit Committee: there has to be an acceptance across the political spectrum that because some of us might be in opposition on one day and in government the next, there must be a dispassionate tone to the proceedings of the Public Audit Committee and never a pejorative or party-political tone. We never know on which end of the table we might find ourselves, so it is important that the Public Audit Committee proceeds on the basis of dispassionate evidence rather than on what might suit a particular political narrative.

There have been interesting and substantial contributions in today's debate, and I will respond to a number of them. Let me start on data. One thing that is relevant to improvement in the availability of data, and therefore to the ability to scrutinise how public finances are utilised, is the monthly publication of expenditure of more than £25,000 by the Scottish Government. Former ministers will not be surprised to hear that when I first broached with civil servants the idea that we might do that, I was told that it would be a colossal undertaking. Well, it has happened and the world has not come to a halt. The information is published every month. I have the document from November with me; it comprises 22 pages of very tightly printed information about all the Government's financial transactions of more than

£25,000. The volume of information that is available has been substantially enhanced.

There have been interesting reflections on the Scotland performs website. I appreciated Mr McAveety's comments that Scotland performs is a helpful and positive step in the right direction. Further developments can be undertaken in its use, particularly in ensuring that it gives us a sense of how much progress we are making on the achievement of particular outcomes and how we utilise public expenditure to support those outcomes. I accept the point that was made by the convener that there is a necessity to link financial decision making with the focus of policy making rather than the support of programmes—although that will take some time to achieve.

There has also been a major focus on capital projects in the debate. I re-emphasise the points from Audit Scotland about the way in which we approach capital projects, which I put on the record earlier. Nicol Stephen made the comment that some projects go wrong and end up costing much more than we estimated. In some cases, that is not necessarily because the project has been badly managed but because the estimate was hopelessly ridiculous in the beginning—and there is a lot of evidence of hopelessly ridiculous estimates. That is not to say that monitoring projects continuously, assiduously, thoroughly and regularly throughout their lifetimes is not essential, but if we are trying to balance a project against a number that is ridiculous to begin with, we will never bring a project in on budget. Our being up front and open with Parliament about the real costs of particular projects is therefore important.

Mr Kelly—who is sadly not here to hear my thoughtful reflections on his comments—made the point that there is a concern about the future revenue implications from capital investment projects. He is correct. One point that I have frequently made to Parliament is that private finance initiative projects were commissioned on the basis that public expenditure would consistently continue to grow in real terms in all future years. Of course, this year I am having to manage the rising cost of PFI projects in revenue terms with a declining budget—the first time any finance minister has faced that situation.

The Auditor General's point about long-term financial planning for the revenue implications of projects is a substantial one; indeed, it is why I have put in place a framework that limits the amount of the Government's budget that can be allocated to revenue-financed projects. That provision was not in place until I became finance minister in 2007.

With regard to members' comments on conflicts of interest, I point out that such matters are discussed at mid-year and end-of-year reviews

with civil servants and are disclosed and recorded on the Government's human resources system to ensure proper tabulation of any potential conflicts of interest that civil servants might face.

Mr McAveety made a very interesting speech—I am regularly assisting him in his rehabilitation—and I thought that he made some very constructive comments about SFT. There is a job to be done there, and the trust is now doing it well and delivering real value to the public purse.

As for Transport Scotland's role in the governance of the trams project, let me try to help Parliament. The decisions that have been taken on this matter have been about the proper level of control and responsibility that should be exercised by individual parties. In that respect, Transport Scotland is neither the project owner, which is the City of Edinburgh Council, nor its director, which is Transport Initiatives Edinburgh; it is a funder of the project, albeit a significant one.

A careful judgment has had to be made on this matter. Previous reports, for example, have referred to confusion in the governance structure and, as members will understand, any confusion about who is responsible for leading or directing a project can result in uncertainty. Decisions on governance have been taken in that context to make it absolutely clear that TIE was the project director, the City of Edinburgh Council was the project owner and the Government was providing the funding.

That is not to say that we have had no conversations about the issues. Clearly we have; Transport Scotland has been in regular dialogue with the City of Edinburgh Council and TIE on the project's management. I have seen the leadership of the City of Edinburgh Council and TIE many, many times over the past four years—I cannot give Parliament an exact number—and I asked the council to embark on mediation. In fact, I did not ask—I insisted that it do so to try to resolve the situation and ensure that we could complete the project in a way that the public purse could sustain. Insisting that such work is undertaken is, to me, the correct intervention for a minister to make.

**George Foulkes:** I commend the cabinet secretary on the way in which he has intervened in that matter. Will he respond to those of us who are still here on the question whether he will consider intervening in relation to the creditors who are still due money from The Gathering 2009 Ltd? Does he agree that if the City of Edinburgh Council has paid Portakabin, it has a moral responsibility to pay the small creditors as well?

**John Swinney:** It is a difficult issue for me to become involved in, but let me set out what the Government is trying to do. Sadly, Iain Smith is not

in the chamber, but I will use as a peg for responding to Lord Foulkes his question about why the public sector debts were written off. The principal accountable officer decided to write off the amounts that were owed to the Government on the basis of a judgment that the debt was not recoverable. The timing of the decision was influenced by the fact that it would have facilitated the transfer of the company in question to Destination Edinburgh Marketing Alliance as part of the Scottish Government's determined efforts to find a solution, once we became aware of the financial difficulties. That move would have enabled the situation with the creditors to have been properly resolved.

That said, when the First Minister went before the Public Audit Committee, which itself indicates the absolute importance of the committees of the Parliament holding ministers to account, he agreed in his evidence that lessons had been learned from the gathering and that the Scottish Government should have insisted on EventScotland informing the steering group that a short-term loan had been awarded to The Gathering 2009 Ltd. As I say, that reflects the importance of ministers setting out where lessons have to be learned. We will take the same approach to the Public Audit Committee in the years to come.

11:29

**Murdo Fraser (Mid Scotland and Fife) (Con):** I am grateful for the opportunity to close the debate—the first ever plenary debate for the Public Audit Committee—on behalf of the committee. There will have been audible groans at the prospect of participating in the debate from members who looked at the *Business Bulletin* and saw a committee debate scheduled for a Thursday morning. When they read further and saw that it was a debate on audit, those groans would have become wails of anguish. I am therefore delighted to thank all members who have contributed this morning, especially those who have stayed until the end of the debate.

I join other members in putting on record my thanks to the Auditor General and his staff for their sterling work in informing the work of the committee. I also join other members in thanking for their work the committee clerks, who serve us so well.

Other members have referred to the awards that have been won by the committee. It has twice won committee of the year, and the convener's personal award as politician of the year is richly deserved. It is interesting to reflect, as we consider the various members of the committee, some of whom have come and gone over the past four years, that we have in our ranks—I think that we

are unique in the Scottish Parliament in this respect—no less than two members of the House of Lords, in Lord Foulkes and Lord Stephen. I am not sure what that tells us about the work of the committee, but I reflect on the fact that the committee, and the Parliament, are shortly to be losing the services of those two noble lords. That will be our loss and the Westminster upper chamber's gain because this place will be poorer and less colourful without them.

I will respond to some of the points that have been made during the debate. Members including Mr Whitton and Mr Carlaw referred to the important work that has been done by the committee, particularly at a time of pressure on the public finances. That is an appropriate point. We all know that money is tight, and when money is tight it is all the more important that we ensure that every penny is spent as effectively as possible. That is what the committee tries to ensure—backing up the able work that is done by the Auditor General.

A number of members referred to specific reports that have been published by the committee over the past session, particularly "The Gathering 2009". I want to address points that were made by Jamie McGrigor, George Foulkes and others about the gathering. The irony of the report, as Nicol Stephen said fairly, is that sometimes the greatest concerns we have as a committee arise from what are actually quite small sums of money. The public cost involved in the gathering—a few hundred thousand pounds—was not substantial, yet the committee felt that the way in which that money was spent merited further investigation.

One of the interesting things about the gathering report is that although we started with a focus very much on the Scottish Government's involvement, as we went further into the issue our focus turned to a greater extent towards the actions of the City of Edinburgh Council. Jamie McGrigor made a fair point that if the Scottish Government's loan to The Gathering 2009 Ltd—a loan that was not publicly disclosed—had been made known to the private sector creditors, they may well have rethought their involvement in the project. The sum that The Gathering 2009 Ltd ended up owing to private sector creditors may not have totalled £344,000. We can only conjecture on that. The private sector creditors should at least have been given that information so that they could have made an informed decision on whether to proceed with their involvement with the company.

The committee's biggest concern related to the actions of the City of Edinburgh Council—in particular the issue of the misleading press release that was issued, which was referred to by George Foulkes. This is not some dry academic subject, because we know that the issue of the

press release by the City of Edinburgh Council saying that DEMA would take on the obligations to the private sector creditors was instrumental in those creditors holding off from taking legal action to recover the sums. As George Foulkes said, the one creditor—Portakabin—that ignored the press release got a settlement out of the City of Edinburgh Council. The others, which believed what they were told by the council, got nothing and to this day have received not a penny.

The committee considered evidence that we heard from leading figures in the council to be literally incredible. It did not live up to the quality of evidence that we, as a parliamentary committee, have a right to expect. The whole system of parliamentary inquiry depends on witnesses who come to committees being prepared to give accurate and truthful evidence. It is a source of regret that that was not done in that particular case. The matter is being pursued elsewhere, but it is worth reflecting that, had it not been for the work of the Public Audit Committee, we would not have known about the issues in the first place.

I turn to the issues of accountability and performance management of staff in the Scottish Government and its agencies. Throughout the session, the committee received evidence that staff performance issues have not always been directly addressed, with staff being moved sideways or sometimes even to more senior posts when concerns have been expressed about their performance. Members have referred to the audit in 2006-07 of Western Isles NHS Board. Willie Coffey remembered travelling in what I think he called a flying oven to Stornoway to take evidence. I regret to this day that I was not part of that delegation, because I was on paternity leave. My colleague Derek Brownlee had the wonderful opportunity of sitting as my substitute on the committee that day. For weeks afterwards, he expressed his gratitude to me for his participation in the event.

The committee's report on that health board demonstrated that several weaknesses in staff performance had contributed to deficits that culminated in a total of £3.36 million. As members have said, at one point, there were no fewer than three chief executives—one was on leave, another was seconded elsewhere and a third interim chief executive had been brought in to tackle budget issues. The Scottish Government health department did not address performance issues, including at board level, quickly enough. The problem was exacerbated by staffing issues in the board's finance department that had not been tackled during previous years, notwithstanding the fact that the auditor had expressed concerns about governance in the board.

Good staffing and performance management are increasingly important in times of financial austerity, particularly when levels of staffing in the civil service might be reduced. The Western Isles case is an example in which a lack of clarity on responsibilities contributed to financial losses year upon year, despite those having been identified in external audit reports. Clear lines of accountability ensure that health boards can challenge poor performance earlier and prevent losses. Although we are aware that boards need to remain independent, the committee felt that improved monitoring and scrutiny by the Government's health department of individual boards would ensure that failures at board level can be challenged and addressed at an earlier stage.

Another staffing issue that the committee encountered related to knowledge transfer when civil servants or policy responsibilities move between Government departments. That issue was particularly in evidence in our report "National concessionary travel". In that case, insufficient knowledge transfer between staff when the policy moved to Transport Scotland meant that officials who came to the committee were unable to explain how the original costs of the scheme technology, which were assessed in 2004 at £9 million, had originally been conceived. The costs increased to £42 million by 2010 when the technology was implemented, but nobody could explain to us why and how the figure of £9 million had been arrived at. We have therefore urged the Scottish Government to ensure that record keeping from the initial stages of policy implementation is sound and that robust procedures are put in place to provide continuity and proper knowledge transfer between staff.

We also addressed the issue of major capital projects, to which members, including John Swinney in his closing remarks, referred. For any project, there must be from the outset clearly identified outputs and outcomes in the business case. That helps to ensure value for money, provides a base to manage any changes during implementation and helps to realise intended benefits. However, the committee learned that business cases were not available for some projects and that others had not been kept up to date, resulting in cost overruns and delays as staff could not clearly identify decisions that were taken from the outset of the policy.

The committee's key themes report distils into three broad areas the key recommendations that the committee has made in the past four years. The committee undertook that work to assist any future Government to learn the lessons from the past, which, as I said, is crucial during a time of financial constraint. We hope that, in the next session of Parliament, those lessons will be learned, resulting in better value for money for



taxpayers. I send my good wishes to the members of the committee in the next session of Parliament, whoever they may be. It will be interesting to see whether they win quite as many awards as we have.

## Scottish Executive Question Time

### General Questions

11:40

#### Alcohol (Minimum Pricing)

**1. Gil Paterson (West of Scotland) (SNP):** To ask the Scottish Government what discussions it has had with the United Kingdom Government regarding the effects of minimum pricing for alcohol. (S3O-13173)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** The Scottish Government regularly meets the UK Government, and our colleagues from Wales and Northern Ireland, to share information and good practice on alcohol policy. In relation to minimum pricing, the most recent discussion was with Home Office officials on 7 February.

**Gil Paterson:** Following a dramatic shift in England on support for the minimum pricing of alcohol, including among other parties that are represented in this chamber, does the cabinet secretary believe that the introduction of minimum pricing will become a reality in Scotland in the near future, and that it will help to tackle Scotland's drinking culture and its negative influence on our society?

**Nicola Sturgeon:** I believe that minimum pricing will become a reality in Scotland. If this Government is re-elected, as I hope and expect it will be, we will continue to make the case for a policy that had overwhelming support among those who deal with the front line of the problem of alcohol misuse.

I welcome the movement in England towards a recognition of the relationship between consumption and price. However, the proposal for England would not, in my opinion, be sufficiently robust to make a big impact—or any impact, really—on the problem that we face. I understand that if the planned policy is introduced in England, only 0.5 per cent of the alcohol that is sold would increase in price as a result. We have an effective policy proposal for minimum pricing and I hope to continue to build support for it outside and, indeed, inside the Parliament.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** Although we agree that the initial move by the UK Government on floor pricing is insufficient, it is at least a start, as it will have an effect on harmful drinking. According to the latest Scottish research, harmful drinkers drink a disproportionate

amount of cider sold at prices below duty and VAT. Why does the Scottish Government not adopt that policy, at least as a starting measure—a uniform measure across the UK—rather than leaving Scotland behind?

**Nicola Sturgeon:** Labour's position on this subject is staggering. It is literally unbelievable. Richard Simpson and the Labour Party now believe that minimum pricing is not the answer—although Richard Simpson used to believe that it was the answer. We are now told by Richard Simpson that the UK policy is not sufficient. What we do not know, however, is what Labour thinks that we should do. We know that Labour thinks that there is a problem, and we know that Labour believes that there is a link between price and consumption, but Labour has signally failed to come up with any alternative position. It is not a question of leaving Scotland behind, as Richard Simpson suggests; it is a question of whether the Parliament has the gumption to put in place a policy that will make a difference. The Government does; the Opposition has shown itself to be completely unable to do that.

**Murdo Fraser (Mid Scotland and Fife) (Con):** Will the cabinet secretary put her colleague Mr Paterson right on the policy of the UK Government? The UK Government's policy has not changed to any extent. It is implementing what was in the coalition agreement: a ban on below-cost sales. That is something that the Conservatives in this Parliament have been calling for in Scotland for the past year. Why will the cabinet secretary not do that?

**Nicola Sturgeon:** I repeat what I said to Gil Paterson: the proposed policy in England would result in only 0.5 per cent of alcohol sold in England and Wales increasing in price. Does Murdo Fraser really think that that policy is sufficient to tackle a problem that costs us in Scotland £3.5 billion a year, in addition to the human toll that it takes? Sooner or later—I believe sooner—this Parliament will have to wake up to the scale of the problem and find the ability to take commensurate action. This Government has the gumption to do so, and I hope that the Opposition will find it soon, too.

### Child Poverty

**2. Mr Frank McAveety (Glasgow Shettleston) (Lab):** To ask the Scottish Executive what its response is to Save the Children's report, "Severe Child Poverty in Scotland". (S3O-13140)

**The Minister for Housing and Communities (Alex Neil):** Our vision is for a Scotland where no children are disadvantaged by poverty, and we recognise the particular importance of helping those who are in severe poverty.

Our approach to achieving that vision is already covered in some detail in the Scottish Government's three interrelated frameworks to tackle child poverty: "Achieving Our Potential: A Framework to tackle poverty and income inequality in Scotland"; the early years framework; and "Equally Well: Report of the Ministerial Task Force on Health Equalities".

We have extended the United Kingdom Child Poverty Act 2010 to Scotland and are committed to doing all that we can to contribute to the statutory targets to eradicate child poverty by 2020. Our child poverty strategy will be launched in March 2011, and will set out our approach to tackling child poverty in Scotland.

**Mr McAveety:** One of the key ways to tackle generational poverty is to invest increasingly in the early years and in the school estate at primary level. In the east end of Glasgow, our statistics are challenging to say the least. Irrespective of that, can the minister give any indication of when his Government will commit in a substantial way to such investment? Will he give a commitment that the Government will continue to work with Save the Children and other such organisations to ensure that we tackle the terrible issue of child poverty and in particular the severe child poverty that affects certain parts of Scotland?

**Alex Neil:** We will continue to work with Save the Children and all the other key stakeholders that are involved in trying to tackle the unacceptable issue of child poverty. It is an issue that cuts across the whole of Government. The contributions from the education, housing, economic development, transport and justice sectors are all important elements in our child poverty strategy.

Some of the welfare reforms that were recently announced from Westminster, however, will be damaging in relation to child poverty, rather than assist in eradicating it.

### NHS Greater Glasgow and Clyde (Meetings)

**3. Bill Butler (Glasgow Anniesland) (Lab):** To ask the Scottish Executive when it next plans to meet the chief executive of NHS Greater Glasgow and Clyde. (S3O-13126)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** I next expect to meet the chief executive of NHS Greater Glasgow and Clyde when I visit the board's pharmacy distribution unit a week tomorrow.

**Bill Butler:** The cabinet secretary will be aware of recent speculation in *The Herald* over the future of Glasgow homoeopathic hospital, which is located in my Glasgow Anniesland constituency. Unsurprisingly, that speculation has caused great

concern and anxiety among patients past and present throughout the country who have benefited from the care that the institution offers.

A number of those patients have been in touch to urge me to seek assurance from the Government that this national resource will not be lost to the people of Scotland. Can the cabinet secretary clarify the Government's position on the future of the homoeopathic hospital so that I can provide reassurance to patients and their families?

**Nicola Sturgeon:** I thank Bill Butler for his question and his on-going constituency interest in the matter. As he will be aware, NHS Greater Glasgow and Clyde reviewed in-patient provision at the homoeopathic hospital back in 2005. At that time, the board agreed that it should be maintained and there is no current proposal to change that position.

The Government position on the provision of complementary and alternative therapies, including homoeopathy, remains that it is open to NHS boards to provide those therapies based on their assessment of need in their areas. Of course, any decision in relation to the care of an individual patient is a matter for the professional judgment of the clinician involved.

I hope that that gives Bill Butler some reassurance that there are no proposals on the table to change the status of the homoeopathic hospital, and I hope that I have managed to outline the Government's position on the provision of that therapy.

**The Presiding Officer (Alex Fergusson):** Question 4 was not lodged.

#### **Licensing (Scotland) Act 2005**

**5. Derek Brownlee (South of Scotland) (Con):** To ask the Scottish Government whether it plans to review the operation of the Licensing (Scotland) Act 2005. (S3O-13116)

**The Cabinet Secretary for Justice (Kenny MacAskill):** A review of the Licensing (Scotland) Act 2005 has been under way since January 2010. It was commissioned through NHS Health Scotland as part of MESAS: monitoring and evaluating Scotland's alcohol strategy. The review will evaluate the implementation and compliance with the objectives of the 2005 act over three years and is due for completion in 2013.

**Derek Brownlee:** Can we take it from that answer that in the event that the current Scottish Government was to be re-elected, there would be no movement in relation to licence fees for premises until the conclusion of that review at the earliest?

**Kenny MacAskill:** Local licensing boards set fees, subject to the bands that the Government

sets. Clear questions have been asked about how matters are dealt with, but nobody has proposed a better system than the current system, which is based on rateable values.

We recognise that significant difficulties have occurred, particularly in rural areas. As a Government, we have sought to address issues where we could. However, the fundamental structure and basis of charging are in the 2005 act, which must be the subject of significant consideration. As I said, we will be happy to see the returns to the review. When points have been made about short-term matters or issues in Shetland or wherever—I say that, as Tavish Scott has just entered the chamber—we as an Administration have shown a willingness to address them.

**The Presiding Officer:** Question 6 was not lodged.

#### **Community Hospitals**

**7. Dr Richard Simpson (Mid Scotland and Fife) (Lab):** To ask the Scottish Executive what its position is on the future role of community hospitals. (S3O-13151)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** Community hospitals are an integral part of the health and social care service in Scotland. They play an important role in delivering better outcomes for people by providing local options for the care of patients in their community.

The Scottish Government will continue to encourage national health service boards to develop community hospitals with the focus on the patient journey, to ensure that all services provide integrated quality care that focuses on individuals' needs.

**Dr Simpson:** I agree entirely with the cabinet secretary's answer. In 2010, general practitioners and community councils in Angus condemned NHS Tayside management's lack of engagement on proposed changes to community hospitals. The subsequent lack of response led to a formal disengagement by GPs.

That situation has been resolved, but does the cabinet secretary agree that, after that experience, NHS Tayside could have been expected to avoid the repetition of it that has resulted in a petition on Blairgowrie community hospital, signed by about 2,000 of my constituents? Should the public meeting that has been arranged for 10 May have been held at the beginning, rather than the end of the process? What did she learn from the earlier political intervention in Angus that resolved the situation? What instructions and guidance did she subsequently issue about consultation on modernising community hospitals?

**Nicola Sturgeon:** I do not think that anybody in the chamber—including Richard Simpson—can be under any illusions about how highly I value good public and clinical engagement between health boards and the communities that any proposed change would affect. Richard Simpson was right to point to deficiencies in earlier discussions in NHS Tayside and to say that they were resolved.

I will always consider carefully the quality of consultation. If any proposed change requires my ultimate agreement, the quality of that engagement will be a key consideration for me. If Richard Simpson wanted to discuss further the case that he cited, I would be happy to do that. The general message that I always give health boards is that the quality of consultation and meaningful consultation are central to any proposals for change in any part of the country.

**Mary Scanlon (Highlands and Islands) (Con):** Given the benefits of integrated care, will the cabinet secretary ensure that, when health centres and community hospitals are built or refurbished, consideration is given to integrating in one place GP surgeries, ambulance services, social work services and other health services—including those for mental health—when possible?

**Nicola Sturgeon:** Yes—that is an important consideration. In the four years in which I have been in my job, I have visited many new health centres where such integration is a reality. The hub initiative and other initiatives that lead to closer working between the health service and local authorities, for example, should ensure that such integration continues apace. Why is integration important? Because it delivers better services more conveniently for patients. That should always be our guiding principle.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** The cabinet secretary will be aware of the profoundly important role that Hay Lodge hospital in Peebles plays in the Borders and Tweeddale and she might well be aware of plans to reconfigure that service. The circular on capital investment that the Government issued last August provides that the proceeds of any asset sales that a health board makes as a result of reconfiguration will be returned to the centre, so NHS boards cannot retain asset sale proceeds to help them to reconfigure services and to develop facilities—primarily community hospitals. Will she confirm that that provision will not apply to the work that NHS Borders wishes to do to develop and reconfigure our community hospitals in the Borders?

**Nicola Sturgeon:** I will make three quick points. First, the case that Jeremy Purvis cites will of course be discussed between NHS Borders and the Scottish Government. Secondly, we are changing how we handle capital resources to

ensure that, in times of tight capital resources, we can continue the capital development that has taken place in the health service in recent years. Thirdly, the reason for the changes is the dramatic cut in our capital budget that has been imposed on the Government by the Westminster Government in which Jeremy Purvis's party is a partner.

### Renewable Power

**8. Jim Tolson (Dunfermline West) (LD):** To ask the Scottish Executive what discussions the Cabinet Secretary for Rural Affairs and the Environment has been involved in regarding the provision of support to local authorities and commercial companies looking to develop renewable power from organic waste. (S3O-13195)

**The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead):** Scottish Government officials are involved in regular discussions with a range of stakeholders concerning support for renewable power from organic waste.

**Jim Tolson:** As the cabinet secretary will be aware, power from rubbish can save millions of pounds. Fife Council has already received awards for its very high level of waste recycling, which it is looking to further improve by developing a facility to produce renewable power and heat from food and garden waste at the Lochhead landfill site in my constituency. It will provide enough power for 1,500 homes and will meet most of the heat needs of Queen Margaret hospital. What further assistance will the Government give to help other local authorities follow Fife's lead?

**Richard Lochhead:** I commend Fife Council for the progress that it has made in that regard. It is unacceptable that, as a country, we produce 2 million tonnes of food waste a year, 0.5 million tonnes of which goes to landfill. I commend Fife Council's projects and urge other councils to follow its lead.

I assure the member that, through the zero waste plan that the SNP Government has adopted, we want to promote anaerobic digestion and other waste treatments that turn food and other organic waste into renewable energy and heat. A lot of work is under way to achieve that.

### University of Glasgow (Meetings)

**9. Ken Macintosh (Eastwood) (Lab):** To ask the Scottish Executive when the Cabinet Secretary for Education and Lifelong Learning last met the principal or management of the University of Glasgow. (S3O-13142)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** I last met Professor Anton Muscatelli on 18 January 2011. I

spoke to him on the phone last Thursday, and I plan to meet him again in the next two weeks.

**Ken Macintosh:** I thank the minister for his reply and his interest.

The minister will be aware of the level of concern, not to say alarm, over the scale of the cuts that the University of Glasgow proposes to make. Nursing, social work, modern languages, adult and continuing education, and drug misuse are just some of the departments that face cuts. Does the minister believe that the provision of teaching in those subjects should be a judgment solely for one institution, no matter how hard pressed? If not, what is the minister doing to ensure that Scotland has the right number of fully qualified graduates in those areas and future higher education provision to meet future demand?

**Michael Russell:** There has been a considerable amount of discussion about the higher education provision that there should be in Scotland through the green paper process. I think that that has indicated that although each university has a responsibility to make its own decisions, there is also a national interest—I agree with the member there.

The proposed changes at the University of Glasgow have led to a large volume of correspondence and extremely strong feeling is being expressed. As the First Minister indicated at First Minister's question time last week, whatever process the university goes through, it

"must be open and transparent"—[*Official Report*, 24 February 2011; c 3510.]

and it must recognise the obligation that the university has to the community that it serves. At the end of the day, it must be a process that commands public confidence. The issue of what is provided and how it is provided is concluding through the green paper process and I look forward to announcing the final conclusions in the coming weeks.

### **Fisheries (Firth of Forth)**

**10. Iain Smith (North East Fife) (LD):** To ask the Scottish Executive what action it is taking to support the development of the hand-line mackerel and sprat fisheries in the Firth of Forth. (S3O-13191)

**The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead):** Each year since 2007, the Scottish Government has secured mackerel quota from the south-west England hand-line group to ensure a summer mackerel fishery in the south-east of Scotland. In 2010, 149 tonnes of quota was acquired and

landed. I expect that arrangement to continue in 2011.

No sprat fishing is currently allowed in the Firth of Forth under European Union regulations.

**Iain Smith:** I am sure that the cabinet secretary will be aware that a clear, dedicated quota for the hand-line mackerel fishery in the east neuk of Fife would assist in ensuring the economic sustainability of that community without impacting significantly on the overall mackerel quota that is available to Scotland.

In addition, there is no evidence that there are any herring in the sprat fishery, which was the reason for its closure. Will the cabinet secretary take that matter to the European Commission and ask it to review that unnecessary regulation?

**Richard Lochhead:** The member will be aware that one reason why the sprat fishery is closed is that we do not want to put at risk the North Sea herring fishery. However, if the Fife fisheries development group believes that the issue is worth pursuing, it should request the appropriate scientific derogations to allow it to undertake some scientific surveys. If it comes to the Scottish Government with the evidence, we will certainly take that up with the European Union.

**The Presiding Officer:** Before we come to First Minister's question time, members will wish to join me in welcoming to the gallery Estonia's ambassador to the United Kingdom, Her Excellency Aino Lepik von Wirén. [*Applause.*]

## First Minister's Question Time

12:00

### Engagements

**1. Iain Gray (East Lothian) (Lab):** To ask the First Minister what engagements he has planned for the rest of the day. (S3F-2932)

**The First Minister (Alex Salmond):** Later today, I will meet the Cabinet Secretary for Finance and Sustainable Growth, who is visiting the global asset management firm Blackrock Investment Management. Blackrock is establishing its new global centre for fund accounting in Edinburgh, creating up to 250 jobs. I am sure that the whole chamber will wish to welcome the project and Blackrock's on-going expansion, which is a substantial boost to the financial services sector in Scotland.

**Iain Gray:** The fiasco of the gathering continues to dog the First Minister's reputation. Around £700,000 of taxpayers' money was lost. According to Jim Mather, in a reply to a parliamentary question, the First Minister called Steve Cardownie, the Scottish National Party group leader on the City of Edinburgh Council, on 9 October 2009. Mr Mather says that in that call the First Minister discussed with Mr Cardownie

"the financial difficulties of The Gathering 2009 Ltd".—  
[*Official Report, Written Answers Report*, 10 January 2011; S3W-36917.]

Is that true?

**The First Minister:** If I remember correctly, the call was to invite the City of Edinburgh Council to a meeting, which took place. These matters were examined extensively in committee. The answers that I gave there are the answers that stand. I was happy to appear before the parliamentary committee that dealt with the issue and to answer its questions. I suggest that Iain Gray consults the record to inform himself.

**Iain Gray:** I have consulted the record, and these matters have been looked at extensively. The trouble is that questions remain to be answered. Mr Mather says that the First Minister discussed the financial difficulties of The Gathering 2009 Ltd with Mr Cardownie, but on 3 November Mr Cardownie told the Public Audit Committee, with reference to the same call:

"The First Minister did not apprise me over the telephone as to what the issue was."—[*Official Report, Public Audit Committee*, 3 November 2010; c 2119.]

Mr Mather and Mr Cardownie cannot both be right. The First Minister was on the call. It is his reputation that is on the line. Who is telling the truth?

**The First Minister:** I point out that Councillor Cardownie is the representative in Edinburgh who is in charge of events, hence the call to him. As Iain Gray has consulted the record, he will realise that I invited a range of other people to the meeting, which was held in St Andrew's house. The subject and purpose of the meeting were the future of the gathering and to see how we could sustain the event, which generated £10 million for the Scottish economy, and how it could go forward in the future.

As I said before the committee, I regret that we were unable to follow through on a plan that would have both secured the future of the gathering for the city of Edinburgh and recompensed the outstanding creditors. However, surely Iain Gray is not seriously suggesting that inviting the City of Edinburgh Council and other people to a meeting with the intention of doing two things—securing the financial future of the event and securing the event for the future of the Scottish economy, for which it generated £10 million—is in any sense a bad thing. That is the sort of thing that Governments should be doing. Incidentally, if the committee had found anything untoward about the series of answers that I gave, no doubt its members would have wanted to pursue the matter. Rather than second-guess what the committee did and did not do, Iain Gray should accept that the Government's intention was to secure the future of an event that generated £10 million for the Scottish economy.

**Iain Gray:** Knowing what to believe matters here. What followed from the meeting that the First Minister refers to was a press release, written by the First Minister's officials but issued by the City of Edinburgh Council. It contained the sentence:

"DEMA"—[*Interruption.*]

**The Presiding Officer (Alex Fergusson):** Order. Mr Gray is entitled to ask about whatever subject he wishes to ask about.

**Iain Gray:** I can understand why the First Minister does not want us to keep pursuing this issue. The press release contains this sentence:

"DEMA"—

that is, the council—

"will take on The Gathering 2009 Ltd's remaining private-sector obligations".

One hundred and three small businesses that are owed money believed that commitment. However, the SNP council leader now denies that he ever made that promise. While the First Minister and his SNP colleague in the city chambers are playing pass the parcel, the creditors are carrying the can. Who is liable for those obligations—Steve Cardownie and the council, or the First Minister and the Scottish Government?

**The First Minister:** For no other reason than that it is a point of fact—and, if one is asking a series of questions, it is reasonably important to try to get a few facts right—Steve Cardownie is the deputy leader of the City of Edinburgh Council. As I understand it, the leader of the City of Edinburgh Council is a Liberal Democrat. That is just a point of straight fact. I know that Iain Gray has a great attachment to a factual basis for questions—*[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** The committee report examines the matter of the council press release in some detail, and I think that Iain Gray should again familiarise himself with the contents of the report that the committee concluded.

I am struggling to understand. If Iain Gray wants to ask as many questions as he chooses on this matter from now until the end of this parliamentary session, then fair enough. However, I suspect that a number of people in Scottish society would regard the economy, jobs, the fuel tax—*[Interruption.]*

This is probably a case of the dog that did not bark. What is revealing about Iain Gray is not the questions that he asks but the questions that he is frightened to ask in this Parliament—*[Interruption.]*

**The Presiding Officer:** Order.

**Iain Gray:** I know exactly who Steve Cardownie is: he is the person who is carrying the can for the First Minister. I think that the people of Scotland believe that the reputation of their First Minister is a matter of some importance.

Let us consider this affair. It started with a secret loan from the First Minister, now written off. Then, he tried to sell off The Gathering 2009 Ltd, without the knowledge of its own directors, and he failed. Then, he tried to pass liability to the City of Edinburgh Council, but that fix failed too. Councillor Cardownie faces a no-confidence vote; creditors face ruin—103 local businesses; and taxpayers potentially face multimillion pound legal bills. When will the First Minister finally face up to his responsibility for this fiasco?

**The First Minister:** My responsibility was to try to repair the finances of the individual event and to secure the future of the event for Scotland. That is a governmental responsibility because the event itself generated £10 million for the Scottish economy and £8 million for the city of Edinburgh.

Blithe assertions have been made about a no-confidence motion. As I understand the situation in the City of Edinburgh Council, the motion is a Labour opposition motion of no confidence in the administration of the council—or, perhaps, a Conservative party motion of no confidence, which

no doubt the Labour Party will want to support—*[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** I hear the surly tones of Lord George Foulkes. I would have been delighted to answer Lord George's questions at the Public Audit Committee if he had bothered to turn up and ask some. The committee members who turned up asked a range of questions, which I was delighted to answer—*[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** What emerged from the committee, I think, was the purpose of the Government to secure the future of the event and the wish of the Government to do everything that it could do to help the position of the creditors.

I regret that the City of Edinburgh Council was not able to follow through with the plan that evolved from the meeting. I regret it because of the effect on individual creditors and because the gathering was a magnificent event, which would have been fitting of the Edinburgh calendar for the future.

Will Iain Gray accept at some point that the people who participated in the meeting and in supporting the gathering—me, Councillor Cardownie, the various other officials who were involved and the politicians who supported the event—did so in a positive way, to secure something of value for the Scottish economy and the city of Edinburgh? I have to say that from start to finish I have seen nothing positive from the Labour Party in its view of the event and only occasional, rather incompetent attempts to seize some little political advantage.

Of course, the reason why Iain Gray did not want to ask about fuel tax—just in case anyone missed this—is that when the rest of the Parliament voted against the rises in fuel tax, he decided to lead the Labour Party into another abstention.

## **Secretary of State for Scotland (Meetings)**

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

To ask the First Minister when he will next meet the Secretary of State for Scotland. (S3F-2933)

**The First Minister (Alex Salmond):** I have no plans to meet the secretary of state in the near future.

**Annabel Goldie:** On Saturday, in the Parliament building, I and many women from all over Scotland will celebrate international women's day, which is an occasion that is filled with pleasure and pride.

For some women in Scotland, other occasions, which should be filled with pleasure and pride, can instead be the dark prelude to a night of fear and violence. I am talking about the surge in domestic abuse after high-profile football matches. Strathclyde Police has reported that the old firm clash the weekend before last resulted in nearly double the number of incidents of domestic abuse, compared with the average Sunday. What the effect of last night's disgraceful scenes will be, I dread to think.

It is regrettably the case that alcohol plays a part in domestic abuse, but that can never be the excuse for such behaviour. Does the First Minister agree that the connection between football and escalating domestic abuse is repugnant, disgraceful and utterly unacceptable?

**The First Minister:** I agree with that and I thank Annabel Goldie for asking a substantial question about a substantial issue in Scottish society. The Deputy First Minister will attend the event to which she referred.

Annabel Goldie knows the approach of the Administration and, I think, the entire Parliament, to domestic abuse. Funding for the agencies that are actively involved in combating domestic abuse has been doubled. A legal loophole has been closed by the Parliament, through the introduction of an offence to ensure that nobody can escape the consequences on detection of domestic abuse—that was a wise decision by the Parliament. The innovative Caledonian system has been introduced, which is victim centred in forcing people to address, in particular, the violence of men against women and offending behaviour. All those things are being done.

As Annabel Goldie rightly said, drink is never, ever a defence in crimes against people—nor is someone's team losing a football match. Those things are not a defence and will never be treated as a defence. I think that the Parliament will always unite to combat the evil of domestic abuse in Scotland.

**Annabel Goldie:** I thank the First Minister for the tenor of his response.

There is a huge moral obligation on football clubs—their management and their players—to set the highest examples of responsible behaviour. If managers and players start behaving like thugs, there is not a shadow of doubt that minority elements among their supporters will also start behaving like thugs. For many women and children, that will translate into the horror and misery of domestic abuse. I need hardly add that disgraceful scenes such as those at last night's old firm clash merely inflame undercurrents of tension.

Will the First Minister discuss the issues with me and the other party leaders? Does he agree that

there is a need for an urgent summit involving the two football clubs involved, the football authorities and the police, so that football encounters can become occasions that are less about fear, violence and disgrace and much more about pleasure and pride for Scotland?

**The First Minister:** I agree with that and will be happy to discuss those matters with the party leaders.

The chief constable of Strathclyde Police spoke to me this morning and has written to the Cabinet Secretary for Justice asking the Government to convene a round-table discussion involving the old firm clubs and the Scottish Football Association to chart a way forward for old firm encounters. I am happy to confirm that that summit will take place next week and that all parties have agreed to attend.

On how people's actions have an impact on society, the fans at football matches are representatives of their clubs and the players are role models for society. The management of football clubs also have a particular responsibility. They are people in positions of responsibility and absolutely must behave responsibly. That will happen.

It should be said that Celtic Football Club and Rangers FC have extensive community programmes. They have, in the past, both shown themselves well capable of expressing solidarity with each other and wider society. I was at the funeral of Tommy Burns, where Walter Smith and Ally McCoist carried the coffin. John Reid laid a wreath with the Deputy First Minister at the commemoration of the Ibrox disaster.

However, the disgraceful scenes last night cannot be ignored. The initiative from Strathclyde Police is welcome and I hope that Annabel Goldie agrees. The Government will be happy to convene that summit to chart a way forward and to ensure that all parties, including the Government, the SFA and the clubs, are mindful of their obligations and wider role in Scottish society as a whole.

### **Cabinet (Meetings)**

**3. Tavish Scott (Shetland) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-2934)

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

**Tavish Scott:** The Parliament's Economy, Energy and Tourism Committee has produced a strong report that says that the quangos Scottish Enterprise and Skills Development Scotland are not working. The report says that there is clutter and confusion. Scotland's economy needs to



grow, so what is the First Minister's response to the widespread concerns about that clutter and confusion?

**The First Minister:** It is to have a growth strategy for the Scottish economy, which we launched in a document last week. That strategy is to reprofile our economy on growth companies and growth sectors in growth markets. That is a sensible, productive growth strategy and it is supported by Scottish Enterprise.

In recent weeks, there have been some spectacular examples of Scottish Enterprise's impact in its role of fostering and encouraging investment into Scotland. They are examples of growth companies—international companies such as Amazon and local companies such as the new games venture in Dundee—in which Scottish Enterprise has played a substantial role. Given that role of excellence, which, incidentally, has been recognised internationally, we would be foolish not to acknowledge and recognise the work that Scottish Enterprise does.

As far as Skills Development Scotland is concerned, this year almost 100,000 skills places will be agreed throughout Scottish society. Modern apprenticeships alone will be at 25,000, which is 60 per cent higher than the level that we inherited when we came to office four years ago, and Skills Development Scotland will deliver them with a much smaller management team and bureaucracy. The Parliament and its committees should acknowledge Skills Development Scotland's abilities, which it has demonstrated in the past year.

**Tavish Scott:** Our freedom of information requests show that, in the past year, Skills Development Scotland and Scottish Enterprise spent another £4.5 million on public relations consultants and marketing. However, the committee's report says that people still do not know what Skills Development Scotland is supposed to do, and it does not even seem to have responsibility for the Government's skills strategy.

Does the First Minister think that the agencies should spend even more money on advertising next year to get their message across, or is it time for different choices? Would not the £4.5 million have been better invested in an exports plan to drive an export-based recovery or in an internship programme with Scottish employers so that young graduates could get their careers started? Would those not be better solutions for Scotland?

**The First Minister:** I know that Tavish Scott must be aware of the smart exporter plan with the Scottish Chambers of Commerce, which is being pioneered by Scottish Enterprise and which has the enthusiastic support of the chambers and

involves and galvanises the company sector in exporting effort.

I know that he will also be aware that the Amazon investment, for example, is not just a matter of fulfilling the needs of the United Kingdom market but a platform, particularly for small exporters, to export world wide—a platform that many companies have not had hitherto.

Scotland has done well in international exports, but they have been concentrated in major industries and companies. The smart exporter challenge is to extend that through the company sector in Scottish society.

I just want to caution the Liberal Democrats. I welcome Tavish Scott's centring on this issue above all at present. However, given that Skills Development Scotland, as the delivery agency for placing skills in Scottish society, will, this coming year, achieve almost 100,000 skilled placements and will have 25,000 modern apprenticeships placed across Scottish society—the first 500 of which I announced last Friday for the energy sector—it seems hardly the time for the Liberal Democrats to advise us to tear it up and abolish it. Surely we should be supporting Skills Development Scotland in the delivery plan to obtain a record amount of apprenticeships and other skills training in the Scottish economy and Scottish society.

### **Criminal Justice System (Appeals)**

**4. Nigel Don (North East Scotland) (SNP):** To ask the First Minister whether the Scottish Government has concerns regarding clauses in the Scotland Bill that could result in appeals for Scottish criminal cases moving to the United Kingdom Supreme Court. (S3F-2938)

**The First Minister (Alex Salmond):** The Scottish Government has grave concerns. The final criminal court of appeal in the Scottish legal system should be the High Court of Justiciary. That principle, which was confirmed by the House of Lords in 1876, has been undermined by the Scotland Act 1998's in some cases unwitting approach to devolution issues. The Scotland Bill should be seen as an opportunity to put that right. However, it appears that the UK Government intends instead to force clauses into the Scotland Bill—clauses that are, as yet, unpublished and unseen by the general public, MSPs and MPs—which would in our view further undermine the independence of the Scottish criminal justice system. I am extremely disappointed that, whatever else it did or did not do, the Scotland Bill Committee did not see fit to raise concerns about that.

**Nigel Don:** My question was not the best that I have ever written, because of course these are

only proposals. Indeed, they are not in the Scotland Bill yet—they are unpublished, as the First Minister said. Therefore, they will not be consulted on and might yet be foisted on this country. Does the First Minister feel that there is anything that he can do at this stage to ensure the independence of the Scottish criminal justice system?

**The First Minister:** As Nigel Don will have noted, the constitutional affairs minister has been extremely active on this very subject, trying to ventilate in public what it seems that the Advocate General wants to keep secret.

There is a point of principle here. Let us depart for a second from the issue under discussion—*[Interruption.]*

**The Presiding Officer:** Order. Be fairly brief please, First Minister.

**The First Minister:** —which the Presiding Officer would never let me do unless I was pointing out the underlying principle of a Parliament being able to see a clause in a bill that it is meant to be examining. I do not know whether there is any precedent for this in any Parliament: we are being asked to approve something that the generality of the Parliament, either in Scotland or London, has not even seen.

**Robert Brown (Glasgow) (LD):** Of course, the recommendations that will go into the Scotland Bill are based on an expert report from Lord Edward and were, in fact, the subject of a public announcement by the Advocate General for Scotland.

Will the First Minister confirm whether the Scottish Government wishes to be bound by the European convention on human rights? If so, can he tell the chamber why he regards a delay of three or four years to hear a case in Strasbourg before a court that contains no Scottish judges at all as preferable to a speedier resolution by the United Kingdom Supreme Court, which in Scottish cases is led by the two distinguished Scottish judges in that court?

**The First Minister:** I will try to correct Robert Brown's misunderstandings. On the first issue, he seems confident of what is in the clauses. I do not know whether Robert Brown has seen the clauses, but I know that the rest of the—

**Robert Brown:** You have seen them.

**The First Minister:** Yes, I have seen them—*[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** That is why, when I raise concerns about them, I might be in a position of more knowledge than Robert Brown, who seems

to wish to approve them without seeing them at all. So, when—*[Interruption.]*

**The Presiding Officer:** Order. The chamber will come to order.

**The First Minister:** When the rest of the Scottish Parliament is accorded the same privilege of being allowed to see the clauses, perhaps we can have a parliamentary debate about the concerns of the Scottish Government on whether what is proposed reflects the view of the expert group or, indeed, poses dangers for the independence of the Scottish judicial system.

On the European Court of Human Rights, the issue is whether our jurisdiction has the same rights and abilities as any other jurisdiction in Europe before that court and whether, as we had in the Cadder case, seven judges in the High Court of Justiciary in Scotland should have their opinion second-guessed by two judges in the Supreme Court in London. Why on earth should Robert Brown or any other member of the Scottish Parliament not believe that this nation is capable of having its own court of appeal in this country and that this country is capable of answering to a human rights court elsewhere that treats us equally with every other jurisdiction on this continent?

### Scottish Sensory Centre

**5. Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** To ask the First Minister what recent discussions the Scottish Government has had with the Scottish sensory centre at the University of Edinburgh. (S3F-2941)

**The First Minister (Alex Salmond):** Scottish Government officials have regular contact with staff at the Scottish sensory centre and their employers. They last met representatives of the university on 14 December and they are also members of the centre's advisory committee.

**Cathie Craigie:** Is the First Minister aware that the Requirements for Teachers (Scotland) Regulations 2005 require teachers of children with a sensory impairment to hold a specialist qualification, the achievement of which is supported by the sensory centre, which is the only centre of its kind in Scotland? By working with those who are involved in the education of young people with a sensory impairment, the centre is promoting innovation, good practice and expert support throughout Scotland. By now, the First Minister should be aware of the widespread concern about the Government's decision to withdraw funding for the SSC. Is he aware of the impact of his decision to cut funding on the on-going training of specialist teachers who work to ensure the best educational outcomes for a very vulnerable group of children? Does he regret the

fact that there has been no consultation, and will he take immediate action to reverse the decision? The centre costs taxpayers £200,000 per annum. I think that funding the centre is the sort of thing that a Government should be doing.

**The First Minister:** Cathie Craigie will want to put the issue in the context of front-line funding. We will fund Donaldson's school and the Royal blind school, as grant-aided special schools, with £4.5 million to support children and young people with sensory impairments. We have protected £305,000 of funding for CALL Scotland, which is also based at the University of Edinburgh and provides children with technological solutions to help them to overcome their barriers to learning. This year, we have provided CALL Scotland with an additional £27,000 to enhance its Scottish text-to-speech software. We have also provided £66,000 to update the state-of-the-art national equipment bank, which lends devices to young people to test before local authorities invest in their own equipment. I mention those things because I know that Cathie Craigie will want to put the issue in the context of the support that we are providing.

I would be very happy to convene a meeting between the University of Edinburgh, the Scottish sensory centre and our officials and ministers to discuss the way forward. But let us do that on the basis that, regardless of the £1,300 million cutback in funding, the Scottish Government is anxious—as the figures demonstrate—to support people who are engaged in the activity that we are discussing. On that basis, I will, with good will, convene such a meeting.

### Enterprise Network

**6. Iain Smith (North East Fife) (LD):** To ask the First Minister whether the Scottish Government considers that Scotland's enterprise network is meeting its economic growth objectives and represents value for public money. (S3F-2943)

**The First Minister (Alex Salmond):** Yes, I do. The efforts of the enterprise agencies are benefiting the Scottish economy and helping Scotland out of a recession that was difficult but shorter and shallower than that of the United Kingdom. The most recent labour market statistics also show that, over recent periods, Scotland has been the only nation in the United Kingdom with falling unemployment and rising employment. Members will be glad to know that Scottish Enterprise account-managed businesses increased turnover by £379 million in 2009, and Highlands and Islands Enterprise account-managed businesses are expected to generate an additional £75 million for the economy in the next three years.

**Iain Smith:** The Government's reforms of the enterprise and skills agencies were meant to declutter the landscape. However, the Economy, Energy and Tourism Committee's inquiry found that, since the reforms, there is a more complex set of governance arrangements and that a lack of clarity and understanding has resulted. That is particularly the case with regard to the delivery of skills.

Does the First Minister agree that, since the reforms, there has been too much focus on strategic forums and working groups and too little focus on ensuring the co-ordinated delivery of services to meet the needs of businesses on the ground?

**Alex Salmond:** Iain Smith's criticisms are a bit unworthy. I notice that the committee recommended no structural change. I also notice that, in the submissions to the committee, there was unity between the Confederation of British Industry and the Scottish Trades Union Congress. The CBI said that its members

"on the whole are of the view that the publicly-funded support currently on offer from the enterprise networks is of genuine assistance"

at reasonable cost, and the STUC said that it

"does not share the view that economic development agencies are unnecessary; that economic development should be left to the market and that the funding of economic development should be 'returned to businesses' through tax cuts".

It also says:

"The networks are engaged in much valuable activity which would never have been pursued and/or funded by the private sector alone".

Among business and the trade unions, there is an assent to the idea that our enterprise network is successfully pursuing a range of activities.

I caution Iain Smith and advise him to reflect on the statistics that I quoted to Tavish Scott. Skills Development Scotland is about to deliver a record level of skills training across Scottish society and 25,000 modern apprentices. This is not the time to go down the road of abolition and structural change. This is the time to get behind our enterprise agencies and Skills Development Scotland to give them the political support that their level of performance merits and deserves.

## There is a Better Way Campaign

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a members' business debate on motion S3M-7752, in the name of Elaine Smith, on the there is a better way campaign.

*Motion debated,*

That the Parliament commends the STUC on the launch of its There is a Better Way campaign; believes that deep, savage and immediate cuts are neither unavoidable nor inevitable and that they would actually threaten economic recovery across Scotland and in areas such as Coatbridge and Chryston; further believes that a sensible and sustainable response to the current economic crisis is to promote growth and ensure fairness through creating jobs and protecting services, through fair taxation and a living wage, and \*would welcome widespread support for the STUC campaign.

12:33

**Elaine Smith (Coatbridge and Chryston) (Lab):** I thank the members who signed the motion, those who are here today and those who support the Scottish Trades Union Congress's campaign.

On 23 October, 20,000 people, including MSPs, took to the streets of Edinburgh to protest against the cuts and proclaim that there is a better way. A number of my constituents were on that march. The big unions, such as Unite, Unison, the GMB, the Public and Commercial Services Union and Prospect, represent the majority of public sector workers, who are feeling the pain of savage cuts already. However, all trade unions have members who are affected. I note that the Educational Institute of Scotland has agreed to ballot on the education cuts.

I am aware that folk are coming into the gallery for the debate and that there will be folk here from the wider Labour and trade union movement. I welcome in particular North Lanarkshire trades union council, which is coming to view the debate. I commend it for its active support for the campaign and for taking the message out on to the streets; I joined it in doing that in Coatbridge. We are also joined by the president of the Scottish Trades Union Congress, Joy Dunn, and people from Greenfaulds high school, which is in the constituency of my colleague Cathie Craigie, will come to the chamber for the debate.

Many myths are being peddled about the deficit, the cuts and the need for the cuts, and we need to counter-attack with the truth to dispel them. Cuts are not inevitable or necessary. Britain had a higher deficit in 1945, when the welfare state was introduced. The cuts agenda is simply an excuse to undermine the very fabric of that welfare state.

All the myths and counter-attacks are on the there is a better way website, which anyone can access.

We are talking about an ideological attack and a reorganisation of society firmly in favour of big business interests and away from the workers. Let us be clear. The deficit, which can be paid off over many years, is due to the recession and the greed of bankers. It is not the fault of public services or public sector workers, so why should they pay with wage freezes, which effectively mean wage cuts, as my union, Unite, has pointed out?

The general secretary of the STUC, Grahame Smith, has sent a message to councillors in which he said:

"I know that many of you don't want to make cuts. I know that many of you believe in the public sector and in public service. But if you are not to be seen as coalition collaborators you need to stand with us, like local government leaders did in the 80's and 90's, and argue the case against the cuts."

**Patrick Harvie (Glasgow) (Green):** I apologise that I will not be able to stay for the whole of this important debate.

Does the member agree that it is a little disgraceful that members of the political parties that want to make cuts are not even in the chamber for the debate to answer her questions about the basis on which their Government is taking action?

**Elaine Smith:** I absolutely agree with that. Perhaps it would be quite uncomfortable for them to hear this message.

Spending on public services is an investment, not a debt or a drain, and public servants deliver vital services in our communities and to the most vulnerable people. The current campaign of vilification of public services is all about cutting and privatising because of ideology, not because of need. It is no surprise that the Tories are pursuing that agenda, but it is a bit of a shock to many that the Liberal Democrats are aiding and abetting them. Grahame Smith has sent a message to them, too. He said:

"you have not only ripped up your manifesto you have ripped up your credibility. If you want to restore it—stop cowering behind the Tories and stand up and fight these cuts."

He turned his sights on the Scottish Parliament and said that it must

"ensure that its priorities are our priorities—jobs, services, fair taxation and a living wage."

Of course, we know that the Scottish Parliament's Scottish variable rate tax powers cannot be used at present. The Finance Committee has just reported on that matter. It concluded:

"the SVR belongs to the Scottish Parliament and not to the Scottish Government",

and urged the Cabinet Secretary for Finance and Sustainable Growth to make an immediate statement to Parliament on how the power could be reinstated. I would be grateful for a comment on that from the minister.

SVR might not be the preferred choice of many—like others, I would certainly prefer to make the rich pay more—but at least it is income based and supported by a mandate of the people in a yes, yes referendum. In 1997, Donald Dewar said of SVR:

“It is important to recognise that the power may be used to deal with some special project or difficulty.”—[*Official Report, House of Commons*, 31 July 1997; Vol 299, c 465.]

The time is coming when members will have to recognise that we are in a period of great difficulty. When the Tory-led slash-and-burn policies begin to impact on our communities, it might be preferable to use tax rather than watch the devastation. I have some sympathy with the Scottish National Party Government telling us that it is bound by the grant imposed by the Tories, but it is simply not true that there are no other choices. Apart from SVR, such choices could include a properly considered large business supplement, business rates on land banks and empty properties, land value tax and a review of current big project spending priorities. There are a number of choices that could better protect us from Tory cuts. The Parliament was established to do just that. It was established to act as a buffer against an attack on the working class by the obscenely wealthy public schoolboys who are now in charge at Westminster.

The Trades Union Congress is sending the Tories a message with a massive rally in London on 26 March to demand an end to cuts and to tell them that there are better ways to save money as proposed by the PCS: employ more tax collectors, not fewer, to gather in evaded, avoided and uncollected tax; dump the renewal of Trident; and end the unwinnable war in Afghanistan, which is costing £2.6 billion a year.

Of course, the Tories are spinning the line that we are all in this together. Guess what? We are not. The top 1 per cent of the population of Britain own nearly a quarter of the wealth and the bottom half own just 9 per cent. The rich just keep on getting richer while the poor get poorer. We are not all in it together and we are not all feeling the squeeze. Very little is being squeezed from the rich.

We do not get out of recession by causing unemployment and making the needy many pay for the mistakes of the greedy few. The GMB tells us that, in Lanarkshire, at least five unemployed workers are chasing every vacancy, and Unison points out that some 60,000 public sector and

65,000 private sector jobs could go in Scotland because of the cuts.

The answer to the economic crisis is to create jobs, not to cut them. We need an economic strategy that is based on public investment, job creation and tax justice. After the economic disaster that we have witnessed, we should be watching the death throes of capitalism. We should be seeing that unfair system, which benefits the minority who have power, wealth and privilege, replaced with socialism providing equality, justice and fairness for the majority.

The left is often—wrongly—accused of seeing the problem but not providing solutions. The people's charter, which is part of the better way campaign, offers sensible alternatives. I invite everyone who is here to come along, meet leading trade unionists and the actor David Hayman, and sign up to the charter at 5.15 tonight in committee room 4.

In conclusion, the better way campaign really is a them-and-us situation. If we are not with it, we are against it, and silence is simply collaboration. In the words of the STUC general secretary:

“in the run up to the Scottish elections ... join us in targeting the constituencies of those candidates who support the policies of the UK government either actively or by their silence”

or, as Patrick Harvie mentioned, by not being here today.

The cuts amount to a cruel attack on working people and the poorest, most vulnerable members of our society. They disproportionately affect women. I fully support the STUC campaign, and I will use my public position to speak out at every opportunity against the vicious, ideological cuts, in favour of the sensible alternatives proposed by our trade unions and the people's charter committee. I hope that many more MSPs, across the parties, will join me and support the principle that there is a better way. [*Applause.*]

**The Deputy Presiding Officer:** I remind members of the public in the public gallery that it is not appropriate to applaud.

12:42

**John Wilson (Central Scotland) (SNP):** I congratulate Elaine Smith on securing this worthwhile debate. As per my register of interests, I declare my membership of the union Unite. I have been a trade union member for more than 30 years.

I realise that the emphasis in members' business debates is usually consensual. However, I have some serious issues that I feel should be aired.

The campaign by the STUC and the unions is worthy. The protection of front-line jobs and services is vital not only for the people who work in them but for the people who rely on the vital support that they provide. Let us look at what has happened in the past decade to the lowest-paid local government workers and, in particular, the women workers who were promised equal pay by both the Labour Government in Westminster and the Labour Executive in Scotland. A decade later, we still find that many women have been denied their right to equal pay because local authorities have failed to settle within a reasonable period.

The situation has been further compounded by the single status debacle, which once again failed spectacularly to defend and enhance the position of the lowest-paid front-line staff who provide so many vital services. At the same time as equal pay and single status have failed for front-line council staff, we have witnessed the earnings of senior officials within local authorities increase through reorganisation and rationalisation. In one year alone, senior council staff were awarded a 13 per cent pay increase, on top of a 2.5 per cent increase already awarded that year. That, let us remember, happened at a time when poorly paid women were being denied equal pay settlements.

I fully support the campaign to retain front-line services, but I object to the defence of enhanced salaries and performance-related pay for senior members of staff at the same time as terms and conditions and overall incomes are being cut for front-line staff.

**Cathy Peattie (Falkirk East) (Lab):** Does the member not agree that freezing the council tax has had a major effect on women and other low-paid workers whose jobs are under threat? Is that really good enough?

**John Wilson:** I will deal with that later in my speech.

In February 2011, Unison could not provide a full-time official to attend a meeting of members in St Andrew's high school in Coatbridge to discuss changes to the terms and conditions of low-paid council employees who are facing the threat of redundancy and cuts in their earnings.

Many Labour Party members and trade union leaders cite Keir Hardie as the leading light of the movement founded to represent and protect the working class. What would he say to this union leadership and this Labour Party, which are claiming to carry the tradition from the men and women who founded the Labour movement? Yes, we are in a financial crisis and yes, we are being asked to sacrifice jobs and services to bail out a failed financial system. However, my plea to the union leadership is that it meaningfully consults its membership and protects the interests of the

members who most need its protection—the lowest paid and those who are facing the worst cuts to their terms and conditions—instead of glibly accepting that the only solution is to tell them to vote Labour and everything will be all right. Tell that to the women who lost out on equal pay, the people who lost out on single status and the many thousands of workers who are forced to work for the minimum wage.

What we need now is a realignment of political and trade union ideas that will ensure that the most vulnerable, the disadvantaged and those in poverty are given the help and support that they not only need but deserve. We have to get away from the narrow protectionism that persists in council services and departments that, in the words of that trade union stalwart and Labour figure, Lord Reid of Cardowan, are not “fit for purpose”. We should use this debate and any opportunities that lie ahead to create service delivery mechanisms that truly provide the front-line services that we need and deserve in Scotland.

I hope that there is cross-party support for working towards the objectives of the there is a better way campaign to deliver a better way for all in Scotland, particularly the front-line workers who are low paid and whose conditions, which are already poor, are being slashed daily. If that support does not exist, can we actually provide a better way for all in Scotland?

12:47

**Marlyn Glen (North East Scotland) (Lab):** I thank Elaine Smith for securing this debate and restate the welcome that she gave to the people in the gallery. I think that some of them might have missed it.

This very worthwhile debate, which has taken some time to get to the chamber, was originally initiated to link in with trade union week, an event of ever-growing importance in our calendar. At this point, I should say that I really cannot agree with John Wilson's general criticisms of unions.

During trade union week, I was impressed in particular with Mark Lynch from the STUC youth committee, who took part in one of the excellent meetings in which the STUC's equality committees came together to promote equality in the workplace and to discuss the work on the issue that is being carried out throughout Scotland. The unions into schools briefing was also excellent and gave hope to a new generation of trade unionists. Of course, it also reminded us of worries for the future of young people in this economic climate.

Although I welcome the Government's attempts to strive for no compulsory redundancies, I think that it has always been unclear how the terms of

the concordat would support such an endeavour. The aim might be laudable but, as we have seen this week, it is not particularly easy to achieve. The Christie commission will present opportunities for examining how public services will be delivered in future but there will have to be a balanced and true partnership with trade unions if it is to deliver realistically.

Sadly, we are now beginning to realise and understand the effects of the UK Government's cuts on people's standard of living, particularly those on low-to-middle incomes. The problem for people on low incomes is just that: they have low incomes. Any rise in costs, whether through regressive VAT rises or increasing prices, means that they have to pay more with less money, particularly given the planned cuts in benefits. For so many, the situation is impossible.

I agree with John Wilson on the disproportionate effect of budget cuts on women. Given that more women work in the public sector and use public sector services, they suffer a double whammy when cuts are made. It is therefore increasingly important that gender analysis is undertaken of key budget proposals. We need decisions to be published so that we can track and measure the outcomes.

The STUC's there is a better way campaign involves workers, employers and community groups in campaigning to retain quality services. The campaign points to a different way—a better way—in which public spending, the public sector and the public sector workforce are seen as neither at fault for the deficit nor the target for its reduction.

From the Communication Workers Union's call to retain vital universal postal services to the EIS's campaign to protect our children's education, we are working to convince people that there is indeed a better way. The cabinet secretary, Mike Russell, was nominated for the wooden heart award for the most callous cuts—and that was before the EIS's decision to ballot members on whether to accept proposed changes to their pay and conditions.

I am sure that the march and rally in London on 26 March will be huge and that many of us will join it. However, here in Scotland we can make a difference, too. In particular, I ask the Scottish Government what action it will take to protect the one-price-goes-anywhere, six-days-a-week universal postal service obligation—a service that is essential for communities in Scotland. How will the Scottish Government lead people in a better way?

I commend the work of the STUC.

12:51

**Hugh Henry (Paisley South) (Lab):** I was puzzled by John Wilson's curious speech because I was unsure what he was trying to portray to us about the better way campaign. I have respect for him and the work that he has done over many years. He has deeply held and sincere views. However, if he wants to question credentials on a party-political basis, I would be interested to know what some of the major supporters of his party would say about a campaign such as the there is a better way campaign. What has Sir George Mathewson, the financier, banker and would-be Tory—now finding respite with the Scottish National Party—got to say about the better way campaign? What would Sir Tom Farmer's view be of the better way campaign? What would Sir David Murray think about the attitude of trade unions in standing up to protect ordinary working people? We should be careful before we start to level criticisms.

If there was ever any doubt among ordinary working people about the need for an organisation such as the STUC or about the need for trade unions, what is beginning to happen in this country should ram it home to them. I cannot understand the philosophy in this country that says that someone who is rich and powerful needs to be incentivised to work—they need bonuses and high pay—but that the way to get the economy going again is to cut the wages and terms and conditions of ordinary working people and impoverish them. That approach is inconsistent.

Elaine Smith pointed to the people who caused the crisis: the bankers. They are now doing very well, thank you, and are back to the extreme and excessive bonuses that they previously enjoyed. Why do some in society try to defend the excesses of the City of London? I thought that the previous United Kingdom Government was wrong in its approach of light-touch regulation of the City. It made a major mistake, and to some extent we are paying for that mistake. However, we should learn from our mistakes. The First Minister of this country was profoundly mistaken when he said that what we need in relation to bankers is lighter regulation.

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** There is a big difference between light touch and no touch. The Treasury, the Bank of England and the Financial Services Authority let this country down enormously badly.

**Hugh Henry:** Jim Mather may wish to reflect on the fact that the First Minister wanted an even lighter touch taken to what was, at the time, no regulation. That is bizarre.

We need a proper set of regulations so that bankers in this country face up to their responsibilities.

The issues are not just in the public sector. Marlyn Glen is right to point to the threats to the universal postal service from some of the cuts, but there are issues in the private sector, too. The First Minister today praised the jobs that Amazon is bringing to Scotland. I welcome jobs coming to Scotland, but I read that, just before Christmas, Amazon took on temporary workers at one of its depots in Scotland and, in the middle of the night in the run-up to Christmas when it no longer had work for them, Amazon told them, "You're off the clock—you're not getting paid, so you can go home." Many of those temporary workers on low pay could not afford a car, so they either had to find taxi fares to go home or stay in the depot until the buses came back on in the morning. That is happening in 21<sup>st</sup> century Scotland.

Some people seem to think that impoverishing workers is the way forward. The trade unions, with a measured, sensible and hard-hitting campaign, are doing a favour to all of us who say that ordinary working people deserve respect. I wish the trade unions well with their campaign.

12:56

**Jamie Hepburn (Central Scotland) (SNP):** I am tempted to begin by listing a number of individual backers of the Labour Party and wondering what their position might be on the there is a better way campaign. However, that would not be a particularly useful beginning, so instead I will congratulate Elaine Smith on securing a valuable debate. It was delayed, but I am glad that it has come back. I am pleased to support the STUC's campaign. STUC representatives gave a useful presentation to the SNP group at the Scottish Parliament. I am supportive of the general thrust of the campaign. On a related matter, Elaine Smith knows about my support for the people's charter, because I have shared a platform with her in support of it, but I will not be in committee room 4 tonight. However, I have signed up in support of that charter.

A useful starting point is to assess whether the UK Government's cuts agenda is necessary. The Government talks about there being no other alternative, but we should consider whether that is true. It is a matter of regret that no Tory or Liberal member is here or is brave enough to stay to make their Government's case. In the Chancellor of the Exchequer's budget statement to Parliament last year, he described the budget using terms such as "unavoidable", "fair" and "progressive". He said that, although the budget was tough, it would be implemented in a progressive and measured fashion.

Let us examine those assumptions. First, is the budget unavoidable? Elaine Smith usefully remarked that the significance of the deficit now is proportionately nowhere close to that of the deficit that we had in 1945. Further, the projected size of the 2010 deficit was £178 billion, but the actual figure was £156.1 billion, which was still a significant figure but not as big as had been imagined. That is instructive in considering whether the budget is unavoidable.

Is the agenda fair or progressive? The STUC has useful information on that. It states:

"Low-income households of working age lose the most from the ... Budget reforms because of the cuts to welfare spending."

The Scottish Government's assessment has indicated cause for concern. For example, it estimates that the freeze in child benefit for three years will reduce the income of around 621,000 families in Scotland, with the greatest proportionate impact on low-income families. There are also concerns about changes to disability living allowance, with an estimate that 10,700 people in Scotland will lose their entitlement to DLA in 2013-14, rising to 31,700 in 2014-15 as a result of changes in the assessment criteria. That does not show the budget to be particularly fair or progressive.

Will the path that has been chosen work? The comments of Paul Krugman in that regard are instructive. He has said:

"Why the wrong turn in policy? The hard-liners often invoke the troubles facing Greece and other nations around the edges of Europe to justify their actions. And it's true that bond investors have turned on governments with intractable deficits. But there is no evidence that short-run fiscal austerity in the face of a depressed economy reassures investors. On the contrary: Greece has agreed to harsh austerity, only to find its risk spreads growing ever wider".

Therefore, it might not even work in the long run.

I am very supportive of the STUC's there is a better way campaign. I have been working locally with the Cumbernauld and Kilsyth campaign to protect jobs in public services, and I will keep doing so.

I congratulate Elaine Smith on securing the debate. This is probably an area where we will not all agree. No one can deny that there is a huge challenge as far as the Scottish Government's approach is concerned, with a £1.3 billion withdrawal from the Scottish budget as a consequence of the decisions of the UK Government. Despite those challenges, which I accept exist, the Scottish Government has delivered a fairer, more progressive budget than could ever be imagined under the UK Tory-Liberal Government.



13:00

**Pauline McNeill (Glasgow Kelvin) (Lab):** I support the motion in Elaine Smith's name and the STUC's there is a better way campaign. Those who support the notion that there is a better way should unite behind the campaign. There might be criticism, as the forces against the campaign are strong, so there is a need for unity among all parties and members who really and truly believe that there is a case to be argued here.

There is an economic crisis, with high and rising unemployment and stagnant growth but, as Elaine Smith says, it is not a crisis of the public finances. The recession that we are now in was not caused by control of public spending. History does not support the coalition's assertion that cuts would be good for growth and jobs. Many economic experts, to whom Jamie Hepburn referred, say this. A budget that is aimed to please the markets is folly and will not necessarily please the markets at all. Plenty of commentators who know about economics say that deep, premature and unnecessary cuts will lead to persistently high unemployment. The strategy is seriously misguided for the whole of the country.

Youth unemployment is now up by nearly 80 per cent since the beginning of the recession, yet one of the first acts of the coalition was to cut the future jobs fund, denying employment to thousands of Scots. How do we get our heads round that? It was a staggering decision.

As other members have said, cuts in services will impact hardest on the poorest and most vulnerable people in our society. Prolonged unemployment will add to the thousands of people who are already among our most vulnerable and will cause deep-rooted social problems in our society, the likes of which we saw in the 1980s. It will take decades to recover.

The emergency budget of 22 June last year was a bleak day for ordinary people, with massive cuts over such a short time. The pace of fiscal consolidation is positively reckless. The attempt to eliminate the deficit over a single parliament is the direct cause of the excessive cuts. No wonder people are beginning to question the motives of the coalition Government, suggesting that it perhaps has an ideological commitment, rather than a commitment to putting the country's finances in order.

The pain that is being inflicted by the decisions goes much wider than the poorest and most vulnerable people in society. The increase in VAT to 20 per cent affects the cost of living for ordinary families. We discussed petrol prices in the Parliament yesterday, and I am pleased to know that we united behind a position. The Government should recognise the impact of higher prices on

ordinary families. Carers need their cars to look after members of their families. People who do not have access to public transport will struggle to get to work. People on moderate incomes are being severely affected by the budget.

Hugh Henry makes some key points, which we should be talking about beyond today. The proposals to remove employment protection come at a time when people feel that security of employment has never been more under attack—and the trade unions are needed more than ever.

It is shocking that, in a period of austerity, there seems to be some support among employers for reducing employment rights. I have spoken to some well-known employers who have said that they would not have made such hard cuts in employment if there had been better statutory terms for redundancy. I am in favour of improving employment rights in a period of austerity to give ordinary people better protection in their employment.

The behaviour of our banks, which we have probably not debated enough in the Parliament, is appalling. They have not put products on the market that are suitable for first-time buyers, and small businesses, which are the backbone of our economy, are still not getting the lending that they deserve.

I support the living wage, but not only for the public sector—

**The Deputy Presiding Officer:** You should finish now, Ms McNeill.

**Pauline McNeill:** It is important that there is a bar for those who are working for poor pay in the private sector, too. By supporting a living wage, we can make it the bar for all workers.

Women will be disproportionately affected by this budget. There are many statistics to prove that, and we must stand up for women in the campaign. There is a better way, so I support the motion.

13:05

**Cathy Peattie (Falkirk East) (Lab):** I thank Elaine Smith for bringing the debate to the chamber. As Pauline McNeill said, we should have discussed these issues before. I, too, thank the STUC for its campaign, and I hope that many people here and outwith the Parliament can support it.

There is a better way. In some ways, that is stating the obvious, when we consider the devastation that is planned for our economy and our public sector, and the poverty that will be inflicted on the most vulnerable. I echo the views of Marlyn Glen and Hugh Henry on the proposed

changes to universal postal services, which will have a devastating effect on the poorest in our communities.

We can compare that to the protection that is afforded to those who caused the economic woes, and the privileged background of those who are wielding an axe to services on which they do not depend. It would be hard, unless you are one of the protected and privileged few, to come to any conclusion other than that there is a better way.

There is a better way is a rallying cry for those who want a fairer and more equitable society in which those who have the greatest wealth contribute the most; in which services for those in the greatest need—not bankers' bonuses—are protected; and in which people reject the daft idea that the deeper the cuts, the better it is for jobs and growth. We know that that is a daft idea, and we should never support it.

The burden of the current policies falls heaviest on the poorest. In the words of Mary Brooksbank, which can be seen on the Canongate wall,

"the world's ill-divided; them that work the hardest are aye wi' least provided".

I am sure that she would have agreed that there is a better way.

The UK debt, which is currently 78 per cent of gross domestic product according to the *Economist* debt clock, is used to justify the savage cuts. It is certainly more than the Maastricht treaty allows for, but then we are in interesting times. How does our debt compare with that of other countries? It is higher than that of the USA, which stands at 65 per cent, and similar to Germany's 76 per cent. However, it is not as high as the debts of Canada, Ireland and France—which are all in the 80s—and nowhere near the debts of Italy, Iceland and Greece, or the highest of them all, Japan, at 198 per cent.

If we consider the figures in terms of debt per person, we are again similar to Germany and lower than the USA, Canada, Ireland, France, Norway, Japan and so on. Among the developed countries, our debt is not exceptional—indeed, it is lower than that of many countries.

The debt justification is simply a myth. The financial crisis has been used as an excuse to attack the public sector and the working people, while the perpetrators of the debt are protected by their public school pals.

Members may find it an inconvenient truth, but it is not just Labour and trade union voices that are highlighting the devastating economic and social impact of the current policies. Many prominent independent academics and commentators have reached the same conclusion.

Contrary to what we have been told by the Con-Demolition and their friends in the media, there is no consensus on the need for the deep cuts that are being made. There are many people from many sectors of civil society who recognise the harm that is being done, and they agree that there is a better way.

13:09

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** I thank Elaine Smith for securing the debate. Viewed in the wider context of the increasingly extreme political and economic challenges that are being faced by other eurozone nations, it is even more important that the Parliament focuses on the economy and how we can act collectively in the best interests of the people of Scotland.

Before I turn to some of the specific points that have been made in the debate, I will say a bit about the STUC's there is a better way campaign, the budget, the common ground that the STUC shares with us, and the Scottish common good. The Scottish Government has long recognised the convergence of interests and is committed to working closely with the STUC. It represents more than 640,000 people across Scotland and its campaign is also an important contribution to the debate that we need to have about how best to support businesses, communities and the people of Scotland.

The campaign has four elements. The jobs element looks at investment in manufacturing skills, infrastructure and the green economy to help to support job creation. The services focus is about keeping spending at decent levels to protect public services and drive the economy forward. There is a fair taxes element. Essentially, the proposition is that raising taxes when the economy recovers is a more efficient and fair way to reduce the deficit. Finally, the focus on a living wage recognises that low pay remains a problem for many workers in Scotland.

Let us compare each of those elements in turn with the budget that the Scottish Parliament has just agreed. The budget recognises the link between investment and jobs and, in the face of massive reductions in our capital budget from the UK Government, we have taken decisive action to boost capital spending next year and in subsequent years. We will transfer £100 million from this year to 2011-12 to supplement our capital budget. We have also launched an additional £2.5 billion programme of infrastructure that will be delivered through not-for-profit distribution models to boost investment in public works. Those measures enable us to confirm that our capital programme will include the construction of the new Forth crossing, the new south Glasgow

hospitals project and our ambitious schools programme. We will also create 25,000 modern apprenticeships, which is a record, and a further investment of £10 million will support employment creation by focusing on new starts and encouraging small companies to expand their business base. We have asked public sector workers to accept pay restraint to protect jobs and maintain demand in the economy.

On services, we agreed a local government settlement with the Convention of Scottish Local Authorities. The settlement reflects our joint determination to improve outcomes for the people of Scotland and local government's key role in the economic recovery of our communities. That agreement will enable local authorities to maintain delivery of shared commitments that impact on households throughout the country, to maintain the council tax freeze, to keep 1,000 police officers on our streets, to meet the needs of the vulnerable and elderly through the councils and the national health service working together to improve adult social care, to continue with the curriculum for excellence, and to protect teaching jobs, and so on.

On tax and using economic growth to reduce the deficit, I simply stress that we are required to operate within a housekeeping allowance that is imposed by the UK Government.

**Elaine Smith:** As John Wilson did not respond to Cathy Peattie's point about the council tax, I will ask the minister. Does he not recognise that the council tax freeze results in cuts to services and that, although it puts a few extra pennies into individuals' pockets, it affects us as a society?

**Jim Mather:** The big prize is cohesion. Local government is compensated for the council tax freeze. This is an issue on which we can avoid polarising the argument, albeit that some have polarised it through their absence. We should look to take the moral high ground here. The climate is right. We are in a difficult position and inconvenient truths include the fact that we do not have the tax powers that we would like to help us to get through this difficult time, and the fact that income inequality in the UK is at its highest level since 1929.

Our income inequality leaves us at the top of the league table. The three countries with the highest income inequality are the United States, Portugal and the UK. There is a big opportunity to come together around issues such as the living wage. We are contributing to that by introducing a living wage for all Scottish Government staff of £7.15 an hour. That measure was welcomed by Grahame Smith of the STUC, who said:

"STUC welcomes ... an extension of the Scottish Government's Living Wage pledge to NHS Scotland staff, a position for which it has long campaigned".

There is an issue about going beyond that.

I have great faith in Scotland and its natural cohesion. We are starting to see people in other countries beginning to question how the modern capitalist system works. We must nurture that approach in Scotland.

Michael Porter, the former high priest of cut-throat competition from Harvard Business School, is calling for a new definition of profit and a new concept of shared value whereby the corporation seeks to benefit not only its management and shareholders but its customers, employees, suppliers, community and taxpayers. Even in the UK Government, we have Stephen Green, who will be mortified that the Conservatives did not turn up for this debate. Lord Green is an ex-chairman of HSBC and an ordained Church of England minister and he has a book out called "Good Value: Reflections on Money, Morality and an Uncertain World", which also calls for a new beginning and a sense of social cohesion.

We also have people such as Richard Wilkinson, who wrote "The Spirit Level: Why More Equal Societies Almost Always Do Better", which exposed all the negative implications of income inequality. He has a different proposition to put to those at the top end of the scale. Rather than saying to them, "Just do the fair thing," which they should do, he says, "Do you want to have higher growth, safer streets and more people in your society with fulfilled lives?" There is a debate to be had on that.

We can also tap into things that are happening in the States, whereby thinking, cerebral Americans, many of whom are in the universities, are beginning to question the inequality of great divergences in income.

**Hugh Henry:** Will the minister take an intervention?

**Jim Mather:** No. Time is against me.

There are two-parent families that are struggling, which means that both parents must work where only one had to before.

I say to Hugh Henry that this is not an issue for us to have a spat and a split on and to poke each other in the eye about. The situation is so serious that Scotland must come together to address it. I agree totally that the chancellor's approach of deflating Scotland is entirely wrong and that we should be reflatting. We have always argued that the spending cuts are too far, too fast. Now is the time for humility and coming together. If we do that, we can have a new beginning and make it happen in Scotland in a way that I think will take it across borders and help others to find a better way.

13:17

*Meeting suspended until 14:00.*

14:00

*On resuming—*

## **Scottish Executive Question Time**

### **Finance and Sustainable Growth**

#### **Cities (Sustainable Growth)**

**1. Sandra White (Glasgow) (SNP):** To ask the Scottish Government what action it is taking to promote and support sustainable growth in cities. (S3O-13179)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Government's purpose is to increase sustainable economic growth in all areas of Scotland, including our cities. We have a wide range of policies in place to support that growth.

We are making a substantial investment in Scotland's cities and urban areas. In the next financial year, resources of more than £34 million from the previous cities growth fund will go to the six city local authorities as part of the general capital grant, and resources of £31.1 million will go to urban regeneration companies—that is being delivered in conjunction with Scottish Enterprise. We have also created the £50 million joint European support for sustainable investment in city areas investment fund.

In transferring responsibility for local economic development and local regeneration to local authorities, we have recognised the key contribution that they can make to growth in their areas. The comprehensive package of measures that is set out in our economic recovery plan will ensure that the Scottish economy will continue to grow and to achieve a rapid and robust recovery in our cities and other areas.

**Sandra White:** I thank the cabinet secretary for his expansive reply. He will be aware of the publication today of the Sustainable Development Commission Scotland's fourth annual assessment of progress by the Scottish Government, which notes:

"This Government has set out a much clearer vision than previous administrations",

which has

"created better structures for promoting sustainable decisions."

However, the report also notes that, to build on those achievements, greater emphasis on empowering communities to improve their neighbourhoods is needed. Will the cabinet secretary expand on how the Government's

proposed community empowerment bill would achieve those aims?

**John Swinney:** The Government's work on the issue is designed to ensure that every opportunity to strengthen and develop communities is seized. That was the case for the pilot projects in which community councils were allocated resources to enable recovery in communities, and that lay at the heart of the work of the town centre regeneration fund into the bargain.

A wider aspect of our work is encouraging communities to assume more responsibility for determining issues in their localities and using that to create common will and common purpose in communities. That will be at the heart of the Government's agenda in the period ahead.

### **Businesses and Jobs (Inverclyde)**

**2. Duncan McNeil (Greenock and Inverclyde) (Lab):** To ask the Scottish Government how it is supporting enterprise agencies in attracting businesses and jobs to Inverclyde. (S3O-13144)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** In 2009-10, Scottish Enterprise spent £338 million on promoting economic development in Scotland. The Scottish Government provided £281 million of that amount in grant in aid. Scottish Enterprise's investment and continuing involvement in Riverside Inverclyde, an urban regeneration company, are the focal points of its activity to attract businesses and jobs to the area.

**Duncan McNeil:** The minister will know that regeneration of a community is about people—about building quality homes for them to live in; creating jobs for them to work at; having schools and colleges that will educate them and allow them to gain additional skills; and, of course, providing the quality services that they require. Given that all those matters face severe spending reductions, what work has the Scottish Government done to measure the impact that the cuts will have on communities such as Inverclyde, which are less resilient to them? If the Scottish Government cannot protect us from Tory cuts, does the minister at least understand and take account of the cuts' disproportionate impact on communities such as Inverclyde? The Cabinet Secretary for Finance and Sustainable Growth has recognised that and previously assured me that he would take account of it.

**Jim Mather:** I recognise the situation that Duncan McNeil portrays. I was educated in Greenock in Inverclyde and I worked there. I remember companies such as Drummond's, Mitchell's, Hastie's, Kincaid's, Scott's and Lithgow's, which all contracted and have gone.

Duncan McNeil must face some inconvenient truths. The previous Administration failed in its management of our economy. He and others have stood against tax powers that would give Scotland more resilience. At the end of a period of Labour Government, the United Kingdom is more unequal than it has been since 1929. This is the third most unequal country in the western world.

However, we are rolling up our sleeves to work with Inverclyde and local government, which has primary responsibility for local regeneration, openly and in a warm spirit. I look forward to giving something back, in my retirement from politics, to the place that helped me to move forward.

**Stuart McMillan (West of Scotland) (SNP):** I am sure that the minister will agree that enterprise agencies and the whole of the public sector play an important part in bringing business and success to Inverclyde. Does he also agree that, with higher fuel costs on the way, having higher fuel prices in neighbouring areas and lower ones in Inverclyde will benefit the area and its economy?

**Jim Mather:** I very much agree with that. Coming together on that has been the hallmark of what I have been trying to do, in my small way, in politics. We are endeavouring to come to the right conclusions and press the right buttons when it comes to important decisions about lowering fuel costs to help families and make the community as competitive as it can be.

### **Scottish Budget (Financial Recovery)**

**3. Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I apologise to the Presiding Officer and to the cabinet secretary for not being in the chamber for the start of questions.

To ask the Scottish Executive how much was included in the Scottish budget to aid financial recovery. (S3O-13128)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Scottish Government has set out a budget for 2011-12 that prioritises support for Scotland's economy. It includes substantial support for Scottish business, including through our package of business reliefs, which is worth £2.4 billion over five years; support for employment, at a time when there are significant pressures on the labour market, including by encouraging small businesses to recruit, and, in the public sector, by maintaining funding for the NHS and protecting local authorities from the worst of the cuts; the provision of a record 25,000 modern apprenticeships in 2011-12; and continued investment in Scotland's infrastructure, such as through the £2.5 billion investment programme that will be achieved through the non-profit-

distributing model, which will help economic recovery.

**Cathie Craigie:** Does the cabinet secretary agree that Scotland's college sector has a key role to play in ensuring that our skills base is maintained during the financial downturn? The Government has said that it will provide an additional £15 million to the sector but, to date, the colleges have no idea how that will be allocated. Is he aware that student teaching hours are being cut to maintain student numbers? Does he agree that that is not good enough and that it downplays the important part that our colleges play in educating and training people across Scotland? Will he acknowledge the excellent work that Cumbernauld College is undertaking at its Cumbernauld and Kirkintilloch campuses? Will he assure me that our colleges will be supported to ensure that we have a trained and educated workforce for the future?

**John Swinney:** I am delighted to place on record the Government's appreciation for the work that is undertaken at Cumbernauld College, which I am certain will support many people of all ages in Cumbernauld and Kilsyth and the wider North Lanarkshire area.

As regards the role of colleges and its relationship with the budget, my original budget proposals included maintaining the number of student places in the college sector, which was negotiated between the Government and the college sector. The final budget increased the provision that was available, following dialogue and negotiation with the Liberal Democrats, who attached priority to increasing the number of college places and college bursaries. I was very happy to agree that with the Liberal Democrats.

However, after all the work that we put into the budget, I was rather surprised that the Liberal Democrats' measures to enhance it were voted against by Ms Craigie and her colleagues. I am at a loss to understand how, when there is an apparent interest in economic recovery and an ability to reach agreement across the political spectrum, Ms Craigie could not support the budget. For Ms Craigie to come to Parliament and ask me questions about those points when she voted against all those pieces of good news in the budget leaves me even more bewildered by the position of the Labour Party.

#### **Flood Alleviation Schemes (Moray)**

**4. Mary Scanlon (Highlands and Islands) (Con):** To ask the Scottish Executive what progress has been made regarding discussions between the Cabinet Secretary for Finance and Sustainable Growth and the Convention of Scottish Local Authorities regarding funding of the

Elgin and Forres (River Findhorn and Pilmuir) flood alleviation schemes. (S3O-13117)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Scottish Government and COSLA have agreed to discuss the issues around future capital support for flooding. The fact that budgets for the current year have already been agreed with COSLA means that any changes would not take effect until 2012-13.

**Mary Scanlon:** I, too, apologise for being slightly late today.

After the shortfall of funding for the Elgin scheme, Moray Council will be paying back prudential borrowing for the next 40 years. The scheme for the River Findhorn and Pilmuir in Forres seems to have fallen off the radar. The Government decision on the scheme was expected three months ago, but the council is still waiting for any comment or clarity, not only on the scheme but on funding. Will the Cabinet Secretary for Finance and Sustainable Growth give an assurance that that important scheme for Forres will receive the funding that it needs and that a decision will be announced before dissolution of the Parliament?

**John Swinney:** This is an important issue. I will put a number of points on the record to deal with Mary Scanlon's question. The first relates to the Elgin flood scheme. The Government has given an assurance to Moray Council that has enabled the council to embark on work on the scheme. I hope that Mary Scanlon will acknowledge that the assurances that, in my opinion, were always there have been acknowledged by Moray Council and that work on the scheme has started.

The Forres Pilmuir scheme is in a different category. The Government's funding arrangements made clear in 2007 that only recognised schemes at that stage were included in the funding mechanism. Moray Council knew that in 2007; if it did not, it was not paying adequate attention to the discussions that took place. I have given a commitment to Moray Council that, for future funding arrangements, we will examine with COSLA how we can take forward effective mechanisms to support the development of flood prevention schemes. I am embarking on those discussions with COSLA and I will keep Parliament advised of their development.

#### **Co-operative Enterprises**

**5. Willie Coffey (Kilmarnock and Loudoun) (SNP):** To ask the Scottish Government what support it provides to the development of co-operative enterprises. (S3O-13156)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The development of co-

operative enterprises is an operational matter for Co-operative Development Scotland, which is a wholly owned subsidiary of Scottish Enterprise. CDS has a specific role to promote and support all forms of new and existing co-operatives with growth potential. Working closely with business gateway, it provides specialist advice and support, promotes the co-operative model and helps to develop markets for co-operative and co-owned businesses.

**Willie Coffey:** There is now significant international evidence that worker co-operatives and employee-owned businesses are more productive than conventionally owned companies. Much of that evidence has been brought together by David Erdal in his book "Beyond the Corporation: Humanity Working", which will be launched this evening at the National Library of Scotland. Given that increased productivity is the key to growing Scotland's economy, has the minister any plans to encourage the availability of financing for those who are pursuing employee ownership or worker co-operatives, beyond that which the Baxi Partnership already provides?

**Jim Mather:** I know David Erdal well. He is the man who sold his company, Tullis Russell, to its employees. The company has shown real resilience since, which supports the international evidence on the productivity of co-operatives and employee-owned businesses, and the good work of the Baxi Partnership.

We have support through grant programmes and regional selective assistance. There is also potential for the Scottish loan fund to support businesses, if they are growth oriented and are exporting. In addition, in this financial year, CDS has supported the creation of 29 new co-operatives and one conversion to employee ownership.

I am aware that David Erdal is launching a new book tonight. I intend to be at the event and to ensure that I buy a copy.

### **Planning Application (Milngavie)**

**6. Des McNulty (Clydebank and Milngavie) (Lab):** To ask the Scottish Executive what the estimated cost is to the inquiry reporters unit of the appeal by Tesco against the decision by East Dunbartonshire Council to turn down the planning application for an enlarged store in Woodburn Way, Milngavie, and when a decision on the matter is expected. (S3O-13146)

**The Minister for Transport and Infrastructure (Keith Brown):** The directorate for planning and environmental appeals anticipates that the total cost to Scottish ministers of dealing with the planning appeal by Tesco Stores Ltd in Milngavie will be around £16,000. That includes the cost of

hiring venues for a pre-examination meeting and for inquiry and hearing sessions, advertising the inquiry sessions in the local press, informing all parties of arrangements for the meetings, staff time, and travel and subsistence costs for the reporter. At this stage, it is anticipated that the reporter will issue his decision in March 2011.

**Des McNulty:** I was in contact with the minister's predecessor on this particular application, and I confirm for the record that it was a ministerial decision to pass the appeal to the reporter. There was a possibility of not so doing, but the decision to do so was made in the minister's name.

In that context, I invite the minister to ponder on this issue. If a community feels that a planning application is completely unacceptable and expresses that view clearly, and a council agrees with what local people feel and makes a decision that is in accordance with their feelings, on what basis do ministers and reporters have the right potentially to set aside the decision—I am not prejudging the decision that the reporter might make in this case—and ignore the strongly expressed views of local people?

**Keith Brown:** The basis that Des McNulty asks about is the same basis that applied when he was a planning minister. It is a democratic basis that has been established for many years and accepted by all the parties, whereby decisions go to inquiry reporters. In some of the local press coverage of this issue, Des McNulty suggests that the decision should have been taken immediately by ministers rather than going to an inquiry reporter. I checked on that today and can state that that has never been done, and there are good reasons why it should not be done.

The process works in the way that has been indicated. There are specific circumstances in which an appeal can be recalled by ministers, but that does not even come close to applying in this case. We have followed the same process as was followed in previous situations. That is the right way to do it. If Des McNulty is saying that he would radically change the planning system to accommodate this particular case, he should bring that forward. I am, of course, a bit perplexed that he has portrayed himself as a local champion against Tesco in the local press at the same time as he voted against the large retailer levy. He can explain that to his constituents. However, there is no way in which we intend to change the planning system to take the kind of decisions that he suggests we should take just now.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** This question raises the issue of cost, and no doubt the minister will reply to me as he did in the last part of his reply to Mr McNulty.

The United Kingdom Government increased the maximum fee that can be charged to applicants for planning applications in England and Wales, but the Scottish Government chose not to do that. In England and Wales, the maximum fee is £250,000 for large developments, but in Scotland it is £15,000. In many cases, the fee would offset the costs, so why has the Scottish Government chosen not to increase the fee for companies with the broadest shoulders?

**Keith Brown:** I am stunned that that kind of argument can be made by somebody who opposed the large retailer levy. The large planning applications to which the member refers would not necessarily apply in this case. I accept that a substantially lower fee is paid in Scotland. I have made that point before to Mr Purvis. However, rather than £15,000, I think that the figure is around £18,000. As Mr Purvis said, though, it can be substantially more than that in England and Wales, up to a maximum of £250,000. All I will say is that that just shows the business-friendly policies of this Government, which ensure that we can allow planning applications to go forward.

**Gil Paterson (West of Scotland) (SNP):** Will the minister comment on the fact that Des McNulty claims locally in Milngavie that he wants to protect town centres and small businesses from the power of Tesco, but when offered just that he votes against it in the Parliament in Edinburgh?

**The Deputy Presiding Officer (Alasdair Morgan):** Order. That has nothing to do with the substantive question.

**Elaine Smith (Coatbridge and Chryston) (Lab):** I have a similar question for the minister about the cost of appeals, with regard to the incinerator in Coatbridge.

**The Deputy Presiding Officer:** I am sorry, but that has nothing to do with the substantive question either.

### Oil Price

**7. Dave Thompson (Highlands and Islands) (SNP):** To ask the Scottish Government whether it is concerned at the price of oil. (S3O-13176)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Scottish Government is concerned about the impact of rising oil prices and the flow-through to fuel prices, and the effect that that is having on households and businesses across Scotland.

Petrol and diesel prices are now at record highs, and we have urged the United Kingdom Government to take urgent action. First, we urged it to scrap the increase in fuel duty that is scheduled for April. Secondly, we asked it to follow through on its commitment to introduce a fuel duty

regulator, which would mitigate the pressure of rising oil prices by using some of the additional revenue that the Government will receive from the North Sea to reduce fuel duty. Finally, we encouraged the UK Government to introduce a fuel duty derogation to support rural and island communities, which pay some of the highest fuel prices in Europe.

**Dave Thompson:** The cabinet secretary will be aware that many consumers, especially in the Highlands and Islands, are off the gas grid and must rely on oil and liquefied petroleum gas to heat their homes. Prices for those fuels were already high, but they rose dramatically during the recent cold spell. Will the minister tell us what is being done and what can be done to assist users of oil and LPG with the high cost of those fuels?

**John Swinney:** In the short term, there are a number of challenges in the area, because individuals are facing higher bills for refilling their oil supplies than they faced before the spell of winter weather and the substantial rise in oil prices.

In essence, I characterise the Government's interventions as being to support people to change their approach to fuel efficiency, by taking energy efficiency advice that the Government makes available or by converting to more sustainable means of fuel generation, in relation to which different forms of Government support are available to assist in the process.

### Economic Growth (North Ayrshire)

**8. Kenneth Gibson (Cunninghame North) (SNP):** To ask the Scottish Government what steps it is taking to aid job creation and training and encourage economic growth in North Ayrshire. (S3O-13161)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The Scottish Government is committed to supporting North Ayrshire Council's implementation of its economic development and regeneration strategy. A joint working party will be established in the near future, to address a range of physical regeneration, economic and social issues, which were highlighted at a recent meeting with North Ayrshire community planning partners.

**Kenneth Gibson:** I was pleased to see the minister and Mr Neil at the meeting.

Does the minister agree that manufacturing remains a key component of the North Ayrshire economy and that the 37 per cent decline in United Kingdom manufacturing employment under the previous Labour Government hit the area particularly hard? What will the Scottish Government do, with the limited powers that are



available to it, to help manufacturing in North Ayrshire?

**Jim Mather:** Manufacturing is vital to the whole of the Scottish economy and its importance was highlighted in “The Scottish Economic Recovery Plan: Update February 2011”, which was published last week. The manufacturing sector is helping to lead Scotland’s economy out of recession. The most recent gross domestic product data show that the Scottish manufacturing sector grew by 0.7 per cent in the third quarter of 2010.

The sector is poised to stabilise in the current challenging situation. That stability is being underpinned by the work that we are doing through Scottish Development International, Skills Development Scotland and the Scottish manufacturing advisory service, which helped 111 companies during the past year and has undertaken 287 manufacturing reviews since April 2010. We hope that such work, combined with innovation for the industry of the future, support for jobs in our communities, the strengthening of education and skills and help for companies to internationalise, through SDI and the smart exporter programme, is taking the sector to a new level.

### Economic Activity

**9. Joe FitzPatrick (Dundee West) (SNP):** To ask the Scottish Government what steps it is taking to increase economic activity. (S3O-13160)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Scottish Government brought forward a budget for 2011-12 that prioritises support for economic recovery and sustainable economic growth, in the face of the reductions in the public expenditure that is available to us. In partnership with other devolved Administrations, we continue to make representations to the United Kingdom Government and to make the case for sustained investment in the Scottish economy. The budget contains a range of interventions, a number of which I have set out to the Parliament today.

**Joe FitzPatrick:** I am sure that members of all parties will acknowledge the Government’s hard work in the face of the largest-ever cut to the Scottish block grant.

Scottish Government funding to kick start the Victoria and Albert museum project in Dundee has resulted in new confidence in our city. In recent weeks, Outplay Entertainment has created new jobs in the computer games sector in Dundee, and there is the prospect of hundreds more jobs at Michelin Tyre and with Gamesa, in offshore wind turbine manufacture.

Announcements on those jobs materialised after the Scottish Government and its partners provided substantial support. I know that the cabinet secretary has taken a personal interest in many issues. I acknowledge that challenges remain, but does the cabinet secretary share my enthusiasm for and confidence in Dundee’s renaissance?

**John Swinney:** I certainly do. I represent a neighbouring constituency and I have watched the strengthening of Dundee’s economy over a number of years. The projects to which Mr FitzPatrick referred, on the V and A at Dundee and at Gamesa and the Michelin Tyre plant, are encouraging interventions and there are a number of developments in the manufacturing sector, which I think helps to rebalance elements of the Scottish economy.

Today I visited BlackRock in Edinburgh—I have met the company before and Mr Mather has met its partners in the United States—to welcome the company’s announcement of expansion of employment in the financial services sector. That is a welcome boost, which adds to the 50,000 new jobs that have been created in Scotland during the past seven months.

### School Buildings (Local Authority Funding)

**10. John Scott (Ayr) (Con):** To ask the Scottish Executive what discussions the Cabinet Secretary for Finance and Sustainable Growth has been involved in regarding a further round of funding for local authorities to help refurbish or rebuild school buildings. (S3O-13115)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** In June 2009, the Scottish Government announced £800 million of funding towards a £1.25 billion school building programme, which will be funded by a mixture of capital and revenue finance. Decisions regarding the allocation of funding for the Scotland’s schools for the future programme are a matter for the Cabinet Secretary for Education and Lifelong Learning.

**John Scott:** As the cabinet secretary knows—not least because his colleague, the education secretary, who is a former pupil of the school, will have told him—ambitious plans are being developed to refurbish and extend Marr college in Troon. Those plans have widespread support in the town. Will the cabinet secretary assure me that, when he determines future funding allocations to councils, he will consider favourably those proposals by South Ayrshire Council, which will help to preserve one of Troon’s most iconic buildings and to deliver the best possible educational facilities for local pupils and teachers?

**John Swinney:** The support that is available for school refurbishment and building programmes is,

in part, in the school building programme to which I referred in my original answer to Mr Scott, but it is also in the general capital finance that is made available to local authorities.

One of the key elements of the financial settlement that I put in place for local authorities this year was to maintain their proportion of the—I must acknowledge it—reduced capital budget that is available to the Scottish Government at the current level, which, if my memory serves me right, is about 27 per cent.

The school building programme to which I referred in my earlier answer is additional to that 27 per cent that we are investing in local authority stock. Any decisions on school building programmes will be taken in the context of those resources.

**Andy Kerr (East Kilbride) (Lab):** Schools are a vital part of our infrastructure programme. The Scottish National Party Government emptied that programme of nearly £1 billion, largely due to its view on private finance. I welcome the complete reversal of the Government's position on the use of private finance, as outlined in its budget, in which it adopts public-private partnerships back into the mainstream of public financing.

The schools that are being completed are largely those that were set in train by the previous Labour Administration. The SNP has added no substantial investment to that programme. Is it not the case that, without the policy reversal on, and acceptance of, public-private partnerships, our builders, construction workers, lawyers, architects and other professionals would be without further work to do as a result of the Government's actions?

**John Swinney:** It is important that we marshal all the facts and the sequence of events. Mr Kerr probably stood in my place in 2007 and said to Parliament that, if the SNP came to office, it would cancel all the school building projects that were in train. Now, he comes to the chamber and criticises the Government for not doing that but doing what it said it would do: sustain the programme that was in place. In fact, since we came to office, we have delivered more on the school building programme than Mr Kerr and his colleagues were committed to.

The school building programme that was provided for in the Government's budget substantially enhances the capital programme, which has come under threat from the decisions of the United Kingdom Government. However, as I have said before in the Parliament, the current United Kingdom Government is only implementing a capital programme that was left to it by the Labour Party when it was in government.

The Labour Party has no right to criticise the Liberals and the Conservatives for the scale of capital reductions in the United Kingdom because the Labour Government advanced those proposals before it was drummed out of office in 2010.

### **Business Rates (Ballater)**

**11. Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** To ask the Scottish Executive whether it will accept the invitation from the Ballater Business Association sent on 17 February 2011 to visit the village to discuss business rate rises. (S3O-13190)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** We are always happy to listen to the views of the business community. That is why the Minister for Enterprise, Energy and Tourism visited Ballater to meet local businesses on 27 September. The First Minister will consider the request for a further meeting from the Ballater Business Association and respond shortly.

**Mike Rumbles:** I thank the cabinet secretary for that reply, but Jim Mather wrote to the Ballater Business Association yesterday. Its reply of today states:

"Thank you for your letter of yesterday. Unfortunately there is nothing new in your communication and we seem not to have moved forward since your visit to Ballater in September. I sincerely hope that your letter was not meant to be the reply to our letter to the First Minister ... because this would be unacceptable to us. All of our questions and concerns put to the First Minister still stand ... we still await both his reply and the date of his visit."

Will the Scottish Executive please ask the First Minister to respond to the Ballater Business Association? It has had massive rate rises—60 per cent increases in rateable values. Come to Ballater and address its concerns.

**John Swinney:** As I said in my original answer to Mr Rumbles, the First Minister will consider the request and respond shortly to the Ballater Business Association.

As Mr Rumbles knows, the valuation of businesses is undertaken through a process that is independent of Government. Individual companies are of course entitled to appeal those decisions.

In Mr Mather's work around Ballater, he asked for an analysis to be undertaken of the 225 business properties in Ballater, which showed that nine out of 10 of the businesses were potentially eligible for the small business bonus at the exact same levels pre and post-2010 revaluation. Although individual businesses might have seen increases in their business rates, that is a product of the business rates system and the independent

valuation. It is encouraging to see that such a large proportion of businesses are still eligible for the support that this Government has put in place to reduce the business rates of small companies.

### **Scottish Investment Bank**

#### **12. John Park (Mid Scotland and Fife) (Lab):**

To ask the Scottish Executive whether it can advise of any recent developments regarding the Scottish Investment Bank. (S3O-13149)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** Demand for the Scottish Investment Bank equity products remains high with the likely level of investment in 2010-11 being similar to the previous year's high level. Last month, the Cabinet Secretary for Finance and Sustainable Growth was pleased to announce that the Scottish loan fund was open for business with the appointment of Maven Capital Partners as the fund managers. A further £5 million has been added to the fund—an extra £2 million in European regional development funding, matched with a £3 million commitment from Highlands and Islands Enterprise—bringing the total public sector commitment to £55 million.

**John Park:** I have had some engagement with smaller manufacturing-type companies in the region that I represent, which have raised concerns with me that, because of their tight margins, some of the costs associated with the Scottish loan fund might be prohibitive and affect their ability to engage with it. Are the Scottish Government and the minister aware of that potential issue? Have they made an assessment of the cost with the loan fund managers? Obviously, I respect the commercial nature of the information that the businesses have given me, but would the minister be willing to engage with some of those businesses if I was able to share that information with him?

**Jim Mather:** Given the nature of the question and the way that Mr Park phrased it, I would very much prefer to sit down with him and discuss the particulars of those businesses, so that I understand them more clearly. We are in very challenging times. People will know how expensive it is to borrow from the private sector and from banks at this time. We are determined to do everything we can to work with companies, through the vehicle of the Scottish loan fund and using other measures, to help them navigate their way through this time. There is a dialogue there that we could and should have.

### **Edinburgh Tram Project**

**13. George Foulkes (Lothians) (Lab):** To ask the Scottish Executive whether Transport Scotland will take a more active role in the delivery of the Edinburgh tram project. (S3O-13131)

**The Minister for Transport and Infrastructure (Keith Brown):** With formal mediation due to start next week, this is not the right time to be considering substantial changes to the governance of the project. However, I want to ensure that every opportunity is taken to resolve the long-running dispute between TIE Ltd and the contractor so that trams can be delivered in Edinburgh as soon as possible, and I have agreed that Transport Scotland will take part in the mediation process.

**George Foulkes:** I commend the Cabinet Secretary for Finance and Sustainable Growth for intervening to enable the mediation process to take place. We hope that it will reach a successful conclusion.

The Auditor General for Scotland has recommended that Transport Scotland take a more active role in the delivery of the tram project—not the mediation, but the delivery. Given that the Scottish Executive is the principal funder of the project, will it give sympathetic consideration to the Auditor General's recommendation?

**Keith Brown:** Lord Foulkes will have heard the statements on the subject that were made by the cabinet secretary this morning. The Scottish Government has not been merely an observer. We receive regular updates from the City of Edinburgh Council and Transport Scotland maintains regular communication. As the cabinet secretary made clear, he has had a number of meetings with the City of Edinburgh Council on the matter.

Mediation is due to start very soon, and now is not the right time to discuss material and substantial changes to the governance of the project. Nevertheless, I repeat that we want to ensure that every opportunity is taken to resolve the long-running dispute. For that reason, we have agreed to be involved in the mediation process, which should be allowed to take its course.

### **Public Sector Absenteeism**

**14. David McLetchie (Edinburgh Pentlands) (Con):** To ask the Scottish Executive what steps it is taking to reduce the level of absenteeism in the public sector. (S3O-13119)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Scottish Government is committed to driving down absenteeism across the public sector, working with public sector partners and employee representatives. All cost-effective interventions to improve both employee wellbeing and public sector efficiency are being considered.

**David McLetchie:** The cabinet secretary will be aware, from our discussions at the time of the budget, that if we were able to achieve a two-day reduction per employee in the level of

absenteeism in the public sector—which is far higher than in comparable occupations in the private sector—we would achieve a saving of some £138 million a year. There is a significant prize at stake. Beyond the generalities, what specific programmes are being put in place to address the problem in the departments for which the cabinet secretary has direct responsibility?

**John Swinney:** Before Mr McLetchie gets carried away with the savings that he has identified, I point out that they would materialise only if we also reduced commensurately the level of public sector employment. In the interests of completeness, it is important that we all understand that.

Mr McLetchie asked about the Scottish Government. The level of absenteeism in the Scottish Government has reduced in one year by 12.3 per cent as a consequence of the initiatives that have been undertaken by the Government. We have several work streams in place that monitor the position of individual work areas and individuals. Where support is required to encourage people to return to work, that is offered and given. It is in all our interests to have a healthy workforce that is able to sustain low levels of absenteeism, and that remains the objective of the Government.

**David Whitton (Strathkelvin and Bearsden) (Lab):** One notable absentee from the public sector after the election will be Mr Mather, the Minister for Enterprise, Energy and Tourism. I take the opportunity to pay tribute to him during what I think will be his last question time. Although we have had our differences across the floor of the chamber, he has always been a congenial minister. Indeed, he has visited my constituency on a couple of occasions. I am sure that he would agree that one way in which the Government could reduce absenteeism in the public sector would be by adopting Labour's living wage campaign, which, in Glasgow, has led to a reduction in the number of days for which employees have been absent from work.

**John Swinney:** I acknowledge the generous tribute that David Whitton has paid to Jim Mather. Mr Mather is not only a congenial colleague; he is also an excellent person to work with. It has been an unreserved privilege for me to have him at my side throughout the term of the Government, and I thank Mr Mather warmly for all that he has contributed to the Government. Absenteeism and Mr Mather are not two things that I would often put together in the same sentence, as he is always there, working hard with great diligence.

The point that Mr Whitton makes about the living wage campaign is a commitment that the Government has taken forward and applied across

the pay remits for which the Government has responsibility.

### **Railway Station Car Parking**

**15. Jamie Hepburn (Central Scotland) (SNP):** To ask the Scottish Government what the outcome has been following the consultation undertaken in 2009-10 by Transport Scotland on railway station car parking. (S3O-13164)

**The Minister for Transport and Infrastructure (Keith Brown):** The consultation responses indicated that further research was required to gain a fuller understanding of the factors influencing the use of park-and-ride facilities and the relative importance of each factor. Research into those factors and the relationship between car park supply and public transport demand is currently being undertaken. The research findings, along with the consultation responses, will be used to produce a national rail car parking policy early in the next session of Parliament.

**Jamie Hepburn:** In its submission to the consultation, North Lanarkshire Council stated that

“station parking charges would probably only be required in town centres or other areas where they might be used by non-rail travellers”,

a position with which I agree. Is the minister aware that North Lanarkshire Council now plans to introduce car parking charges at both Croy and Greenfaulds railway stations, which in no way could be described as town centre railway stations? Does he agree that that would be counterproductive to encouraging people to get out of their cars and on to the train?

**Keith Brown:** It is fair to point out that decisions of that nature rest with North Lanarkshire Council, which has ownership of the park-and-ride facility at Croy, for example. However, it is our view that rail car parks should not be viewed strictly as a revenue source but as a means of facilitating access to the rail network for people who live outwith a station's walk-in catchment area.

If the council decided to introduce charging, we would ask it to consider the implications for issues such as increasing road congestion levels. We would also ask that it consider the parking alternatives at each station. I know that the situation at Croy is particularly constrained, which could lead to inappropriate on-street parking by passengers who are seeking to avoid paying charges.

For the avoidance of doubt, I point out that the restrictions are outwith the superb new park-and-ride facility at Croy.

**Des McNulty (Clydebank and Milngavie) (Lab):** On a point of order, Presiding Officer. Is it in order for ministers to give misleading responses

to questions? Earlier, I asked a question about Tesco's appeal. It is quite clearly a ministerial decision to pass any appeal to the inquiry reporters unit. Ministers authorise expenditure on an inquiry and any decision that is reached is on the authority of the minister. That is quite explicit in the legislation. I do not—

**The Deputy Presiding Officer:** I must stop the member there. The member knows full well that the Presiding Officer has already ruled that it is not up to the chair to comment on the veracity or accuracy of ministers' responses to questions.

## Damages (Scotland) Bill: Stage 3

14:42

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is stage 3 of the Damages (Scotland) Bill. Members should have the usual documents in front of them. I could tell you what will happen with the division bell, but we will cross that bridge should we come to it.

### Section 4—Sums of damages payable to relatives

**The Deputy Presiding Officer:** Group 1 in the marshalled list of amendments concerns qualifying relatives. Amendment 1, in the name of the minister, is grouped with amendment 3.

**The Minister for Community Safety (Fergus Ewing):** The Family Law (Scotland) Act 2006 amended the law on damages for wrongful death to provide that relatives by affinity—for instance, in-laws—would no longer be regarded as the victim's immediate family for the purpose of claiming damages for non-patrimonial loss. That approach was replicated by the Scottish Law Commission in its report and draft bill, and by Mr Butler in the bill that he introduced. The current Administration had no intention of reversing that approach, certainly not without consultation and debate, but a technical flaw in one of the stage 2 amendments appears inadvertently to have had that consequence. Amendment 1 will bring the bill back to the status quo ante in that regard.

Amendment 3, on the other hand, will make a limited but deliberate change in the approach of the law. Currently, a stepgrandchild or stepgrandparent counts as a relative and may claim for patrimonial loss but not for non-patrimonial loss. It has been put to us that that is anomalous and that someone who had been accepted by the deceased as his own grandchild should be able to make a claim for non-patrimonial loss. Likewise, a person who had accepted someone as his own grandchild should be able to claim in the event of the child's death. There appears to us to be merit in that argument and, therefore, amendment 3 addresses it.

I move amendment 1.

**Bill Butler (Glasgow Anniesland) (Lab):** I urge members to support both amendments. I am particularly pleased that the Government has lodged amendment 3 to section 14. It will place stepgrandchildren and other children who were considered by someone who has died to have been their grandchildren on the same footing as grandchildren by marriage. The shameful anomaly that previously existed discriminated against children based on the marital status of their

parents or grandparents. Given that such efforts have been made in recent years to reform Scots law to abolish any such discrimination, to have left this provision standing in damages law would have been regrettable. I approached the Scottish Government to address the point with my own amendment, which I am pleased to acknowledge it has adopted verbatim.

**Bill Aitken (Glasgow) (Con):** Amendment 3 obviates a difficulty that could arise. Overall, consideration of this matter has revealed that we can no longer operate on the basis of the nuclear family. Times have changed and the law must move with them. The amendments that are proposed by Mr Ewing are satisfactory.

*Amendment 1 agreed to.*

### **Section 7—Assessment of compensation for loss of support**

14:45

**The Deputy Presiding Officer:** Group 2 is on minor and technical amendments. Amendment 2, in the name of the minister, is grouped with amendments 4, 9 and 10.

**Fergus Ewing:** Amendment 2 will delete the word “annual” from the phrase “net annual income” in section 7(1)(a). Its inclusion there seems unnecessary and potentially confusing, as it is only in certain circumstances that it will be appropriate for the court to have regard to the annual figure. In other circumstances, it may be more appropriate for the court to have regard to the monthly, weekly or even daily figure. In those circumstances, the reference to “annual” would seem inappropriate.

Amendment 4 aims to ensure an effective relationship with other statutes, some of which refer to common-law awards of solatium in respect of the loss of a relative that predated the Damages (Scotland) Act 1976. To ensure that they also continue to have effect, it is necessary to provide that those references should in future be read as references to awards under section 4(2)(b) of the bill.

Amendment 9 will remove a problematic provision from schedule 1 to the bill. That provision would insert an apparently inappropriate reference to the Social Security (Recovery of Benefits) Act 1997 into the Administration of Justice Act 1982. Whatever the aim, the effect seems to be to invite the suggestion that the benefits to which the 1997 act applies can be taken into account in the assessment of damages. That risks contradicting a clear statement to the contrary in the 1997 act—hence the recommendation that the provision be removed

from the bill. Amendment 10 is consequential on amendment 9.

I move amendment 2.

**Bill Butler:** I urge members to support all the amendments in group 2.

On amendment 2, I agree that the word “annual” should be left out of section 7, as it is unnecessary and potentially confusing. If it remains, there could be a suggestion that the loss of support should be calculated by reference to 75 per cent of only one year’s income. It is clear that that is not the intention of the bill. The removal of the word “annual” will ensure that it is 75 per cent of A’s total income that is the relevant figure. That was a potential problem that we had identified, too, and I am pleased that the Government agrees that the word should be removed.

I concur with what the minister said about the other amendments in the group.

*Amendment 2 agreed to.*

### **Section 14—Interpretation**

*Amendments 3 and 4 moved—[Fergus Ewing]—and agreed to.*

### **Section 19—Short title, Crown application and commencement**

**The Deputy Presiding Officer:** Group 3 is on commencement. Amendment 5, in the name of Bill Butler, is grouped with amendments 6 to 8. I draw members’ attention to the fact that, if amendment 5 is agreed to, I cannot call amendments 6 and 7.

**Bill Butler:** The one remaining area of possible dispute between the Government and me is commencement. The bill follows the Scottish Law Commission’s report of 2008, which followed years of piecemeal amendment to the Damages (Scotland) Act 1976. That act has now been on the statute books for 35 years. The law in the area needs to be cohesive and modern to benefit and properly compensate the victims of industrial disease, accidents at work and road traffic accidents. It also needs to be cohesive and modern for families, who suffer not only emotional loss but financial hardship when a breadwinner is lost. Moreover, it needs to be cohesive and modern as soon as possible because such losses are being felt every day throughout Scotland.

I understand that amendment 5 would allow for commencement within five weeks. There would be four weeks for the law officers to object on the ground of legislative competence. If there was no objection on that ground, royal assent would follow approximately one week later. My fear is that, if the amendments in the name of the minister are

passed, the implementation of the legislation could be delayed until the autumn of this year.

I will listen carefully to what the minister says in response. I am looking for a firm assurance from him that the legislation will commence as soon as is humanly possible, whatever the complexion of the Government of the day is. If he can assure me of that, I will take his word for it.

I move amendment 5.

**Fergus Ewing:** I say at the outset that I share Bill Butler's sentiments about the importance of bringing the legislation into effect as soon as possible, so I make it clear that I want to see and am determined to ensure that it is commenced at the very earliest practical opportunity. I am happy to give that absolute assurance to Mr Butler and I am grateful to him for the way in which he has moved amendment 5 and for the prior discussions that we have had there anent. With that in mind, amendment 5 is a temptation. It would result in the legislation coming fully into effect on the day after royal assent, perhaps in early April. Unfortunately, that is not a course that I can recommend, but I will set out in a little detail the reasons why I have to say that as minister.

The key consideration is that, as is normal, we need to ensure that proper provision is made for the legislation to come into force. That includes making transitional and saving provisions to ensure that the move from the old regime to the new is smooth and that nothing and no one falls between the legislative cracks. I am sure that Mr Butler will agree that that is important, particularly when we are dealing with people's rights and obligations. I do not want to see any bereaved relative losing out or being involved in an unnecessary dispute simply because, in our eagerness to legislate, we missed a trick. We in the chamber have heard before that some defendants will exploit any loophole and that is one reason to ensure that we take no undue risks.

If amendment 5 were accepted and the act commenced immediately after royal assent, an order under section 18 would be needed for such transitional arrangements. The order would have to come into force immediately and would have to be made during the election purdah period. If that happened, we would be denying Parliament its scrutiny function and breaching the requirement in section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010 for the Parliament to have 28 days to consider a negative instrument before it comes into force.

I should also say that acts do not ordinarily commence earlier than two months after royal assent has been given as it is recognised that the public, lawyers and other interested parties need time to prepare for the new law coming into force.

There are reasons why it would be better for the act to come into force by a commencement order two months after royal assent has been given, when Parliament will be in session. Although commencement orders require to be laid before Parliament only as a courtesy, Parliament is normally given 10 to 14 days' notice. Of course, the Scottish Law Commission's draft provides for the act to come into force by commencement order and recognises that transitional and supplementary provisions might be required by the inclusion of section 18. Indeed, amendment 8 improves the position for quick commencement by enabling transitional and saving provisions to be made in the commencement order itself.

The amendments in my name allow for the implementation of the bill to be as speedy as reasonably possible and should enable the act to come into force as early as two months after royal assent has been given. Amendment 8 will enable the commencement order to contain transitional provisions without the need for a separate order to be made under section 18.

Amendment 6 provides that the separate order-making power in section 18 comes into force on royal assent. Both amendments will enable ministers to expedite commencement and they have been lodged at my express behest in order to achieve that objective.

I hope that what I have said, which I am sure will have received the closest of attention from all members, will have persuaded colleagues to support amendments 6 to 8. During yesterday's stage 3 debate on the Wildlife and Natural Environment (Scotland) Bill, I heard Peter Peacock say that, when he was a minister, he was sometimes required to read out technical arguments with which he might not necessarily have fully agreed. This is not one of those occasions, regrettably. Were there any way that I felt would be safe to commence the legislation more speedily than we can, I assure Bill Butler that I would have pursued that avenue. Unfortunately there is no such way. However, we have taken measures to expedite the time of commencement.

I conclude by saying that I hope that Bill Butler will have taken some comfort from my assurances about our intention that the law will come into force at the earliest possible and practical date.

**Bill Aitken:** Bill Butler has spent a lot of time and put a lot of commitment into getting the bill through the Parliament and his enthusiasm for having it implemented as soon as possible is entirely understandable. However, certain dangers could arise if we proceeded as he has suggested in amendment 5. The last thing that we want to do is to spoil the effectiveness of a very fine piece of legislation by taking precipitate action. I listened very carefully indeed to the minister's arguments

and believe that he has come up with the solution; he has also made quite clear his commitment to implementing the legislation as soon as possible. On that basis, I think that Bill Butler can be satisfied.

**The Deputy Presiding Officer:** I am using my power under standing orders to extend the time limit for the debate on this group to prevent it from being unreasonably curtailed.

**Robert Brown (Glasgow) (LD):** This is an important issue, but I am not sure that I fully understand all the implications. However, I am clear that the legislation needs to be implemented smoothly and effectively but not necessarily speedily—although we do want it to be brought into force as speedily as possible.

I will make two points to supplement the comments made by the minister and Bill Aitken, both of whom I substantially agree with. First, I emphasise that the professionals involved need to know about the legislation. It needs to be discussed in law journals and so on to ensure that the lawyers who advise clients, the judges who make the decisions and the clerks and others who have to deal with these matters know about the provisions and can assess and deal with things.

Secondly, I should know the answer to this, but I am not sure that I do. How will these provisions apply to actions that have been raised before the legislation is commenced? As far as I can see, there is no specific reference to that in the bill, so it must be a matter of interpretation. I assume, however, that the bill will not apply to actions that have already been raised. If that is not correct, I would like some clarification on what the exact implications are for actions that have been raised and are going through the court before the commencement of the legislation.

**Bill Butler:** The minister's detailed exposition of the effects of amendments 6 to 8 is convincing and his assurance gives me significant comfort. I concur with his wish to ensure that no bereaved person misses out as a result of something that we do inadvertently. His case is compelling, especially with regard to the parliamentary scrutiny function. I have found the minister to be a man of his word. I accept it and seek leave to withdraw amendment 5.

*Amendment 5, by agreement, withdrawn.*

*Amendments 6 to 8 moved—[Fergus Ewing]—and agreed to.*

#### **Schedule 1—Minor and consequential amendments**

*Amendments 9 and 10 moved—[Fergus Ewing]—and agreed to.*

**The Deputy Presiding Officer:** That ends consideration of amendments.

## **Damages (Scotland) Bill**

**The Deputy Presiding Officer (Alasdair Morgan):** The next item of business is a debate on motion S3M-8028, in the name of Bill Butler, on the Damages (Scotland) Bill. I call the Cabinet Secretary for Justice to signify Crown consent.

**The Cabinet Secretary for Justice (Kenny MacAskill):** For the purposes of rule 9.11 of the standing orders, I advise the Parliament that Her Majesty, having been informed of the purport of the Damages (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

**The Deputy Presiding Officer:** Thank you, cabinet secretary. I call Bill Butler to speak to and move the motion.

14:59

**Bill Butler (Glasgow Anniesland) (Lab):** I rise to speak to the motion in my name that the Damages (Scotland) Bill be passed.

The bill, which was introduced on 1 June 2010, has the clear purpose of implementing the recommendations of the Scottish Law Commission's "Report on Damages for Wrongful Death", which was published in September 2008.

In Scots law, when an individual suffers an injury or contracts a disease as a result of the actions or omissions of another person or of a legal entity such as a company, damages can be claimed from the wrongdoer. The law makes specific provision for cases of personal injury that result in premature death, whether the death is immediate or more protracted. The Law Commission concluded that the extant 1976 act

"has become over-complex and, indeed, contains inaccuracies as a consequence of the numerous amendments made to it"

and therefore

"should be repealed and replaced by new legislation which will restate the current law with greater clarity and accuracy."

The reforms that are contained in the bill seek to achieve that greater clarity and accuracy, and reform is urgently needed because of the nature of the cases and the number of people who are affected. Every year, hundreds of people in Scotland are wrongful death victims or become ill with fatal work-related diseases. On average, 30 people in Scotland die in workplace accidents every year. In 2008, 272 people died on Scottish roads. Between 1 January 2009 and 20 April 2010, 210 people with mesothelioma and 58 people with asbestos-related lung cancer sought assistance from Clydeside Action on Asbestos. In



numerous other fatal accidents that were unrelated to work or road traffic accidents, the deceased person was the victim of another's negligence.

Most such deaths become claims and then court actions. Year on year, they add to the volume of wrongful death cases in which claims are made. It is generally accepted that wrongful death cases are among the most difficult and anxious cases with which personal injury practitioners deal. Cases tend to be hard fought by insurers and defenders, which can mean that they take longer to resolve. As well as dealing with their bereavement, families have the practical burden of financial hardship to shoulder and the unknown and often daunting legal process to face.

If the bill is passed today, the uncertainty and delays to which families and victims are subjected can be reduced and the Parliament will have met a need that has perhaps been understood only by victims and those who have assisted them.

Members will recall that, during the stage 1 debate, I pledged to work constructively with the minister and all members to seek agreement on aspects of the bill that still troubled members and the Government. I am happy to report that constructive engagement has continued to be the order of the day since 15 December and throughout the latter stages of the bill. Both informally in discussions with the minister and his team, and formally during the stage 2 process, there were two interrelated issues that, above all others, required to be resolved in a way that was both practicable and durable. They were matters that the Justice Committee raised specifically in its stage 1 report, with the admonition to the Government and me to come up with an acceptable, resilient compromise on the provisions relating to the fixed percentage of 25 per cent used to calculate the victim's living expenses in the context of the victim's claim for damages and its obverse, the fixed percentage of 75 per cent used to calculate the amount that the victim spent on supporting his or her family in the context of the relatives' claim for loss of support. The committee's clear advice was that a rebuttable presumption was necessary if it

"could be drafted in such a way that it provides flexibility only when it is needed, without undermining the benefits of a fixed deduction in the majority of cases".

Despite my reservations about a rebuttable presumption, which I expressed at stage 1, I believe that the compromise that is expressed in the Government amendments that were agreed unanimously at stage 2 places the onus on those who wish to challenge the fixed percentages.

The phrase that was agreed—"manifestly and materially unfair"—forces those who wish to challenge the normal fixed percentages to make

the argument for why their client's case is "genuinely unusual". That is a much higher and more focused test than if the provision were simply to be phrased as "on special cause shown." That would have been far too wide. As I said at stage 1, the words employed must not be so wide as to provide

"an open door to all defenders".—[*Official Report*, 15 December 2010; c 31568.]

Nonetheless, for the avoidance of doubt and the guidance of those who at some future date may have to opine in respect of this provision in the bill, I would be grateful if the minister in his speech could place on record the Government's support for such an interpretation of the bill's intent in this regard.

During stage 2 discussions, there also arose the issue, in relation to a relative's claim for loss of support, of the requirement in the bill to disregard the income of the person making the claim. Mr Ewing will recall that I expressed my concern at the time about the deletion of section 7(1)(b). He will also recall that the matter was the subject of considerable debate. The minister assured me at the time that

"The formula in section 7(1)(a) already provides for the amount available to support the relatives to be 75 per cent. It is clearly implicit in that section that no further calculation is to be made to disregard a relative's income".—[*Official Report*, Justice Committee, 1 February 2011; c 4128.]

For the avoidance of doubt, I ask Mr Ewing to reiterate what I understood him to say at stage 2—namely, that the matter of the disregard would arise only in exceptional cases in which the 75 per cent figure would result in manifest and material unfairness. In other words, will the minister be good enough to confirm in Parliament that the principle of the disregard in respect of the income of the person making the claim remains intact?

I look forward to the debate.

I move,

That the Parliament agrees that the Damages (Scotland) Bill be passed.

15:06

**The Minister for Community Safety (Fergus Ewing):** I begin by belatedly responding to Robert Brown's earlier point by advising him that, under section 17, nothing affects proceedings that are commenced before section 16 comes into force. The legislation will apply only to court actions that are raised after its commencement.

The Parliament has a proud record on modernising the law on damages, although the need for further reform is well recognised. I had announced plans for a programme that covered three Scottish Law Commission reports—those on

psychiatric injury, time bar and wrongful death—but when Bill Butler lodged his final proposal for the bill to address wrongful death issues we adjusted to focus on those first.

I hope and believe that Bill Butler agrees that we have maintained a good and constructive dialogue in the past year. We have engaged fully over a long period to good effect. We worked at all times with the members of the Justice Committee as a team who had one objective: to improve the terms of the original bill to meet the matters that arose in evidence. In particular, I thank the former convener of the committee for his excellent convenership. *[Applause.]*

The Scottish Government issued a consultation paper last July so that we could contribute constructively to proceedings. Our objective is legislation that ensures that the victims of wrongful death and their relatives get a fair deal and that they have the right, without unnecessary aggravation or delay, to secure a reasonable level of compensation for their financial, physical and emotional losses. The Law Commission concluded that, for patrimonial loss, the best approach was a fully standardised one that, disregarding relatives' income, works on the basis that fatally injured individuals would have been spending 25 per cent of their income on themselves and 75 per cent on their family's requirements. That was a central feature of the recommended regime and, with some qualifications, it remains at the heart of the bill.

I should recap the main qualifications that were introduced at stage 2, on which Bill Butler has touched. The first related to the proposed standard 25 per cent/75 per cent assumption. Although that was supported by many stakeholders—including Aviva and the Forum of Scottish Claims Managers from the defenders' perspective—there were concerns that a one-size-fits-all approach could lead to instances of injustice. The Justice Committee concluded:

"If a rebuttable presumption could be drafted in such a way that it provides flexibility only when it is needed, without undermining the benefits of a fixed deduction in the majority of cases, it might still offer the best way forward."

It was agreed that the standard assumption could be set aside in those few cases in which its rigid application would lead to a "manifestly and materially unfair" outcome. That should allow some flexibility, but it requires a very high test to be met.

A second qualification related to the disregarding of the surviving spouse's income. Let me make it crystal clear that we agree that a relative's income should generally be disregarded. It should be taken into account only in those truly exceptional cases in which ignoring it would lead to a manifestly and materially unfair result—and

then only in relation to fixing the appropriate percentage. Otherwise, it should be of no account at all.

The bill now directs that, whenever a qualifying partner or dependent child survives the deceased, 75 per cent of the deceased's net income or, in very exceptional circumstances, such other percentage as the court may fix, must be taken as having been spent in supporting family and relatives. That is the measure of the relatives' loss; no further account can be taken of the income of a surviving spouse in calculating the level of support. It can no longer be argued that the *Brown v Ferguson* formula is relevant.

The result of all this work is, I believe, a much improved piece of legislation—one that, as Bill Butler has argued, will deliver a better approach to claims for wrongful death. On behalf of the Scottish Government, I am pleased to commend the bill to Parliament.

15:11

**Richard Baker (North East Scotland) (Lab):** I begin by paying tribute to Bill Butler for bringing the bill before the Parliament. Without his intervention, the bill, following the excellent work by the Scottish Law Commission, would not have proceeded in the Parliament. That would not have been right, as someone who is facing death because of the actions or negligence of others or someone who is seeking damages for the loss of a loved one should not have to endure an unnecessarily protracted and demanding legal process in order to obtain damages to which they are entitled.

It is right to recognise the work that the Justice Committee did on the bill, and I entirely associate myself with the minister's words in relation to the former convener. I also congratulate Thompsons Solicitors, which worked with Bill Butler in providing advice throughout the process. That dialogue has been all about securing legislation that will be effective and which can be passed today with cross-party support. Once again, the Scottish Parliament can take action to protect the rights of people seeking damages.

We must recognise two difficult issues that the minister spoke about. The first concerns the proposal for the standard 25 per cent deduction for living expenses. In the Labour Party, we were eager for that proposal to be adopted as it appeared in the bill as introduced. In particular, we believed that it would help to address undercompensation in instances in which, for example, a dying victim is unwilling or unable to extend negotiations or take the matter to court—in effect, when they are forced by circumstances to accept a larger deduction for living expenses than

is fair or appropriate. Given that most fatal damages claims involve people suffering from mesothelioma, such situations are not, unfortunately, uncommon.

The Scottish Government was concerned that applying a rigid standard 25 per cent reduction might not produce an accurate or fair result in absolutely every case, and that it could result in undercompensation—in what I feel would be rare circumstances. However, that concern resulted in dialogue on the issue, from which came the proposal that the 25 per cent reduction should apply, but with an exception for cases where it would be “manifestly and materially unfair”.

We previously expressed concerns that such an exception could open the door to further delay in court, due to routine challenges to the 25 per cent figure, but we have been reassured by the minister that the term “manifestly and materially unfair” sets a high enough bar, ensuring that such cases will be exceptional. The great majority of cases will benefit from speedier progress through the courts with the application of a 25 per cent deduction. We are comforted on that point, which we believe is crucial for the victims in such cases.

The second key issue is that of disregarding spousal income when determining compensation. As we have discussed, concerns were expressed at committee that stage 2 amendments have made the provisions not quite as explicit as we might have hoped. For the avoidance of doubt, the minister has made it clear today that, in the vast majority of circumstances, spousal income will indeed be disregarded. We can be confident that we have been properly reassured on that point, too.

I hope that we can also be confident that, although the bill might have changed, the central ambition behind it remains intact. I hope that we will pass into law today provisions that ensure not only fairer damages for what victims have suffered due to the negligence of others, but an easier and less protracted legal process by which damages are awarded. Those who seek such damages deserve no less, and I congratulate Bill Butler once again on fighting their corner in our Parliament.

15:15

**Bill Aitken (Glasgow) (Con):** When someone is killed or dies as a result of an industrial accident or illness or in the short and fairly traumatic circumstances of a road traffic accident, and where there is negligence and liability, the settlement should be achieved firmly, fairly and expeditiously.

Bill Butler is right to say that the law is in need of clarity. It has become diluted over the years and is

not as clear as it should be, and, as we know, some of the case law is confusing. It was perfectly appropriate for the Scottish Law Commission to begin a study of how matters were to be changed, and it was entirely appropriate that Bill Butler, with his customary commitment and energy, picked up the bill from the SLC and put it through the parliamentary process. The way in which that was done was an exemplar. Sometimes this Parliament behaves as it should, and the willingness on the part of the Government, the various parties and Bill Butler to compromise to get a result for those who have been bereaved in the most difficult circumstances reflects very well on all concerned, and all are worthy of congratulations.

There were issues that caused some concern. The first was the question of the 25 per cent deduction in respect of the deceased person's personal outtake from the family budget. When someone dies, whether after a long illness or very suddenly, as in a road traffic or industrial accident, the last thing the family needs to do is carry out a tawdry accounting exercise, going through the household budgets and expenditure.

The 25 per cent figure seems to be pretty accurate. There will be occasions—very few in number, I suspect—on which that might not be the case. However, the rather subtle wording that has been agreed, which states that we should avoid

“a manifestly and materially unfair result”,

will to my mind, once it has been interpreted—very robustly, I hope—by the court, prevent defenders from seeking to procrastinate and delay the payments for those who seek them at a very difficult time in their lives.

Many of us have been, like Bill Butler, strongly influenced by our experience in dealing with the sufferers of mesothelioma. As I have said in debates in the chamber before, the industrial heritage of the west of Scotland and Glasgow in particular has left us with a tremendous cost. The vast majority of the cases in which people will benefit from this legislation will concern the families of mesothelioma sufferers.

We recognise that nothing can ever restore a relative to their family, but we can seek a fair and humane approach to dealing with the claims that arise. I am convinced that the bill that is before us, which I suspect will go through at decision time with acclamation, goes down that route. The Parliament should be grateful to Bill Butler for bringing the bill to the chamber, and I very much hope that when it is voted on at 5 o'clock, it will deservedly receive the support of every member in the chamber.

15:19

**Robert Brown (Glasgow) (LD):** When I was in professional practice, I dealt with cases of this type across the board, including injury cases and some death cases. We must remember, as Bill Butler said, that at the heart of all these cases lie not just legal principles and legal issues, but real people, relatives and families who are affected by the way in which the law and the legal system operate. That is the fundamental motivation behind the bill that Bill Butler has brought forward.

It is the law's job to try to sort out contending legal issues and to give justice in individual cases. As a caveat, it is probably true to say that there is no single right answer to all the issues that emerge—a range of answers applies across the board and they change from time to time. The process for death cases has been the subject of piecemeal amendment, change and interpretation over several years in an attempt to get the system right. The bill is another stage in that process, which I hope will lead to some finality.

As we debate the bill, I am conscious of what we in the Parliament have looked at. Even today, I was involved in launching the Scotland Bill Committee's report, which was highly political; chairing a cross-party group meeting at lunch time; and dealing with this all-party, non-party bill. In some ways, we do our most effective work in the Parliament when we take a consensual but—I hope—critiquing approach to matters on which we have no party line or political stance. The bill is an example of that.

Several disputes arose as we dealt with the bill. It is noteworthy that the bill has not been accompanied by the flurry of representations that we usually receive at stage 3—I have received two or possibly three representations on relatively small aspects of it. That suggests an acceptance out there that the committee, the minister and Bill Butler have got the bill right.

It is certainly true that the fixed deduction of 25 per cent was the most controversial issue. Deciding on the right approach to that gave me, the committee's former convener, committee members and others considerable difficulties. In association with Bill Butler, the minister has produced a reasonably elegant solution that works to achieve the policy objective that Bill Butler and the rest of us sought. To that extent, the bill will do significantly more justice than has happened in the past.

It is true that many cases that involve death claims arise from the tragic circumstances of people who suffer and die from mesothelioma. Nevertheless, other cases can involve a different range of age groups or different family compositions. Road traffic accidents are no

respector of age or family distinction and do not reflect one's previous industrial history. The same is true of industrial accidents in which people are killed or injured in their workplace or elsewhere. The bill must provide justice across the board in all the different cases, and it will do so successfully.

I pay considerable tribute to Bill Butler, who has done a good job as a parliamentarian—an occupation that is sometimes underrated. He has taken forward his bill with sensitivity and commitment, which are necessary if one wants significant changes, albeit in smallish parts of the legislative framework.

Against that background, I am delighted that we have reached the end of the bill process. I look forward to the motion to pass the bill being agreed to at 5 o'clock.

15:23

**Stuart McMillan (West of Scotland) (SNP):** I am content with the Parliament's scrutiny of the bill, on which the committee has done a tremendous job. I commend Bill Butler for his work on bringing the bill to the Parliament. He worked with others outside the Parliament, such as Thompsons Solicitors and Clydeside Action on Asbestos, which I am sure will be delighted with the result at 5 o'clock. I hope that everyone in the chamber will vote for the bill.

I commend Bill Butler, the committee and other members for the collegiate manner in which they have dealt with the bill. That constructive engagement shows what can happen in the Parliament when parties decide to work together. Post the Scottish election, I hope—and am sure—that the Parliament can continue that constructive approach to damages issues with whoever is in power.

In the stage 1 debate, I—along with other members—raised two issues: the 25:75 split in calculating compensation, and the income of surviving relatives. I am sure that the flexibility that is built into the bill on the first point will enable our citizens to achieve a sensible outcome, and I am convinced that the committee has fully addressed the second point.

The Parliament has a strong record in dealing with damages issues. It is a typical Scottish trait not to be too self-congratulatory but, when it comes to damages issues, we can set that aside for a moment. We know that there are still inequalities and injustices out there—there will be more for us to deal with when we leave the chamber—but, with the bill, the Parliament, the Justice Committee, Bill Butler and the Scottish Government have done a tremendous job, and I look forward to the motion to pass it being voted for unanimously at 5 o'clock.

15:25

**Des McNulty (Clydebank and Milngavie) (Lab):** Like others, I congratulate my neighbour Bill Butler on his outstanding work in introducing the bill. Like me, he has a very strong interest in asbestos issues, on which the Parliament has already passed two bills. The Damages (Scotland) Bill will extend some of the improvements that have been achieved for sufferers of asbestos-related conditions to a wider range of victims of industrial diseases and accidents, which is greatly to be welcomed.

Mention should be made of Dave Scott, Bill Butler's excellent researcher, and Thompsons Solicitors, which, as ever in this field, has done an outstanding job. I make particular mention of Frank Maguire. Although other members of staff of Thompsons have made a contribution, he has been the great champion in taking forward legislation on asbestos and damages. In addition, the campaigning groups Clydebank Asbestos Group and Clydeside Action on Asbestos have made use of the Parliament to progress significant issues that they are concerned with. I think that they can now chalk up their third bill, which is a record of achieving significant improvements that is unequalled by any set of campaigning organisations in any field.

The bill, which deals with a specific set of areas of injustice, will give significant reassurance to those people who will benefit from its passage, and it will provide clarification of the law in an important area. On all those counts, it will be good legislation, and I will be delighted to support it at 5 o'clock, along with—I hope—the rest of the chamber.

**The Deputy Presiding Officer (Trish Godman):** We move to the wind-up speeches. You have a very tight four minutes, Mr Pringle.

15:27

**Mike Pringle (Edinburgh South) (LD):** I join everyone else in congratulating Bill Butler on all the hard work that he has done on the bill. Anyone who has put forward a proposal for a member's bill will know just how much work and effort has to go into the process, so I again congratulate Bill Butler on his work in bringing to Parliament a bill on a very important issue.

The Liberal Democrats support the bill's aim and agree

"that the law on damages for wrongful death needs to be modernised and consolidated."—[*Official Report*, 15 December 2010; c 31555.]

That is exactly what I said at stage 1, when we supported the bill but highlighted some changes that needed to be made at stage 2. I think that the

bill has been significantly improved, and I know that Bill Butler worked extremely hard to achieve that, with the minister.

Bill Butler's member's bill was introduced to implement the recommendations of the Scottish Law Commission in its 2008 "Report on Damages for Wrongful Death". The law makes specific provision for cases of personal injury that result in premature death, whether that death is immediate or more protracted. Currently, the Damages (Scotland) Act 1976 is the main piece of legislation that addresses damages for wrongful death. It was the focus of the SLC's report and the bill. Much of the bill is a restatement of the existing law of damages for wrongful death, but there are a number of areas in which it proposes substantial changes to the existing law, as recommended by the SLC.

As many have said, the bill as introduced proposed that the victim's reasonable living expenses should be taken to be 25 per cent of their projected future net income. The aim of that provision was to reduce the expense and time that it takes to negotiate such amounts, and I understand that it was one of the main issues that the committee looked at during stage 2. In my speech in the stage 1 debate, I said that I thought that the adoption of a fixed figure of 25 per cent for the proportion to be deducted from a victim's income for the lost period would be too simplistic and inflexible. The Liberal Democrats support the changes that have been made, which introduce some flexibility to depart from that figure when that is necessary to avoid

"a manifestly and materially unfair result".

That will, of course, have to be decided by the courts.

A number of other changes were made at stage 2. Perhaps the main one, to which others have referred, relates to the relatives' claim for loss of support. The removal of the requirement in the bill to disregard the income of the person making the claim was a positive step forward.

Once again I congratulate Bill Butler on introducing the bill and bringing it to what I know will be a successful conclusion at 5 o'clock. We are likely today to have a unique event in the Scottish Parliament because, subsequent to this debate, we will debate a bill that Bill Butler's wife has introduced. Today the Parliament will consider on the same day bills introduced by a husband and wife; I do not think that that has happened before. I am sure that they will be extremely successful and that the bills will be passed at 5 o'clock.

Few members' bills ever reach stage 3 and become law. Perhaps that is to be regretted. In future, the Parliament may look at encouraging

more members to introduce legislation and to reach the conclusion that Bill Butler has reached today.

15:31

**John Lamont (Roxburgh and Berwickshire) (Con):** Like other members, I begin by stating that we should congratulate Bill Butler on his hard work and commitment and on bringing the bill to its final stages today. I, too, am pleased that consideration of the bill has fostered a constructive approach at all stages from members from all parties. That has continued to be evident during stage 3 proceedings this afternoon and in this final debate. There has been a strong consensus that the Damages (Scotland) Act 1976 should be reformed, but it has taken a great deal of work to arrive at where we are today. The bill was far from perfect at stage 1, but I am pleased that most of the issues have been addressed.

The present system for damages has a number of flaws, perhaps most notably the delays that families can experience in receiving compensation. One of the bill's most important results is that, by and large, relatives who have recently been bereaved will not have to face lengthy court cases at a time when the last thing they need is further undue strain on their families. The bill, which I hope will be passed tonight, will help to speed up the process and allow individuals to rebuild their lives as quickly as possible.

Mr Butler's bill largely implements the recommendations of the Scottish Law Commission's 2008 "Report on Damages for Wrongful Death". However, we should not lose sight of the fact that a large number of organisations and individuals—not least the Justice Committee, the Scottish Law Commission and those who gave evidence to the committee at stage 2—have contributed to the progress of the bill. Although the bill predates my time on the Justice Committee, as the current convener of the committee, I thank my predecessor Bill Aitken, the other committee members and the clerking team for their hard work on it.

The aim of the bill is to modernise and simplify the law in this area and to ensure that people are entitled to fair compensation. A number of changes were made at stage 2. Generally, those changes make the bill better. The first relates to the provision for calculating an award for damages in relation to non-patrimonial loss. At stage 1, the bill proposed a fixed 25 per cent deduction of the amount that the victim could have been expected to earn or to receive in benefits over the lost period, to represent their living expenses during that time. Concerns were raised that the arbitrary nature of the figure might not allow individual circumstances to be taken into account. I am

therefore pleased that a degree of flexibility has been applied to the figure.

In the stage 1 debate last year, a number of members expressed concerns about the definition of those entitled to a recovery. The bill as introduced would have removed the existing right of certain relatives, beyond those defined as "immediate family", to claim for damages, if they could show that they had been supported by the victim. As was stated during the stage 1 debate, we recognise that a line needs to be drawn to ensure that compensation is directed towards family members, rather than family acquaintances. I am pleased that the definition has been widened to take into account the fact that the nuclear family is not necessarily the norm and that others, such as partners' children, are now included.

This has been an informed and mature debate. Again I congratulate Bill Butler on his work and the progress that he has made on the bill. I am pleased that the Scottish Conservatives will support the Damages (Scotland) Bill tonight at decision time.

15:34

**James Kelly (Glasgow Rutherglen) (Lab):** Like others, I would like to congratulate Bill Butler on bringing this bill through to stage 3. I am sure that it will be passed at 5 o'clock. Bill has shown himself to be a complete parliamentarian, and he has been dogged and determined in pursuing the issue. When it becomes statute, the bill will make a real difference.

I compliment the minister on his constructive attitude in working with Bill Butler; I pay tribute to Thompsons Solicitors for the work that they have done and I pay tribute to the members of the Justice Committee, under the assured and competent stewardship of Bill Aitken, for the work that they did during the passage of the bill.

Robert Brown said that the important thing about this bill is that it affects real people. When there are wrongful deaths—for example, in accidents at the workplace—it is very stressful for the families who are left behind. That stress is compounded if the legal process is lengthy, with contentious issues being fought out in the courts by both sides. As Bill Butler said, the purpose of the bill is to create a cohesive and modern approach to achieving settlements. I believe that the bill will substantially improve the current situation: it will give greater clarity; it will reduce the time required; and it will mean less stress for the relatives. People will receive compensation more quickly, which will allow them to move forward, regain an element of stability and try to rebuild their lives.

During this stage 3 debate, members have drawn to our attention two main issues that have changed since our stage 1 discussions. First, there is the 25 per cent deduction for living expenses—and the corollary of that, which is the 75 per cent available for family support. At stage 3, that has become the default position, which will change only if the settlement is “manifestly and materially unfair”. The Parliament must be clear that that will apply only in exceptional cases, and I am glad that so many speakers in the debate have pointed that out.

A similar principle applies in relation to spousal disregard. The minister again made the position absolutely clear: he said specifically that it would be in only truly exceptional cases that the default of spousal disregard would not be followed—that is, only when something was “manifestly and materially unfair”. It is clear that the Parliament speaks with one voice on those issues, giving a clear signal to the courts.

In politics, it is important to make a difference. In passing this bill, the Parliament will make a difference and we should congratulate Bill Butler on pushing the issue forward and on seeing the bill through to completion. It will make a difference to people who have to endure the processes involved in reaching settlements in court.

15:38

**Fergus Ewing:** I believe that in its approach to the bill this Parliament has done itself what Donald Dewar might have described as a modicum of credit. In a cross-party show of purpose, colleagues have been focused on doing what is right for the ultimate victims of wrongdoing—those who lose their lives, or who lose their loved ones.

However, the Parliament has not done this in a starry-eyed way. There has been no writing of blank cheques, either on our own bank account or anyone else's. We have not simply rubber-stamped the recommendations that came from the Scottish Law Commission; still less have we taken those recommendations and loosened them. Instead, we have remembered that there is a balance to be struck and, with input from stakeholders from all quarters, we have taken a compassionate, but also a hard-headed look at the commission's recommendations, and strengthened them where it appeared appropriate. We have sought to consider the interests of the taxpayer and the insurance policy holder, as well as the interests of the wrongfully killed and their relatives.

Of course, the bill is about money. It is about using money, as far as is possible, to put someone back into the financial position that they would have been in had the fatal injury not occurred. The

bill's financial implications were always going to be a source of contention. Some people might think that the bill gives them too little; others might think that the bill takes too much from them.

On the latter category, I am disappointed by the tone of the representations from the Forum of Scottish Claims Managers during the past few weeks. I do not have time in the debate to respond to all the forum's complaints, but I have written to it in some detail. The forum's estimated price tag for the bill—at least £52 million a year—appears to lack a firm foundation and is wholly out of line with other predictions that I have seen. Also, unlike the estimates that Mr Butler provided to the Finance Committee, the forum's estimate seems not to be based on detailed assessment of real-world casework from any of its many member companies.

I am sure that members are aware that nearly six months ago the Scottish Government responded to the Finance Committee's request for commentary on the financial data that Bill Butler had provided. The worked assessment, which has been in the public domain since then, suggested tentatively that the data indicated annual costs in the region of £4.7 million to £5.9 million. That is not an insubstantial amount, but it is hugely below the £52 million estimate of the Forum of Scottish Claims Managers.

As members of all parties said, the bill's purpose is to provide fair compensation in an efficient manner, where death has been wrongfully caused. It is, in essence, about putting people back into the financial position that they would have been in if there had been no fatality. It is the cost of doing the right thing.

I am not persuaded by suggestions that the cost of doing the right thing is too high and that people who have the misfortune to suffer the ultimate loss should not be properly supported. The Government's view is that even in these financially challenging times—perhaps especially in these financially challenging times—we should not be kicking people who are already down and desperate through no fault of their own. The bill will provide financial justice for the bereaved.

I am pleased to have worked with Bill Butler throughout the passage of the bill and I echo all members' remarks about the hard work that he undertook, with his advisers, to help to pilot through a bill that was not exactly straightforward. We thank him for that effort. The Government has been pleased to play a part in helping to turn the bill into what I hope and expect will be a good piece of legislation. I thank all members of the Justice Committee, most particularly the former convener, Bill Aitken.

I support the bill. It is a good bill and this is a good day for the Scottish Parliament.

15:43

**Bill Butler:** This has been a good debate on an important area of the law of Scotland. The bill's objective, as Mr Ewing succinctly put it in the stage 1 debate,

"is about trying to facilitate fair compensation".—[*Official Report*, 15 December 2010; c 31545.]

It is indeed about fair compensation, delivered as speedily as possible for victims and their loved ones in cases of wrongful death, without the need for unnecessarily long procedures and distressing court cases.

I very much appreciated members' thoughtful speeches and the positive tone of all the speeches. On the two interconnected provisions of the bill, on which I asked the minister to comment, I greatly appreciate Mr Ewing's remarks with regard to fixed percentages and the precisely drawn rebuttable presumption, which was added to the bill at stage 2. Anyone who reads the minister's words in the Parliament today and who applies their critical faculties objectively can be left in little doubt as to the intent of the bill. The minister has made it crystal clear that the flexibility to depart from fixed percentages is a high test, precisely drawn, which does not invite a challenge except in very rare—some people might say hypothetical—circumstances in which it could be claimed that the result would be "manifestly and materially unfair".

I also thank the minister for his remarks on the requirement in the bill to disregard the income of the person who is making the claim for loss of support. It is clear to me and, I hope, any fair-minded observer that deletion of section 7(1)(b) does not, in the Government's considered view, mean that the principle is undermined and that, in fact, it remains intact, other than in what I choose to call the hypothetical cases in which manifest and material unfairness can be claimed and substantiated.

Lest it be thought that stage 2 consisted of matters on which agreement was always difficult to achieve, I state for the record that many of the matters that were highlighted at stage 1 were disposed of by consensus at stage 2.

Instances of that include the reinstatement of the approach that is currently contained in the Damages (Scotland) Act 1976 in relation to the categories of relatives. They also include the deletion of the term "grief and companionship award", which followed the correct conclusion of paragraph 123 of the Justice Committee's stage 1 report, which favoured

"retaining the established approach of not fixing a name in statute".

A final example is the removal of a statement in the bill on the issue of mental disorder, which is wholly correct. Colleagues were right to decide that such a complex, weighty matter should wait until separate legislation on damages for psychiatric injury could be considered in a more measured, prolonged way.

Members have been kind in their remarks on the bill, for which I thank them. However, thanks should be extended to many other people: the Scottish Law Commission for its detailed work that formed the basis of the bill; those who made written submissions to the committee and those who gave oral evidence; the Scottish Parliament information centre for its sterling support; Dave Scott—the ubiquitous Mr Scott—in my constituency office; the Justice Committee clerking team for its usual high standard of work; my colleagues on the Justice Committee and its longstanding, inimitable convener, Bill Aitken; the non-Executive bills unit for its contribution; Tracey White and the Parliament's legislation team; my advisers at Thompsons—Laura Blane, Frank Maguire, Patrick McGuire and Iain Jamieson—without whose experience and expert advice I would have been left floundering, to tell the truth; and the minister, Fergus Ewing, and his officials. Mr Ewing's constructive approach at all stages has proved that, where the subject demands it—where it is serious—party political differences can and must be set aside.

Above all, I record my appreciation and admiration for the members of groups that represent victims and their loved ones, including Clydeside Action on Asbestos and the Clydebanks Asbestos Group, many of whom are in the public gallery. We would not be discussing the modernisation of damages legislation and justice for victims and their loved ones today if it were not for the commitment and dedication of those groups of devoted activists over many years.

At 5 o'clock, let us vote for a bill that will deliver fair and speedy compensation for victims of wrongful death and their loved ones. Let us change the law of Scotland and, in doing so, make our society a more just, more humane place in which to live and work.



## Property Factors (Scotland) Bill: Stage 3

15:48

**The Deputy Presiding Officer (Trish Godman):** The next item of business is stage 3 proceedings on the Property Factors (Scotland) Bill. In dealing with amendments, members should have the bill as amended at stage 2, the marshalled list and the groupings, which the Presiding Officer has agreed.

As usual, there will be a suspension of five minutes for the first vote. There will be a voting period of one minute for the first division in a group. Other divisions will be 30 seconds.

### Section 3—Application for registration

**The Deputy Presiding Officer:** Group 1 concerns minor amendments. Amendment 1, in the name of Patricia Ferguson, is grouped with amendments 31, 3, 12, 14, 32 to 34, 16A, 16B, 18 and 19.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** As you rightly identified, Presiding Officer, group 1 is about minor amendments.

Amendment 1 is a drafting amendment that ensures that section 3(2)(e) covers land maintenance companies.

**The Deputy Presiding Officer:** I am sorry, Ms Ferguson, could you move your microphone a wee bit toward you?

**Patricia Ferguson:** Thank you, Presiding Officer.

Amendment 3 is a minor drafting amendment to correct a cross-reference in section 5(1), while amendment 12 corrects a grammatical error in section 9(2)(b).

Amendments 14, 18 and 19 are drafting amendments to ensure consistency with other amendments made to the bill at stage 2.

Manuscript amendments 31, 32, 33 and 16A all remove the words:

“without the Scottish ministers being required to enter the applicant in the register”,

as they are unnecessary within the individual subsections referred to in the amendments. In each subsection, the conclusion of the appeal is the relevant point, regardless of its outcome.

Amendment 34 is a manuscript amendment that amends section 12(6)(b) and provides consistency in the definition of when an appeal has been concluded at sections 12(3)(b) and 12(6)(a)(ii). Amendment 16B is a manuscript amendment that

amends amendment 16, which is in group 2 and which inserts a section on property factor registered numbers. Amendment 16B provides a definition of when an appeal is concluded under subsection (5)(b) of the section that amendment 16 inserts.

I move amendment 1.

**The Minister for Housing and Communities (Alex Neil):** I support this group of amendments, all of which are minor tidying and drafting points.

*Amendment 1 agreed to.*

### Section 4—Registration

**The Deputy Presiding Officer:** Group 2 is on property factor registered numbers. Amendment 2, in the name of Patricia Ferguson, is grouped with amendments 10, 16 and 25.

**Patricia Ferguson:** All these amendments concern the issue of a number to identify a property factor who is registered. Amendment 2 amends section 4(4) of the bill to ensure that a factor's previous compliance with the requirements to include the registration number in documents or communications is a relevant consideration when ministers are deciding whether a factor should be reregistered.

Amendment 10 amends section 8(2) to ensure that a factor's failure to include their registration number in documents or communications is also a relevant consideration when ministers are deciding whether a factor should be removed from the register.

Amendment 16 inserts a new section after section 12, providing for the allocation of a register number to each registered property factor. A registered factor will be under a duty to take all reasonable steps to ensure that the number is included in documents or other communications with home owners. Non-compliance with that duty will be a criminal offence.

Amendment 25 amends section 26(2) to provide that ministers' functions to make regulations in respect of the property factor registration numbers cannot be delegated.

I move amendment 2.

**Alex Neil:** I support the amendments, which relate to the use of property factor registered numbers. Registered factors will be required to use their registration number in communications with customers and others who ministers specify. That will add another element of transparency to the registration system. Failing to use the registration number in that way will be a relevant consideration for registration and deregistration decisions. I believe that that is appropriate.

*Amendment 2 agreed to.*

*Amendment 31 moved—[Patricia Ferguson]—and agreed to.*

#### **Section 5—Section 4: considerations**

*Amendment 3 moved—[Patricia Ferguson]—and agreed to.*

#### **Section 7—Duty of responsible person to provide information**

**The Deputy Presiding Officer:** Group 3 is on the provision of updated information. Amendment 4, in the name of Patricia Ferguson, is grouped with amendments 5 to 9.

**Patricia Ferguson:** Amendment 4 amends section 7(2) to clarify the factor's continuing duty to provide updated information as soon as practicable after a change occurs to the information provided in the application for registration under sections 3(2)(a) to (d). Examples of such details are the factor's name, business address, company status and the name of the senior officer. That specifically excludes information about updates to the full portfolio list of managed properties as provided under section 3(2)(e), which is subject to what I hope is a more proportionate duty by virtue of amendment 5.

Amendment 5 inserts new section 7(2A), which provides for a new duty to provide information about updates to the portfolio list of managed properties under section 3(2)(e) on an annual basis and no later than three months after the end of each financial year. Moreover, in the event that there has been no change to that information, the factor will still be required to confirm that that is the case.

Amendments 6, 7 and 9 are consequential to amendment 5. Amendment 8 inserts new section 7(5)(a) so that providing false details in relation to both portfolio updates and other updates under section 7 is an offence. That provides consistency with section 3(6).

I move amendment 4.

**Alex Neil:** I support the amendments. In the stage 1 debate I said that a requirement for a factor to send in updates every time that there was a change in their portfolio of managed properties would be unnecessarily onerous. The amendments remove that requirement and replace it with a more proportionate requirement on property factors to provide updated portfolio information to the Scottish ministers on an annual basis. It is my view that an annual update of a factor's portfolio list of managed properties is sufficient and not too burdensome a duty.

*Amendment 4 agreed to.*

*Amendments 5 to 9 moved—[Patricia Ferguson]—and agreed to.*

#### **Section 8—Removal from register**

*Amendment 10 moved—[Patricia Ferguson]—and agreed to.*

#### **Section 9—Effect of refusal to enter in register or removal from register**

**The Deputy Presiding Officer:** Group 4 is on the consequences of refusal to enter in, or removal from, the register. Amendment 11, in the name of Patricia Ferguson, is grouped with amendment 13.

**Patricia Ferguson:** Amendment 11, which amends section 9(2), clarifies that a factor will not be able to recover any costs that are incurred in respect of work that is instructed after the date of their removal from the register and that they will not be able to recover any charges that relate to a period after that date.

Amendment 13 amends section 9(2)(c) and is consequential to amendment 11. It restricts notices of potential liability for costs under a tenement management scheme to those arising before the date of removal from the register.

I move amendment 11.

**Alex Neil:** I support the amendments. It is appropriate that charges for work that is carried out after a factor has been de-registered or refused entry to the register should not be recoverable. However, the amendments recognise that work can be instructed before that time and that factors should be able to recover the associated costs.

*Amendment 11 agreed to.*

*Amendments 12 and 13 moved—[Patricia Ferguson]—and agreed to.*

#### **Section 10—Section 9: interpretation etc**

*Amendment 14 moved—[Patricia Ferguson]—and agreed to.*

#### **Section 12—Offence of operating as a property factor without registration**

*Amendment 32 moved—[Patricia Ferguson]—and agreed to.*

**The Deputy Presiding Officer:** Group 5 is on offences under section 12 by bodies corporate et cetera. Amendment 15, in the name of Patricia Ferguson, is the only amendment in the group.

**Patricia Ferguson:** Amendment 15 deals with the application of offence provisions under section 12 in relation to corporate bodies. Although the amendment is technical in nature, it is important to

clarify in the bill how those offence provisions should apply to corporate bodies, which are, after all, likely to account for most—if not all—property factors.

I move amendment 15.

**Alex Neil:** I support amendment 15, which ensures parity of treatment between property factors that operate as sole traders and those that operate as corporate bodies. That is important, as the majority of property factors are likely to have corporate or partnership status.

*Amendment 15 agreed to.*

*Amendments 33 and 34 moved—[Patricia Ferguson]—and agreed to.*

#### After section 12

*Amendment 16 moved—[Patricia Ferguson].*

*Amendments 16A and 16B moved—[Patricia Ferguson]—and agreed to.*

*Amendment 16, as amended, agreed to.*

#### Section 13—Code of conduct

16:00

**The Deputy Presiding Officer:** Group 6 is on parliamentary procedure for orders under sections 13 and 26. Amendment 17, in the name of Patricia Ferguson, is grouped with amendments 24 and 26.

**Patricia Ferguson:** The amendments in this group were suggested by the Subordinate Legislation Committee. Amendment 17 amends section 13(3), recognising the legal effect of the code of conduct by requiring the order-making power in section 13 to be subject to affirmative procedure.

Amendment 24 is an amendment to section 26(1) and recognises the significance of the power in section 26 to delegate functions under the bill by making the delegated power subject to affirmative procedure also.

Amendment 26 is an amendment to section 27(3) and is consequential to amendment 24.

I move amendment 17.

**Alex Neil:** I support the amendments. I agree with the assessment of the Subordinate Legislation Committee that any exercise of the power of the Scottish ministers to delegate their functions under the bill would be a significant matter and should, therefore, require approval by the Parliament.

*Amendment 17 agreed to.*

#### Section 16—Application to homeowner housing panel

*Amendment 18 moved—[Patricia Ferguson]—and agreed to.*

#### Section 18—Determination by homeowner housing committee

*Amendment 19 moved—[Patricia Ferguson]—and agreed to.*

#### Section 21—Appeals

**The Deputy Presiding Officer:** Group 7 is on appeals—part 2. Amendment 20, in the name of Patricia Ferguson, is grouped with amendments 21 and 22.

**Patricia Ferguson:** Amendment 20 amends section 21(1) to clarify that any appeals to the sheriff under section 21 would be by summary application. The amendment will ensure consistency with appeals under section 11(8).

Amendment 21 amends section 21(1) to clarify that appeals to the sheriff under section 21 are in relation to decisions that are taken by the president of the panel rather than the panel itself.

Amendment 22 amends section 21(2) so that the periods in which appeals may be made is 21 days rather than 14 days. Again, that will provide consistency with section 11(2).

I move amendment 20.

**Alex Neil:** I support the amendments, which relate to the new form of dispute resolution that is established under part 2.

*Amendment 20 agreed to.*

*Amendments 21 and 22 moved—[Patricia Ferguson]—and agreed to.*

#### Section 25A—Amendments to Title Conditions (Scotland) Act 2003

**The Presiding Officer (Alex Fergusson):** Group 8 is on the relationship between the bill and the Title Conditions (Scotland) Act 2003. Amendment 23, in the name of Patricia Ferguson, is grouped with amendments 27 to 29.

**Patricia Ferguson:** Amendment 23 removes section 25A. The Government's intention is to use the power under section 26A to make ancillary provision to cover matters such as the appointment of new factors following deregistration and to make provision generally for the interaction of the bill with the Title Conditions (Scotland) Act 2003. I support that intention.

Amendments 27 and 29 are consequential to amendment 28, and amendment 28 contains further amendments to section 28, to remove

unnecessary definitions of “homeowner” and “land”. On the definition of homeowner, the amendment will result in a cross-reference to the existing definition in section 10(5), which covers all types of property factors who fall within the definition in section 2(1). The removal of the definition of land is consequential to the amended definition of homeowner.

I move amendment 23.

**Alex Neil:** I support the amendments, which are technical in nature. They make important drafting points to clarify the relationship of the bill to the 2003 act and correct the fact that there are two different definitions of homeowner in the bill.

*Amendment 23 agreed to.*

### **Section 26—Delegation of functions**

*Amendments 24 and 25 moved—[Patricia Ferguson]—and agreed to.*

### **Section 27—Orders and regulations**

*Amendment 26 moved—[Patricia Ferguson]—and agreed to.*

### **Section 28—Interpretation**

*Amendments 27 to 29 moved—[Patricia Ferguson]—and agreed to.*

### **Section 29—Short title and commencement**

**The Presiding Officer:** Group 9 is on commencement. Amendment 30, in the name of Patricia Ferguson, is the only amendment in the group.

**Patricia Ferguson:** Amendment 30 will amend section 29(2) to provide that the bill, other than part 3, should commence generally on 1 October 2012 or such earlier date as the Scottish ministers may by order appoint. By virtue of section 29(2A), as inserted at stage 2, part 3 of the bill will commence on the day after the day on which the bill receives royal assent.

I move amendment 30.

**Alex Neil:** I support amendment 30, which will allow an additional 12 months until 1 October 2012 for the commencement of parts 1 and 2 of the bill. The establishment of a register of property factors and a new form of dispute resolution between home owners and factors will require careful implementation. Moving the final date for the commencement of the provisions to 1 October 2012 will give the Scottish Government and key stakeholders time to carry out the necessary implementation work.

*Amendment 30 agreed to.*

**The Presiding Officer:** That ends consideration of amendments.

## Property Factors (Scotland) Bill

**The Presiding Officer (Alex Fergusson):** The next item of business is a debate on motion S3M-8029, in the name of Patricia Ferguson, on the Property Factors (Scotland) Bill.

16:06

**Patricia Ferguson (Glasgow Maryhill) (Lab):** If members pass the bill at 5 o'clock, we will put rogue factors on notice. This legislature will have told them that the clock is ticking and that they must change if they want to continue to operate.

The bill that we are considering recognises the plight of people who have suffered at the hands of unscrupulous factors. Those people have been identified during the consultation on the bill and recognised by the Office of Fair Trading in its report "Property managers in Scotland: A market study", and such people have come to our surgeries. In short, we are talking about people who have looked to Parliament for help, because it can be found nowhere else.

It has often been put to me that rogue factors are a problem only in Glasgow and the west of Scotland, but that is not the case, and nor is the problem confined to tenemental properties. Rogue factors are a problem throughout Scotland and—if my postbag is anything to go by—the problem is growing.

**Ken Macintosh (Eastwood) (Lab):** I offer thanks to Patricia Ferguson—not just my personal thanks, but thanks on behalf of the hundreds of retirement home owners in East Renfrewshire and beyond who have greatly welcomed the bill and the ability that it will give them to reverse the relationship, which is often a bullying one, between factors and management companies and residents.

I have a specific question. I know that the bill was not able to go as far as some of us would have liked in dealing with land maintenance companies such as Greenbelt Group Ltd, but can the member reassure me that there is some comfort and support in the bill for residents and home owners who wrestle with the behaviour of such companies?

**Patricia Ferguson:** I thank Ken Macintosh for his kind words, and I can give him that assurance. I will deal with that matter in more detail a little later. To be clear, the definition of a property factor that is contained in the bill includes housing associations and local authorities. It also includes land management companies. As I have said, I will say a little bit more about them later.

I have long been convinced that we need a regulatory framework as opposed to a voluntary

accreditation scheme, and I felt for a long time that I was fighting a losing battle in trying to persuade others that legislation was needed. Therefore, I am genuinely delighted that the Scottish Government has come around to that point of view and is now so supportive of the bill. I am also grateful to the members of the Local Government and Communities Committee, who listened to the evidence with great care and whose stage 1 report concluded that legislation was required. Consequently, the bill will require all factors to be registered.

Part 1 of the bill relates to registration. It provides for the establishment of a register, the procedures for registration, removal from the register and the enforcement of the requirement to register and, importantly, it provides for a code of conduct for property factors.

Part 2 creates a form of dispute resolution that will task the existing private rented housing panel with the job of dealing with complaints from home owners who believe that their factor has not honoured their contract or has not complied with the factors code of conduct. In certain circumstances, it will also be possible for factors to be deregistered, but only after a thorough appeals process has either been exhausted or waived.

Part 3 of the bill includes miscellaneous and general provisions.

A little while ago, I indicated to Ken Macintosh and members in the chamber that I would return to the issue of land management companies. I am pleased that we have been able to include land management companies in the definition of property factors and that consequently, many provisions in the bill will also apply in situations in which a land management company has been sold land but also has an agreement that allows that company to charge adjacent owners for the maintenance of common parts.

So that I could respond to comments that were made in the stage 1 report, I lodged amendments that would have given more rights to owners who were in such situations. The committee was not minded to support those amendments and, in retrospect, that was the right decision. This is an extremely complicated area of the law. More discussion is undoubtedly required, and more consideration needs to be given to that situation, and to the situation that might arise, so that we can ensure that any remedy does not also have unintended consequences. I welcome the Government's decision to consult on the issue and I look forward to reading the responses.

My only remaining disappointment—it is a small one—concerns the commencement date. I understand and accept that work requires to be done to make the bill's provisions effective and I

am pleased that the Government has conceded the principle of a commencement date appearing on the face of the bill. However, I sincerely hope that whichever party or parties form the next Government will find it to be possible to introduce the bill's provisions before 1 October 2012.

In my closing speech this afternoon, I hope to have time to thank the many people who have helped to get the Property Factors (Scotland) Bill to this point. Meanwhile, I commend it to the Parliament.

I move,

That the Parliament agrees that the Property Factors (Scotland) Bill be passed.

16:12

**The Minister for Housing and Communities (Alex Neil):** I welcome the progress that has been made on the bill and all the hard work that has gone in to getting it to stage 3. If I may, I will pay particular tribute to my officials, who have worked closely with Patricia Ferguson, particularly on the final amendments that we have unanimously agreed today.

The Scottish Government has always recognised the need for action to improve the residential property and land management industry. At earlier stages of parliamentary scrutiny of the bill, I highlighted a number of issues that I felt should be addressed if the bill is to be as effective as we all want it to be. Many of those issues have been addressed, often as a result of productive collaboration between the member in charge and the Scottish Government.

I noted three principal challenges in the bill as it was originally drafted. The first was the definition of a property factor and who is or is not covered by that. The second was the consequences for home owners if a factor is deregistered. The third was the creation of an accessible and effective dispute resolution system.

Through dialogue and co-operation, we have fixed most of the problems with the definition to make it clear, for example, that landowning land maintenance companies are included and are covered by the bill's provisions. That is the clear policy intention of the member in charge of the bill, and the Scottish Government fully supports it.

The consequences for home owners if a factor is deregistered might be complicated. Section 9(2)(b) makes some provision for the appointment of new factors. In addition, ministers might have to make ancillary provision using powers under section 26A. Ancillary provision could cover such matters as the consequences of deregistering a landowning land maintenance company, and the

interaction between this legislation and the Title Conditions (Scotland) Act 2003.

Part 2 of the bill deals with dispute resolution, and my original view was that compulsory membership by factors of, for example, an ombudsman system, was a more appropriate means of delivering an accessible form of third-party redress for the consumer. However, during the stage 1 debate, it became obvious that the majority of members were in favour of the home owner housing panel that the bill proposed. I am happy that, at stage 2, the Government was able to introduce an amendment that would allow some of the costs of running the panel to be recovered from the industry rather than the entire burden being placed on the taxpayer.

I would like to touch on one further issue that was raised at earlier stages of the bill. The bill requires factors that apply for registration to provide details of the portfolio of properties that they manage. Some industry representatives asked for the information to remain unpublished. Section 1(2) requires the register to be open to public inspection, and the Government supports that transparency. However, there is no requirement in the bill to provide commercially sensitive information, such as the pricing of services.

If Parliament votes to pass the bill today, so begins the significant challenge of implementing all its provisions by 1 October 2012. At the bill's introduction, the member in charge included 29 September 2011 as the date by which all provisions should be in force. Although it is not general practice to provide that an act will commence on a specified date, we sought a solution that would establish a more realistic timescale for implementation of parts 1 and 2 of the bill. Given the work that will be involved, implementation by 1 October 2012 still represents a major challenge—we should not underestimate the scale of it if we want to implement the legislation as effectively and efficiently as possible.

The Scottish Government is committed to beginning work immediately on implementing the provisions of the bill, if it is passed. I see four main strands of work as being needed: first, setting up and making operational the registration scheme; secondly, preparing, consulting on, laying before Parliament and bringing into force the new code of conduct; thirdly, preparing secondary legislation; and fourthly—and crucially—preparing the current private rented housing panel to take on its considerably expanded new role as the home owner housing panel. There will be many other tasks as well: although perhaps they will be smaller individually, they will be significant when they are considered in the round. Taken together,

those pieces of work will make full implementation by October 2012 no mean feat.

A number of people have asked for clarification of how the bill will affect land maintenance companies and, in particular, Greenbelt. It is useful for me to spell out for the record exactly what the position will be. The Government has taken action in relation to land maintenance companies. The work on the Government's voluntary accreditation scheme included land maintenance companies, and we have worked with the member in charge of the bill to ensure that the definition of property factor properly covers land maintenance companies. We have told companies about the complaints that we have received, and we have asked them to deal with them.

Finally, as I have mentioned, we will shortly issue a consultation, which will cover switching of land maintenance companies and will ask whether more information can be provided to prospective home owners on potential land maintenance obligations.

**The Presiding Officer:** I must hurry you, minister.

**Alex Neil:** To conclude, I recognise the impact of property management services on so many people's lives across Scotland. Action to improve industry practice and to raise standards of customer service is to be warmly welcomed. The Government will whole-heartedly support the bill at decision time.

16:18

**Mary Mulligan (Linlithgow) (Lab):** This is one of those debates that we can all feel proud of taking part in.

Let me start by congratulating Patricia Ferguson on all the work that she has done in bringing the Property Factors (Scotland) Bill to completion. She has acknowledged the support that she has received from others, including Mike Dailly and the non-Executive bills unit, but I think that everyone would agree that without Patricia Ferguson's determination and drive we would not be where we are today.

I congratulate the minister—he has been particularly amenable on this occasion—and I commend my fellow committee members. I am aware that they treated the bill with due diligence and were determined to ensure that we have legislation that delivers the measures that evidence shows are needed.

Like many other members, I knew that factoring was a problem because of the number of constituents who contacted me. I have tried to

resolve their problems, but I must admit that that has been with variable success.

In my constituency, it is mainly new flatted properties and open spaces on new developments that are factored. When I issued a questionnaire last summer, I expected to get a response, but how big a response I got surprised even me. The issues that were raised were the ones that we have all heard about during the passage of the bill: people were not made aware that they had a factor until they had bought the property and, in most cases, had moved in; they did not know how much it would cost until they received a bill; they did not understand what exactly they were paying for and, sometimes, what was still their responsibility; and finally—and crucially—when they raised complaints it was difficult to resolve them to everyone's satisfaction.

Let me be fair to the factors and point out that there were times when people just did not want to pay. That is not fair to either the factors or the other residents who do pay.

I feel that the bill that we are, I hope, about to pass will address those issues. First, as we have heard, it introduces registration of property factors and provides a definition of a property factor. I am pleased that, as we have heard, landowning factors will be included. That is the right way to go.

The bill also provides for the introduction of a code of conduct, which I also fully support because it is important that standards are set and that they are as transparent as possible to everyone involved.

Crucially, the bill also provides for a way of resolving disputes. I know that, as the minister mentioned, early on in the process there were a variety of views as to how disputes should be resolved, but I think that we gave enough time and deliberation to the matter before reaching our conclusion. It is important that there is an easily understood process of dispute resolution and that, as was said during the stage 1 debate, the outcome of the process is enforced.

Being ever the optimist, I believe that if people behave reasonably, most disputes can be resolved. However, I acknowledge that people do not always behave reasonably, so it is correct that residents can have the opportunity to change their factor if that is necessary. The system to enable that to happen needs to be as simple and straightforward as possible.

I am sure that there are other points that I should have made; I will try to address those in my winding-up speech.

16:22

**Alex Johnstone (North East Scotland) (Con):**

I believe that the Property Factors (Scotland) Bill will bring genuine benefits to a range of people. I get the impression from what I heard from Patricia Ferguson that it is one of those bills that was brought in to deal with a specific issue and after it had been introduced we found that there were new issues to deal with. That is how I came to the bill.

As members may know, I came to the Local Government and Communities Committee halfway through the process and I also came to the committee with a concern, from my area, about the management of green space. It was only after I became familiar with the process that I became fully familiar with the problems that the bill was originally meant to deal with. I am afraid that, as we all know, there is a problem with rogue factors in Scotland. It is an industry that is—we might generously be tempted to say—by and large populated by people who do what they say and charge for what they actually do, but there are businesses in Scotland that have been contracted to carry out the work and have not done as we hoped they might.

My experience comes from the north-east. By and large, the problem there has been associated with the change in the planning requirements to provide more green space within developments. That green space requires to be managed by someone. As the area of the green space increased, local authorities were less keen to become involved and, more important, developers were less keen to pay local authorities to do the job.

The advent of the green space management company—the land maintenance company—was something that came to me, in my postbag, with a thump as the activities of such companies on different estates in the Aberdeen area and south towards Laurencekirk within my home range resulted in a series of complaints from people who were unaware that they had signed up to commitments, were dissatisfied with the service that was being provided for them and wished to change their arrangements but could not find a way to do that.

The bill shines a light into that area and offers an opportunity for many people to get out of the difficult situations in which they find themselves. Part 1 requires the registration of property factors. By establishing a register of factors, we will be able to define who is doing their job and who is not and, once that is defined, we will be able to identify them. The bill also defines how factors will be registered and identified. Part 2 provides for dispute resolution, which is vital given the number of disputes. However, the most important aspect is

that the bill includes not only companies that are responsible for maintaining buildings, but land management companies. Although I am disappointed that we perhaps did not get as far as we could on that, I welcome the fact that the Government will continue to consult on the issue.

The bill has become relatively complex, as it has been amended several times to ensure that we cover every possible eventuality. The danger is that someone might be able to slip through the net. I hope that we have put together legislation that will not allow that to happen. However, let us always be vigilant. I, too, am disappointed that the legislation might not be fully commenced until October 2012, but I accept the minister's reassurances that we should get the process right and that that is more important than doing it quickly. The minister said that there is a significant challenge, and I believe that.

I pay tribute to Patricia Ferguson for her work on the bill. I thank the minister for his support, which has ensured that although we each arrived at our position today through different routes, we now all agree about the process that we have gone through. I hope that many of the people who have written to me to complain about things that can be dealt with through the bill will find satisfaction in the not-too-distant future.

16:27

**Jim Tolson (Dunfermline West) (LD):** I, too, thank Patricia Ferguson for bringing the bill to the Parliament. Its passage will no doubt bring a great deal of relief to the many people throughout Scotland who are in dispute with their factoring company. When we debated the bill at stage 1, on 8 December, I mentioned that in a number of areas, the details needed to be considered more closely if residents' concerns were to be overcome. Now that we have made amendments at stages 2 and 3, I feel that we have reached a workable solution that will provide the required dispute resolution process. Given the on-going need for dispute resolution with factors, the Liberal Democrats will support Patricia Ferguson's bill at decision time.

As members have said, the bill has not been easy to work through. It was fraught with problems, but it sought to overcome major problems for a growing number of residents in tenemental properties and those who share public open spaces. In fact, a constituent brought a new case to me just last week. The need for dispute resolution is an ever-increasing problem, as Patricia Ferguson outlined. The bill, when enacted, will be part of the solution. However, if the growth of the problem is to be halted, other legislative solutions will be required.



Problems with shared accommodation, such as those relating to the maintenance and insurance of communal stairwells, are at the heart of the issue. For me and many other members, the problem with factors relates to their maintenance—or lack of maintenance—of public open spaces in new developments. Those spaces are often not kept to the standards that are required. Factoring companies introduce a range of charges that bewilder and anger residents, and some residents withhold their on-going payments. Disputes therefore arise that often come to the attention of elected members.

Personally, I would like a return to the situation in which developers were required, through planning conditions, to ensure maintenance of such areas in perpetuity, either with a local authority or through a bond that allowed factoring operations. However, that issue will require significant work, and I am keen to return to it in the fourth session of Parliament.

As well as the measures on dispute resolution, the other main provision in the bill is that on registration of property factors. The industry has hitherto been poorly regulated and sometimes poorly performing. I certainly get a large volume of complaints from constituents on that. With registration will come regulation. Factoring companies that do a good value-for-money job for residents have nothing to fear from the bill. However, those that continually come to the attention of MSPs due to poor performance, irregular bills and an unwillingness to engage reasonably with their customers should be put on a warning. The bill will help to ensure that they either do a decent job or face being put out of business.

I again commend Patricia Ferguson for bringing the bill to the Parliament—as well as her staff and parliamentary officials, who worked tirelessly to ensure that it was fit for purpose. I also acknowledge the minister's commitment to working constructively with Ms Ferguson on the bill.

I believe that we have a good bill, which will go a long way towards ensuring that the many people who have been adversely affected by poorly performing factoring companies have some rights of recourse when things go wrong. The Liberal Democrats are therefore happy to give their support to the bill at stage 3.

**The Presiding Officer:** Due to the rapid consideration of amendments earlier, I am pleased that we now have room for two speakers in open debate. I call Bob Doris, to be followed by Malcolm Chisholm.

16:31

**Bob Doris (Glasgow) (SNP):** As I did at stage 1, I put on record my thanks to fellow committee members, the clerks and everyone who gave evidence to our committee during the scrutiny process. In particular, I put on record my thanks to Patricia Ferguson, the member who has driven the bill forward, and the Minister for Housing and Communities, Alex Neil, for the way in which they have conducted themselves, in particular at stage 2, when the bill was improved in a positive fashion, with partnership between the Government and the member in charge. This afternoon, at stage 3, Patricia Ferguson's amendments have once again involved working constructively with the Government to make the bill as good and watertight as it can be. That is to be welcomed.

There has been such consensus on the policy intention behind the bill that a feeling of *déjà vu* will arise during this afternoon's debate, as certain themes will come up again and again. Given the level of consensus, it is puzzling why new legislation has taken so long to reach the statute book—as it will, I hope—as Patricia Ferguson said in her opening speech.

I want to use the short time that is available to me to mention a few of the strengths of the bill. The bill will do a number of things. Rogue factors will now have a choice: they will need to shape up or they will have to ship out. I know from my constituency casework that many people who approach me with factoring issues are factored by social landlords, with the Glasgow Housing Association, in particular, featuring among the complaints that I receive. It is vital that social landlords, as factors, are covered by the bill.

There are drivers to achieve change in the bill. Under section 12, factors that fail to register as such can be fined £5,000. Under section 9, factors that are deregistered or that fail to register will not be able to recover charges and costs that they have levied or incurred from owner-occupiers. I note the partnership working, once more, on amendment 11 earlier this afternoon, which allows for the on-going recovery of costs for actual works that have taken place. That sums up the way in which the bill has progressed through the parliamentary process.

The powerful sanctions that are contained in the bill should mean that cowboy factors will leave the business and that others will drive up their standards. Driving up standards is indeed an important issue. Most factors are not bad factors. They might be complacent or sloppy, but they are not necessarily bad. We must shine a light on better customer service, which has perhaps been neglected by many a factor in taking their core business for granted. They should not do that.

I note that deregistration is viewed as a last resort under the bill. That relates to driving up standards, rather than driving people out of the sector. We have now opted for a private rented housing panel and private rented housing committee over the alternatives that were presented. The future will show whether or not that is the right decision, but let us monitor the mechanism and get it right. The principle that underpins it is the idea of mediation and negotiation before escalation and deregistration. It is about factor and consumer working together to reach a positive solution that makes everyone happy.

There is a responsibility, within that, on home owners. I am able to help out nearly every home owner who comes to me raising issues about factors, but there are always one or two people who are simply unwilling to pay, and who will use any procedure to avoid paying. We have to ensure that a bureaucracy of the non-paying is not created under the bill. I am sure that early monitoring of the bill's implementation will be most welcome in that regard.

I want to finish by talking about one final group, who I mentioned at stage 1: those who get factors' bills and cannot pay. I seek not to make a party-political point but merely to state on record that there are many people who bought their properties under right-to-buy legislation in the 1980s and who now receive huge factoring bills, but who could never afford to maintain their properties. Those people must be assisted in meeting their responsibilities to make repairs on their properties.

I commend the bill to the chamber.

16:35

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** I congratulate Patricia Ferguson on successfully piloting this important bill through Parliament.

I know that factoring has been a long-standing issue in Glasgow, which is no doubt why Patricia Ferguson has taken an interest in it for so long, but it is a far more recent issue in Edinburgh. Although the city's traditional tenements have not had factors, the new-build properties do. It is now a massive issue in my constituency, and I have had many meetings about it, most recently this week about insurance, which is certainly one of the issues that require to be dealt with in the code of conduct.

Sometimes factors have legitimate grievances—for example, if people do not pay when they should—and I am pleased that there is something in the Private Rented Housing (Scotland) Bill that will help factors in that regard. More often, however, it is the residents who have the

grievances, which is why the hundreds of residents in my constituency whom I have consulted about the bill overwhelmingly support it.

I have come to believe that this is not a matter of a few rogue factors; it is about the systemic problems related to the lack of regulation and the lack of required standards, which are the precise issues that the bill addresses. Today marks the end of part 1, but there is still a great deal to do. Alex Neil spoke about the tasks ahead of us, but the most important task is to formulate a strong code of conduct. I am pleased, therefore, that amendment 17 was agreed to today, as it requires the code to be brought to the Parliament under the affirmative resolution procedure.

The code of conduct is dealt with in section 13 of the bill. I mentioned in committee a slight concern with regard to the words "minimum standards". I did not lodge an amendment, because I think that the wording is adequate; what concerns me is the connotation that some people—including, at times, the Government—put on the word "minimum".

Some have suggested that the word "minimum" means that the standards cannot be very demanding, and it has even been submitted that those standards that have already been consulted on as part of the voluntary accreditation scheme a few months ago would not be suitable as "minimum standards". I strongly disagree. "Minimum" means what it says: those are the required standards below which factors cannot operate, but on which they can build further. The standards that formed part of the voluntary process are a good starting point for further work on the code of conduct, but there must be genuine consultation so that residents can have an input into the final form of the code.

The success of the bill will be determined by the effectiveness and rigour of the code of conduct. If I am re-elected to the Parliament, I will pay a great deal of attention to that issue in the coming months.

One other important matter that needs to be further addressed is the issue of switching, which relates to the Title Conditions (Scotland) Act 2003. The committee recommended that the Government should commission further research on that and I hope that whoever forms the new Government will do so in the not-too-distant future.

Today is the end of the beginning, but it is a very important beginning, for which I once again thank Patricia Ferguson.

16:39

**Robert Brown (Glasgow) (LD):** I join others in congratulating Patricia Ferguson on bringing the

bill to a conclusion. It is important, but she will recognise that it is part of a wider panoply of bills and legislation on problems that stretch across landlords, factors, tenants, houses in multiple occupation and a series of interconnected matters that are extremely difficult to disentangle in particular situations and which relate to absentee landlords, who are increasingly prevalent in the current economic climate.

The bill is needed for several reasons, which are summarised in the Consumer Focus Scotland briefing that has been circulated. It talks about a lack of information and says that customers are dissatisfied with information about fees and services. I echo Bob Doris's point that such issues, among others, sometimes apply to Glasgow Housing Association and other bodies, too. The briefing also refers to the significant issue of difficulty in arranging repairs, value for money, dissatisfaction with service quality and poor complaints handling. All those factors have been part of the issue with factors—that is a pun, but never mind—and with property management.

The way forward must be to use the compulsory framework that we now have on a carrot-and-stick basis. That involves the code, bringing up standards, vigorously enforcing the act when it comes into force, the practice that factors adopt under the accreditation scheme and all that goes with it and the information that is made available to residents about their rights and remedies, which is extremely important, as we know from all other housing issues.

Malcolm Chisholm was right to talk about systemic problems. Factoring has always had an old-fashioned feel about it, although it has moved forward from the traditional close situation to land management—that often happens with new buildings because of new arrangements and new conditions that apply.

Patricia Ferguson asked the rhetorical question whether the bill is required. The bill is required. We have long since passed the point of recognising the problem. As I said in the stage 1 debate, way back when I was first elected to the City of Glasgow District Council, factoring was a big issue. It has continued to be and still is a big issue for many people and it affects the quality of the life that they can lead.

Alex Johnstone was right to say that it is important to get the arrangements right. We want to move forward speedily, but much more important is moving forward effectively.

To balance what has been said, it is worth saying that the panoply of issues that we deal with shows that the problem is not always the factor. Sometimes, factors are underfunded and the funding arrangements are unsatisfactory.

Sometimes, a significant number of people do not pay their way. The two aspects can be linked—residents' lack of payment can be caused by dissatisfaction with what factors have done or it can contribute significantly to what factors cannot do. The matter is complex and we need to take it forward.

Good management can sort out many problems more effectively. The bill is good and is part of a wider package of legislation that the Parliament has passed. It will make a significant difference to the lives of many people. I enthusiastically urge the Parliament to support the bill tonight.

16:43

**David McLetchie (Edinburgh Pentlands)**  
(Con): I was a member of the Local Government and Communities Committee when it considered the bill for the purpose of preparing a stage 1 report. However, thanks to my subsequent appointment to the Scotland Bill Committee—I will refrain from regarding that as an elevation—whose work concluded today, thank goodness, I did not have the pleasure of participating in the stage 2 debates in committee and keeping in touch with the detailed to-ing and fro-ing that has gone on between the minister, his officials and Patricia Ferguson, who is the member in charge of the bill. For the Conservatives, that task fell to my colleague Alex Johnstone, whom I thank for taking my place on the committee and for the work that he contributed to the bill's final stages.

On the bill's principles, I am mindful of our debate at the outset about whether the consumer and public interest would be best served by a voluntary accreditation scheme, which was the Government's preferred route for some time, or a scheme of statutory regulation. My natural disposition and that of my Conservative colleagues is to prefer the voluntary route, but I have to say that all the evidence that was presented to the committee by Patricia Ferguson and others was highly persuasive of the need for a statutory scheme, particularly as the accreditation alternative was proceeding at a snail's pace and did not inspire the least confidence that it would address the problems and concerns of the people across Scotland, whom we have heard about, who are affected by poor standards of property factoring and management.

I am pleased that the issues that were highlighted in the committee's report and in the stage 1 debate, particularly those concerning the appropriate mechanism for resolving disputes between factors and clients, have been resolved in the course of the discussions that have taken place.

As is evident from the debate so far, the measures that the bill proposes enjoy wide parliamentary and public support. I am grateful to Malcolm Chisholm for highlighting the volume of complaints that have been made in our native city of Edinburgh, and I agree entirely with him on the systemic failures that led to the bill's being necessary. I could not agree more that minimum standards are not necessarily low standards, and that it is extremely important that in the next parliamentary session careful scrutiny is given to the code of conduct that the Government will publish to ensure that minimum standards mean the high standards that people expect.

It is self-evident from the volume of complaints that members have received that poor standards and shady practices by a minority of factors are what have driven the Parliament to take such action, but I stress that we are talking about a minority of factors. The majority do an excellent job and their clients are perfectly satisfied with the service that they receive. If the bill achieves its goal of raising overall standards of service across Scotland, that will be to the benefit of the responsible members of the property factoring and management professions.

I thank Patricia Ferguson for the tremendous amount of work that she has put into the bill's promotion, in succession to her former colleague, Gordon Jackson, and into steering it through the parliamentary process. Like others, I also pay tribute to the minister, Alex Neil, and his officials for their willingness to work with the member to bring the bill to this final stage in a shape that allows all parties in the Parliament to give it their support.

16:47

**Mary Mulligan:** We have had a very good-natured and positive debate, which reflects well on all those who have played a part in the bill's development. I assure Mr McLetchie that we got through stage 2 very amicably, thank you very much; I am sure that that had nothing to do with him not being there.

I said in my opening speech that I am pleased that landowning factors are to be included in the property factors register and the definition, and a number of members have picked up on that. Like them, I recognise that the nature of land owning makes such factors different. I regret the fact that the bill will not introduce the final sanction for them—that of removing the factor—but I fully understand why Patricia Ferguson has not been able to take that final step. It would not have been right to put the bill at risk.

I said in the stage 1 debate and I repeat that whoever is in government after 5 May should look

at the consultation that the minister has started and, if legislation is necessary, find an early opportunity to introduce it. That is Labour's intention, and I believe that there would be cross-party support for that.

I am pleased that Patricia Ferguson and the minister were able to come to an agreement on when the bill should be enacted. Many people are waiting for new legislation to be brought in and it is important that we give them a sensible and achievable date to look forward to.

I think that it was Bob Doris who said that there is a need for factors. On a number of occasions when I have talked to residents about problems that they have experienced with factors, they have said that they should just do away with them and do the job themselves. However, I agree with Bob Doris that a good factor can provide a good service that allows people to live in their homes in an environment that is conducive to all. For that reason, it is important that we take this opportunity to recognise that there are factors who operate in a fair and responsible manner and that we should encourage them. Patricia Ferguson reminded us that the definition will include not just the private sector but local authorities and housing associations that factor. I know that we have had good experiences with them, which should be continued.

One issue still gives us cause for concern. When a factor is not acting responsibly, residents will look to switch. We heard compelling evidence from witnesses that it is possible to switch but that people need to be able to give time to that. People do not always want to use their time to do that. However, we need to ensure that if switching is necessary, it is as easy and accessible as possible for people and that, when switching takes place, they have options for where to go.

Patricia Ferguson has pursued this issue for many years. I remember visiting her Maryhill constituency some years ago to speak at a public meeting about it. It may have taken us a while to get here but, thanks to her steely determination, the people at that meeting will now have a way of dealing with any problems. The committee heard the evidence and was convinced that the Scottish Government's proposal for a voluntary scheme did not go far enough. The Parliament is right to underpin by legislation the definition, the register and the code of conduct. I am sure that all our constituents will feel reassured by what we are doing here today.

16:51

**Alex Neil:** If the bill is passed—I make a guess that it will be—it will be a double whammy for the Butler-Ferguson household tonight. I am sure that

Bill Butler and Patricia Ferguson will be proud of each having their bill passed; I congratulate both of them on that. I look forward to the day when Mr McLetchie is serving on the Scottish independence bill committee, rather than just the Scotland Bill Committee.

The Government has long recognised that there are concerns about how property management services are delivered in Scotland. That is why we consulted on a voluntary accreditation scheme to drive up standards in the industry and why the Government has supported—and, hopefully, helped to improve—the bill during its passage through Parliament.

The bill does not solve all the problems, but it is a good beginning. We need to consider further the issues relating to how owners can, when they are dissatisfied, switch or dismiss and replace their property factor. The Office of Fair Trading market study on property managers in Scotland that was published in February 2009 found that only 1 per cent of people switch. Given the number of complaints that all of us receive, it is clear that the law needs to be changed to facilitate switching by dissatisfied tenants. That must be on the agenda for the new session.

As I said earlier, in the next few days we will issue a consultation on switching land maintenance providers. A number of points were made on the issue during summing-up speeches. I will deal with a couple of those. I say to Mary Mulligan that landowning land maintenance companies can be deregistered under the bill, but ancillary provision may be needed on what happens after deregistration. That is another issue with which the new consultation that Fergus Ewing is leading will deal. We have told Greenbelt, in particular, that its invoices should be transparent and clear, so that people know what they are being charged for.

As I have said, there will be much to do on implementation. I agree with Malcolm Chisholm that the draft code of conduct and its implementation on a statutory basis are key to the success of the bill's implementation. I give an undertaking to consult extensively on the draft code before we bring it to the Parliament for approval.

We will need to establish, as I said earlier, a new registration service and consider what ancillary provision is required to cover, for example, the interrelationship between the bill and the Title Conditions (Scotland) Act 2003. We will need to establish, too, the dispute resolution service. So, there is still much work to be done to implement the bill and to introduce additional legislation that will be required to enhance this area of the law and the housing sector.

The bill lays down the framework for registration and dispute resolution in more general terms. We will go into implementation mode after tonight's vote, I hope. Parliament in the new session will need to consider what we can do on land maintenance companies once the consultation is finished. I have no doubt that additional legislation will be needed to cover land maintenance companies specifically.

The bill is a welcome first step. We look forward to working with all the key stakeholders in its implementation and ensuring that it is a success. The litmus test will be whether there is a dramatic decline in future years in the number of people who come to our surgeries to complain about their factors. I hope that there will be a decline because they have found a remedy as outlined in the bill. That is why the Scottish Government is very supportive of the bill. We will do everything that we can to ensure not only that we meet the deadline for implementation, but that we do it earlier, if possible, than is outlined in the bill.

16:56

**Patricia Ferguson:** It is four years since my colleague Gordon Jackson first signalled his intention to introduce a bill to regulate the factoring industry. Unfortunately, he was not returned to Parliament in 2007. However, as someone who was supportive of his policy intentions, I was pleased to be able to take up the issue. What I was not prepared for was that my office would be inundated with calls and e-mails from people looking for help because of problems that they were experiencing with their factors.

I would be the first to say, as others said in the debate, that not all factors are bad or uncaring. Most factors are assiduous and often continue to try to help maintain properties even after that has stopped being profitable for them. Being a factor is not an easy job. Jim Tolson and Alex Johnstone were quite right to identify the intransigence that occurs with both homeowners and factors. I hope that this debate can help to take that issue forward.

I say to Bob Doris that I, too, hope that the bill will not lead to people somehow being encouraged not to pay their factoring bill. In fact, the homeowner housing panel will not be obliged to take up a case if it does not feel that it is relevant. That shows that we had thought of that element.

I believe that the bill will help to root out the rascals in the industry and give it the opportunity to show that most factors do, indeed, work to high standards. I hope that, in time, the bill will help to improve the image of the industry; David McLetchie made that point.

I am grateful to colleagues who have spoken in an interesting, if short, debate. I agree with Malcolm Chisholm's intentions and comments around the use of the word "minimum", but I very much hope that minimum does not mean weak. I, too, will want to ensure that that is not the case. Robert Brown's point about the amount of legislation that now exists in this area was entirely valid. I have said before in the chamber that the time has come to consider consolidating much of that legislation. Perhaps that work will be done in the new parliamentary session.

I must thank a great many people for their input to the bill. I thank the clerks and members of the Local Government and Communities Committee for their careful consideration of the bill; the staff of the non-executive bills unit, particularly Frances Bell from the legislation team; and Consumer Focus Scotland for its advice. I also thank the Minister for Housing and Communities, Alex Neil, and his officials for their co-operation and assistance, and their invaluable help in framing the stage 3 amendments. I thank the staff in my constituency office, particularly Chris Kelly, and all my staff, who have become very knowledgeable about the factoring industry in the past few years; I think that they will breathe a huge sigh of relief this evening.

I thank the *Evening Times* and the Glasgow *Herald*, whose first-class investigative journalism helped to demonstrate why the bill is needed. Last but certainly not least, I thank Mike Dailly, of Govan Law Centre, who not only supported me through discussions on the finer points of Scots law but supports in the courts, almost daily, the victims of some of the most unscrupulous people that I have ever come across.

In previous debates I have given harrowing examples of situations in which my constituents have found themselves. I do not intend to do that now, other than to say that the bill will not come soon enough for a constituent of mine, who has had an inhibition notice attached to her property because of a relatively small debt. I hope that the bill ensures that in future there will be fewer people in her situation and that people will have somewhere to go to have their problem resolved. Those people will know that the Scottish Parliament made that possible.

## Decision Time

17:01

**The Presiding Officer (Alex Fergusson):**

There are four questions to be put as a result of today's business. The first question is, that motion S3M-8058, in the name of Alex Salmond, on the 2015 election, be agreed to.

*Motion agreed to,*

That the Parliament notes the potential clash of UK and Scottish general election dates in 2015; invites the UK Government to set the next Scottish general election after 5 May 2011 for Thursday 5 May 2016, and looks forward to UK Government consultation on a legislative provision that would set apart UK and Scottish general election dates on a permanent basis.

**The Presiding Officer:** The next question is, that motion S3M-8005, in the name of Hugh Henry, on "Session 3 reports of the Public Audit Committee—key themes", be agreed to.

*Motion agreed to,*

That the Parliament notes the conclusions and recommendations contained in the Public Audit Committee's 1st Report, 2011 (Session 3): *Session 3 reports of the Public Audit Committee—key themes* (SP Paper 559).

**The Presiding Officer:** The next question is, that motion S3M-8028, in the name of Bill Butler, on the Damages (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Damages (Scotland) Bill be passed.

**The Presiding Officer:** The Damages (Scotland) Bill is therefore passed. [*Applause.*]

The next question is, that motion S3M-8029, in the name of Patricia Ferguson, on the Property Factors (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees that the Property Factors (Scotland) Bill be passed.

**The Presiding Officer:** The Property Factors (Scotland) Bill is therefore passed. [*Applause.*]

In passing those two bills, I think that it is only right to draw attention to what I think must be a unique circumstance in any Parliament, that is, that a husband and wife team have successfully taken charge of two members' bills and had them passed on the same day. [*Applause.*] On that happy note, we conclude decision time.

## Grampian Police

**The Deputy Presiding Officer (Alasdair Morgan):** The final item of business is a members' business debate on motion S3M-7977, in the name of Mike Rumbles, on Grampian Police. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes with concern comments from the Chief Constable of Grampian Police, Colin McKerracher, that merging Scotland's police forces could lead to the loss of 4,000 police officers' jobs, including up to 400 in Grampian; further notes Mr McKerracher's view that there is not a shred of evidence that a single force would be the best option; welcomes the vote by Northern Constabulary officers and staff to reject a single police force by 86.6%, and expresses its disappointment that the Cabinet Secretary for Justice has, it considers, undermined and pre-empted the current consultation on the issue by stating that a strong case had been made for a single force.

17:03

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** I am pleased that the Parliament decided that we should debate the motion, which I lodged to highlight what I believe to be a huge mistake that is about to be made by the Scottish Government as it considers proposals to abolish Grampian Police, and all the other local forces across the country, by establishing a single national police force for the whole of Scotland. I am grateful to the Aberdeen *Evening Express* for taking up the campaign on behalf of the people of the north-east.

The cabinet secretary gave notice of his clear intentions when he said in the Parliament:

"a strong case has been made for a single service".—  
[*Official Report*, 12 January 2011; c 32003.]

Indeed, he was on television this week lambasting the current force structure. It is obvious to me and it must be obvious to any reasonable person who has heard the cabinet secretary that he has undermined and indeed pre-empted the conclusions of his own consultation on the creation of a single police force.

There is no doubt in my mind that the prime mover in the matter is the chief constable of Strathclyde Police, whose overtures have struck a chord with the Scottish Government. It seems to me that the cabinet secretary would very much like to deal with just one chief constable. The problem is that other people think that a single chief constable for Scotland would never be out of the minister's office.

It is my understanding that none of the other chief constables supports the chief constable of Strathclyde Police. Indeed, the chief constable of

Grampian Police, Colin McKerracher, has said that there is not a "shred of evidence" that a single force would be the best option. He also made it clear that it could lead to the loss of 4,000 officers' jobs, including up to 400 in Grampian.

A vote by officers and staff in Northern Constabulary to reject a single police force by more than 86 per cent makes it absolutely clear that the move is unwelcome. Indeed, the chief constable of Northern Constabulary has made it clear that he would consider it a dangerous move.

Some people have made the charge that that is only to be expected—vested interests are reluctant to change. However, that is most definitely not the case in this instance as, for example, the chief constable of Northern Constabulary is due to retire and, therefore, would not be personally affected by any such reorganisation. The two chief constables are doing their duty in speaking out against such a disastrous move and I commend them for it.

It is said that the prime motivation for the Scottish Government to consider the creation of a single police force for Scotland is saving money. To the unenlightened observer, that explanation would seem to be logical at such a time of austerity. Therefore, all the more suspicion arises about a Government that knows only too well that such amalgamations and changes cost a great deal of money to implement.

The Scottish Government had to withdraw the costings associated with the proposal because there was a furore among senior police chiefs, who essentially thought that the figures were a work of fiction and they were not prepared to sign up to them. It also knows full well that the previous United Kingdom Government abandoned proposals to amalgamate police forces in England when it was shown that that would have cost in the region of £400 million to implement.

Why does the Scottish Government not propose to amalgamate our 32 local councils? It does not propose to do that because ministers know only too well how much the previous reorganisation of local government cost the taxpayer.

The argument about savings and efficiencies that the Scottish Government has used so far to explain its desire to do away with our local forces such as Grampian Police does not hold water. Experience shows that it costs us money to amalgamate, so why does the nationalist Government wish to create a national police force or, indeed, a national fire and rescue service? Why is the Government's instinct to centralise and centralise? We must ask that important question, and this is the appropriate forum in which to ask it. I hope that the minister will enlighten us in his closing speech.

We must be ever vigilant against plans by any Government that wishes to centralise control over local policing, including this minority nationalist Government. We have a long and fine tradition in Scotland—and across the wider United Kingdom—of local police forces responding to local people and operating at arm's length from national Governments. If a single police force were created, it would undoubtedly have a chief constable based in Glasgow or Edinburgh.

**The Cabinet Secretary for Justice (Kenny MacAskill):** Why?

**Mike Rumbles:** The minister asks why; he wants to place the chief constable somewhere else. That officer would report directly to the Government.

**Kenny MacAskill:** Why Glasgow or Edinburgh?

**Mike Rumbles:** The minister makes a sedentary intervention asking why Glasgow or Edinburgh. I would be delighted to give way to him if he wants to intervene and say that he is considering basing a national chief constable somewhere other than Glasgow or Edinburgh, but no intervention seems to be forthcoming.

**Kenny MacAskill:** Consultation is going on and those matters will be discussed. If the member wishes to suggest where, if we go to a regional model of three or four forces, the headquarters should be based, that suggestion will be considered. If he wishes to suggest where the headquarters should be based if we go to a single-force model, that too will be considered.

**Mike Rumbles:** When I mentioned that the minister wants to locate a national chief constable in Glasgow or Edinburgh, he said, "Oh no," from a sedentary position. Then, when I asked him where he would suggest the chief constable be based, he was not so forthcoming.

Centralisation of our police forces must not be allowed to happen in our liberal and democratic society. It is a most illiberal act. We must not allow the Government to do this under the pretence of undeliverable so-called savings. There will not be savings to the public purse; we will get a more expensive police service that is unaccountable to the people whom it serves and accountable only to the Government. We will have lost a valuable local service. I say one thing to colleagues in this Parliament: do not let it happen on our watch.

17:10

**Dave Thompson (Highlands and Islands) (SNP):** Although the Liberal Democrats might have a point, they are, as usual, overegging the pudding. Their motion and their contributions tonight are misleading.

The election leaflets that they are putting out in the north also contain a number of untruths. For instance, they say in one leaflet:

"The SNP and Labour are backing plans to create a single Scottish police force based in the central belt."

That statement is patently untrue, because the Scottish National Party Government consultation offers three options for the future of the police in Scotland, and no decisions have been made.

In the same leaflet the Lib Dems say:

"at least 200 frontline police officers would be taken from the streets of the Highlands and Islands."

Where do they get that nonsense from? To suggest that a single police force will come at the expense of 200 out of Northern Constabulary's 787 police officers is stretching credibility to its limits and is irresponsible electoral scaremongering.

**Mike Rumbles:** Will the member take an intervention?

**Dave Thompson:** I will make some progress.

**Mike Rumbles:** Ask the chief constable.

**Dave Thompson:** I know the chief constable's view.

For the sake of clarity, I point out that the three options in the Government's consultation on the future of the police are: first, the status quo; secondly, three or four forces; and thirdly, a single Scottish force.

**Alison McInnes (North East Scotland) (LD):** Will the member take an intervention?

**Dave Thompson:** No thanks.

The Government, quite rightly, has not taken a final position on the issue, although it has stated that there is a growing consensus that the current eight-force structure is unsustainable for a number of financial and policing reasons. I agree with that. The current set-up, with eight chief constables and associated management costs, is untenable and some reduction is inevitable. Those who advocate retention of the current model must tell us how they would pay for it and keep the record number of police on the beat.

**Robert Brown (Glasgow) (LD):** It seems to follow from that that the status quo is not an option; it has already been ruled out. Is that not the case?

**Dave Thompson:** The options are there in the consultation document. Are we not debating the options? Am I not entitled to have a view on the options, as the Lib Dems are entitled to have a view on the options? We are discussing the options. I am saying that there is a growing consensus that the status quo is untenable, and I



agree with that. That is what I have said and that is what I believe.

However, I do have concerns about a single-force model, as there is a danger that any move to centralise police services into a single Scottish force will effectively swap control from Inverness for control from Glasgow or Edinburgh and lead to a loss of decision-making power and senior posts from the north of Scotland. I am pleased, therefore, that the cabinet secretary has acknowledged the dangers of centralisation and the importance of local communities. Indeed, the consultation document makes it clear that restructuring provides the opportunity to devolve greater responsibility to the local level, with improvements in local engagement and accountability.

At the moment, my personal preference is for a four-force model and an expansion of Northern Constabulary to take in Moray and Argyll, which have similar issues to the current Northern Constabulary area, and I have been actively pressing that option for some time. It would provide an expanded Northern Constabulary of around 1,300 police officers. The force area would have a population of around 450,000, it would cover around 15,000 square miles and have a budget of £70 million. I have an open mind on the other three forces, but Grampian Police and Tayside Police could merge, Strathclyde Police could join with Dumfries and Galloway Constabulary, and Lothian and Borders Police could merge with Fife Constabulary and Central Scotland Police. That is all open to debate in the consultation.

Although I favour the four-force model and have made that clear to the Government, I look forward to hearing the arguments of those who favour a single force about just how it would ensure enhanced local accountability and better local policing for the Highlands and Islands and which of its Scotland-wide functions would be operated from the north.

17:14

**Richard Baker (North East Scotland) (Lab):** I congratulate Mike Rumbles on securing the debate. Members' business debates are traditionally more consensual affairs, but we could always rely on Mike to ensure that what is likely to be our final North East Scotland members' business debate would be a somewhat more testing event for us.

It is welcome that we have the chance to debate the idea of a single police force and policing in Grampian, as that is an important issue. I would be the first to recognise that Mike Rumbles has always been a doughty campaigner for his

constituents and for the north-east, which is what has motivated his lodging the motion for debate tonight. I hope that he recognises that achieving the best for our constituents in the north-east is also what motivates those of us who support change, however much we disagree on the way forward. Our motivation is not the detriment of community policing; it is the protection of it and the desire for a better police service for Grampian and the whole of Scotland.

We cannot hide from the fact that, as things stand, we are looking at substantial cuts in the budgets of all police boards. My fear is that the status quo makes such cuts inevitable for a number of years to come. That would lead to reductions in the number of police officers and key police civilian staff, meaning that more police officers would have to come off the beat. Yes, we can debate what the savings would be—Mike Rumbles is correct in saying that the published figures have been hotly debated—but I, for one, do not accept any assertion that moving to a single police force would mean our losing hundreds of police officers or having to reduce police numbers in Grampian. However, I argue that that fear will be realised if we do not move to a single force. There is no doubt that moving to a single force would realise savings that could be reinvested in the front line to keep police officers on the beat.

Let us not pretend that the current arrangements for funding forces benefit Grampian. In the previous session, under the Labour-Liberal coalition, we secured extra funding for Grampian Police by revising the formula. However, whereas local authorities in other parts of Scotland were able to invest in extra police officers for their forces earlier in this session, local authorities in Grampian simply were not able to do the same for our force. We are disadvantaged by the current situation and, despite the famous concordat agreement, Grampian Police faces losing 50 police officers and 100 police staff. I believe that people in Grampian—like people everywhere in Scotland—are concerned more about having visible policing in their community than about what badge is on the uniform. It is the same in Northfield, Kincorth, Peterhead and Stonehaven as it is anywhere else. To protect the number of police on the beat in those communities, we must make the proposed change.

**Dave Thompson:** Does the member have any views on which services might be based in the north of Scotland if we had a single police force?

**Richard Baker:** With a single police force, there would be national resources and national parts of that force structure in the north and in Aberdeen. I am sure that Dave Thompson would make a strong case for that, and he can rest assured that I

would make a strong case for that as well. Nonetheless, it is vital that, in making that change, we protect local accountability and local police priorities. The example of a single force working with strong local accountability can be found close to home: the police in Northern Ireland work within a similar structure. I believe that there are many circumstances in which having a single force would benefit the people of Scotland in tackling crime, and that having a single force would benefit the people of Grampian as well.

Grampian Police has done a great job, but if we are to maintain the level of policing that we need in the Grampian area, we must change and be clear with people about our views on change. I do not agree with Mike Rumbles's analysis of the situation, but he and I are clear about our respective positions. It is important that the Scottish Government is clear, at least before the election, and says what its preference is. I suspect strongly that, like me, the Government has been persuaded of the need for change, but it needs to be clear about that, as it is a really big decision, and a crucial one for the better policing of communities in the north-east and throughout Scotland. On that basis, I welcome this debate.

17:19

**Alex Johnstone (North East Scotland) (Con):**

I am delighted to participate in the debate, but at the same time I am concerned that it may be slightly premature. My concern relates to the fact that proposals are on the table to change significantly the structure of our police forces in Scotland and an election is only a few months away. Although it is perfectly right that the subject should become an election issue, it is always our responsibility to ensure that politics and policing are kept as far apart as possible. Given the fact that a consultation is in progress at the moment, it is reasonable for us to expect that views will be expressed.

As a Conservative, I see the highest priority for policing in Scotland over the next few years as being to maintain our current number of police officers. Conservatives were instrumental in ensuring that we got 1,000 police officers in the budget four years ago—we got that commitment in the first year, and we got the officers the subsequent year. Preserving those police officers on the streets of Scotland must be the highest priority.

Moving on from that, we have a situation in which Colin McKerracher, the chief constable of Grampian Police, is making public statements about his concerns about the effect of restructuring. He suggests that, as a result of restructuring, we might lose 4,000 police officers across Scotland, and 400 in the Grampian area. I

believe that he is entitled to make that point, in whatever level of detail he wishes, and this is the right time for him to do so. However, I worry that the statement has been hijacked tonight by Mike Rumbles for some of the political reasons that I have mentioned. If the Association of Chief Police Officers in Scotland has a view to express, I welcome it, as part of the consultation. If there is evidence to suggest that policing across Scotland, particularly in the Grampian area, would be damaged by the proposals, I look forward to discussing it. However, the bottom line is that it is essential that we do not allow our chief police officers to be taken into what is, essentially, a political argument. We must allow them to argue their case on a structural and management basis, and we must ensure that we do not align our political parties with particular police officers. I believe that Colin McKerracher's position may have been weakened by tonight's debate.

**Mike Rumbles:** The member seems to be operating under a misapprehension about what Parliament is for. The purpose of this debate is to ensure that mistakes are not made by the Government, which must make the decision on the future of the police service. I have commended the chief constables of Grampian Police and Northern Constabulary for making the statements that they have made. They are making quite clear to MSPs that we need to do something about the situation. I am trying to do something about it, and I hope that Alex Johnstone is doing the same.

**Alex Johnstone:** I acknowledge the fact that any member is entitled to bring forward their concerns. I believe that the argument that the member is putting forward is one possible interpretation of the changes that are proposed. We are in the heart of a consultation process, and we should participate in it with a broad mind and an understanding that we must maintain the numbers of police officers who are on the streets in Scotland and that whatever action is decided on by this Government or a subsequent one must have that effect before it has any other.

17:22

**Alison McInnes (North East Scotland) (LD):**

As others have said, Grampian Police does an excellent job. It is among the most efficient forces in the country. That success should be built on through closer co-operation between police services. Instead, the Scottish National Party seems to be intent on wrecking that good work.

It is clear that the proposals for a national police force have no basis in facts or evidence. The minister seems to have started with what he wants to achieve—more political control of the police and more Government centralisation—and is working

backwards to try to justify it. He is likely to come unstuck sooner or later.

The others who are shouting loudly in favour of the proposal are not objective bystanders and seem to have little understanding of the nature of Scotland's geography. I believe that the creation of a nationwide force would be hugely expensive and would increase political interference in our local services and almost certainly reduce the number of officers on the beat.

Claims have been bandied about of savings of £190 million from the amalgamation of the forces. However, as Mike Rumbles pointed out, we have seen no evidence to support those claims.

**Dave Thompson:** Will the member give way?

**Alison McInnes:** The truth is that making savings of that sort would mean the loss of around 4,000 officers. Grampian's share of that would be 10 per cent, or 400 officers—that addresses the point that Dave Thompson was going to make. I do not see that as progress.

Of all the problems that a national police force could bring, three worry me most. The first is governance and local accountability. I am deeply concerned about damage to front-line services and breaking the link with our local communities. A one-size-fits-all approach to our emergency services, with remote headquarters, would give bureaucrats—in the central belt, most likely—too much power, without enough awareness of local circumstances and issues. Currently, police forces are autonomous and accountable to local communities. They are free to decide how best to deploy resources and to set their own priorities within a national framework.

A national force would mean that local priorities would be lost. To whom would a national police force be accountable? Would it be accountable to the Cabinet Secretary for Justice? A single police force that was responsible politically to the justice minister would be unsatisfactory. There would be a great risk that political concerns rather than local priorities would dominate. Would a national police force be accountable to a board with perhaps one representative for the whole of Grampian? That would surely be wholly unacceptable to citizens of a modern, diverse Scotland.

The second issue is the loss of horizontal integration with other local services. Policing is rightly part of the local government family. The development of close links between criminal justice, social work, education, drug and alcohol services and the fire service, even, means that we have seen great progress on tackling the root causes of crime. The prevention and detection of crime are not aided by isolating the police and moving the key decision makers a couple of hundred miles down the road to Glasgow.

The chief constable of Grampian Police currently chairs the north-east of Scotland child protection committee and is an active and welcome member of many other strategic groups in the region. Grampian's strategic co-ordinating group, which was set up to build the region's resilience, is successful because the people who are currently round the table are in a position to commit all the resources of their organisations to any particular problem. The chief constable of a national police force would not sit on each resilience board or each community planning partnership. As a result, we would see a less responsive local service and a disintegration of services.

The Government set up the Christie commission to consider the future of the public sector. It is inexplicable that two key community planning partners—the police and the fire and rescue services—have been unplugged from that review. That demonstrates either a lack of understanding of the role of a modern police force or a lack of respect for it.

Finally, would Grampian get a fair share of resources from a national police force? The region has never yet received a fair share of funding from central Government. We are always struggling to cope with less than the national average. Centralising the force would lead only to greater problems in resourcing. It is likely that we would see our police numbers cut and resources being drawn to the centre, which would surely impact on safety and detection.

In conclusion, the proposals pose the greatest challenge to our local police service for a generation, and they would be disastrous for the north-east.

17:27

**Nigel Don (North East Scotland) (SNP):** I am grateful to Mike Rumbles for bringing this debate to the chamber. The issue is, of course, rather an unusual one for a members' business debate. Perhaps it would have been better to discuss it in Liberal party time, but let us not go there.

The issue is really the proper management of our police service. From my industrial and commercial experience, I have to say that periodic reviews are needed of the structures, priorities and organisation of any team that has more members than the number of fingers on my hand. I am sure that anybody with experience of any organisation would back that up. Even if an organisation's objectives have not changed, the operating environment will have changed. That is our world.

When previous constabularies were amalgamated into the current structure in 1974, Ayrshire Constabulary became part of Strathclyde

Police. Before 1974, Ayrshire Constabulary had a chief constable, two assistant chief constables and five chief superintendents. Today, the area that it covered has one chief superintendent, two superintendents and 150 more officers. I am sure that people blew their police whistles at that point and said that the amalgamation would be a disaster, but we have probably found ways of working with it.

I do not know what the structure of Scotland's police force should be and, with the greatest respect, I do not think that anybody else does, although people will hold positions. That is why I commend the Government for holding a consultation. I hope that that consultation will be thorough and that people will respond to it. From my experience in the Parliament and of consultations on bills and other things, I am quite sure that, with a bit of care, teasing out, listening and thinking, we will come to a pretty decent answer. We rarely get the perfect answer, but, again, that is life.

I want to make one more point and ask members to hear me out before they intervene. I doubt that the number of police forces—and the number of chief constables—matters much. The management of any large team—and what we are talking about is large by any standards—has three levels. In this case, there are first the individual officers at the bottom. Alex Johnstone made the point that, fundamentally, they are what this is about. Any individual who tries to do a job needs line management so that they know what the job is, personnel support and technical advice. I note that there are, of course, specialist police officers, but let us live with that.

The top of any organisation needs those who can engage with the world around them at the top level, which in this case would be the Government, international organisations and many others. The purpose of the senior management of any organisation with any purpose is to determine strategy and to ensure that the structure is reviewed.

The middle layer of middle management has the job of making the connections between the bottom and top layers and, fundamentally, ensuring that the guys on the ground, who are particularly important in the police, fit in with the strategy and do the right job.

Alison McInnes made one very important point, although she was not the first to do so. The other issue is accountability, which must mean the accountability of the appropriate people at the appropriate level. To assert that everything is working well because it is being done through chief constables at force level is surely to mislead. The reality is that we need to have accountability at the appropriate local level, and I suggest that

that will often be superintendent and inspector level.

There I must leave it.

17:31

**The Cabinet Secretary for Justice (Kenny MacAskill):** I thank Mike Rumbles for securing the debate and I accept the spirit and ethos that have been shown by him and every other member who has contributed. Every elected member has at heart the interests of the police and services that they provide in our communities, although perhaps there has been more heat than light in some of the things that have been said.

I begin by reminding members that we are consulting on police reform and that the sustainable policing project, which is led by Detective Chief Constable Neil Richardson, is in the process of putting more quantitative and qualitative detail on the various options. A decision has not been made. That will be for any new Administration after the election.

We have heard some interesting and thoughtful contributions from all parties today. We have also heard some understandable, but not insurmountable, concerns about local policing and about centralisation and accountability, particularly—although not uniquely—under the single-force model. However, we have also heard some political scaremongering from people who are well aware of the financial challenges that are facing us, but who seem to ignore the necessity for reform.

We have heard from members who appear to believe that a policing structure that was created more than 35 years ago is still the best model for Scotland. Can a model that creates barriers and boundaries between forces really deal with threats and crime that pay no attention to such boundaries? Scotland is significantly changed from what it was 35 years ago.

Is it right that forces have to call on each other to get access to specialist resources to help to deal with major incidents? Is it right that such support is often provided on an informal or ad hoc basis, or that forces are spending valuable time and resources on agreeing contracts and service agreements with each other?

Even Strathclyde's chief constable has said that Strathclyde Police would be unable to cope with a major terrorism incident without assistance from other forces. If the largest force in Scotland cannot cope on its own, how can the seven smaller forces hope to cope?

**Robert Brown (Glasgow) (LD):** I think that I am right in saying that, when a certain incident occurred not so long ago in the north of England, a

substantial amount of assistance was given by Strathclyde Police and other Scottish police forces. There are going to be cross-border issues anyway in major incidents, so why is that incompatible with the current structure?

**Kenny MacAskill:** Mutual aid is always provided when it is requested. That happened during the dreadful shootings in Cumbria. As I understand it, Strathclyde Police covered the M6 down to Lancaster as Cumbria's forces were mobilised within the community.

We are talking about a terrorism incident and we have faced one in Scotland, although many of us were deluded into thinking that it would not happen. We should listen to Strathclyde's chief constable when he says that he does not think that his force could cope with a major incident. We were extremely fortunate and well served by police and other individuals in a personal and work capacity at the Glasgow airport incident, but we must prepare.

Does a regional structure that preceded the Scottish Parliament, having been invented 20 years before unitary councils and 30 years before community planning, provide the right kind of national and local accountability? Is the structure really right for the partnership working and local engagement that is vital to safer communities?

Finally, is it right that in the face of unprecedented budget cuts we are maintaining eight separate police headquarters and unnecessary duplication across the eight forces? There is duplication in areas such as human resources, finance and legal services; in policies and procedures; and in areas such as roads policing and specialist operations. There are eight HQs and all that duplication, when the northern joint police board has just agreed to close 15 police stations, and Grampian's suspension of police officer recruitment and its freeze on police staff recruitment are continuing into next year, and it is running its third voluntary redundancy scheme. Reform is about addressing those questions; the status quo is not an option.

There is not a shred of evidence to support suggestions that merging police forces could lead to 4,000 fewer police officers or that reform will somehow mean that everything is centralised and officers are taken away from local policing. We are reforming so that resources are used for local front-line policing in all communities and not for unnecessary duplication.

**Mike Rumbles:** The minister used the phrase "not a shred of evidence".

That is the phrase that is used in the motion, but does it not come from Colin McKerracher, who

said that there is not a "shred of evidence" that a single force would be the best option?

**Kenny MacAskill:** We need the evidence. I have no doubt that that was said—it is not in dispute—but where is the evidence?

We are reforming so that local officers can continue to solve local problems. The officers whom I met in Arran a few weeks ago were not working to some city agenda or waiting for orders from a distant HQ. They were working with local communities to solve local problems.

As one of the respondents to the Northern Constabulary survey says,

"This argument was the same when the various county forces merged to form Northern Constabulary in the mid-late 70's. There was a fear about local policing then, but we managed it in a professional way".

Mr Don referred to the position in Ayrshire. In the Northern Constabulary area, there used to be three separate forces, each with its own chief constable. Now there is one chief constable, but 301 extra officers. In Grampian, there used to be two separate forces, each with its own chief constable. There is now just a single force led by one chief constable, but an extra 702 officers. I do not know whether at the time of the last negotiations Liberal Democrats opposed the moves, but those facts confirm to me that we can deal with providing and protecting front-line services.

Reform is about protecting the 1,000 additional officers that the Government has delivered, including 145 in the Grampian Police area and 80 in the Northern Constabulary area. It is about spreading services and functions around the country and ensuring that all communities have access to specialist policing. It is about improving local accountability and engagement and providing clear accountability for national policing structures.

There are many views and we want people to contribute. We need to ensure that we consult. No position has been taken by the Government. We set out three options, but we are quite clear that the status quo is not tenable. I welcome people's contributions—[*Interruption.*—]preferably not from a sedentary position. I will welcome significant contributions that people make.

We will not take a decision until we have considered the views and the work of the sustainable policing project. However, members should make no mistake: the status quo is not tenable and reform is necessary. As I indicated, what matters is bobbies and not boundaries. I hope that those who are worried that a reduction in the number of forces, whether to a regional or single model, will take note of the advances that have been made in Ayrshire, and in the Grampian Police and Northern Constabulary areas.

*Meeting closed at 17:38.*

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