

ENTERPRISE AND CULTURE COMMITTEE

Tuesday 14 December 2004

Session 2

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ENTERPRISE AND CULTURE COMMITTEE

29th Meeting 2004, Session 2

CONVENER

*Alex Neil (Central Scotland) (SNP)

DEPUTY CONVENER

*Mike Watson (Glasgow Cathcart) (Lab)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)
*Chris Ballance (South of Scotland) (Green)
*Susan Deacon (Edinburgh East and Musselburgh) (Lab)
*Murdo Fraser (Mid Scotland and Fife) (Con)
*Michael Matheson (Central Scotland) (SNP)
*Christine May (Central Fife) (Lab)
*Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

COMMITTEE SUBSTITUTES

Mark Ballard (Lothians) (Green)
Mr David Davidson (North East Scotland) (Con)
Fiona Hyslop (Lothians) (SNP)
Margaret Jamieson (Kilmarnock and Loudoun) (Lab)
George Lyon (Argyll and Bute) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Tony Cox (British Telecommunications plc)
Domhnall Dods (UK Competitive Telecommunications Association)
David Flint (Scottish Independent Airport Park and Ride Association)
Sir Michael Hirst (Scottish Independent Airport Park and Ride Association)
Allan Hogarth (Confederation of British Industry Scotland)
Susan Love (Federation of Small Businesses Scotland)
Harry Pendleton (National Joint Utilities Group)
Alex Rae (Scottish Water)
Niall Stuart (Federation of Small Businesses Scotland)
Mr Alan Watt (Civil Engineering Contractors Association (Scotland))

CLERK TO THE COMMITTEE

Judith Evans

ASSISTANT CLERK

Seán Wixted

LOCATION

Committee Room 6

Scottish Parliament

Enterprise and Culture Committee

Tuesday 14 December 2004

[THE CONVENER *opened the meeting at 14:02*]

Items in Private

The Convener (Alex Neil): Welcome to the 29th and last meeting in 2004 of the Enterprise and Culture Committee. I ask everybody to switch off their mobile phones. We have no apologies, other than one in advance for the rattling of the window on the left-hand side of the room. It is electronically controlled and the electronics are off, so there is likely to be both a noise and a draght.

Item 1 is whether to take items 7 and 8 in private. My view is that we should take item 7, which is consideration of the area tourist boards review, in public because we are not preparing a report; we are merely considering the evidence that we have had so far. However, it is up to members to decide whether they are happy to take item 7 in public.

Murdo Fraser (Mid Scotland and Fife) (Con): I am relaxed about doing that.

Members *indicated agreement.*

The Convener: Item 8, which is consideration of a revised stage 1 draft report on the Further and Higher Education (Scotland) Bill, should however, be considered in private. Is that agreed?

Members *indicated agreement.*

Transport (Scotland) Bill: Stage 1

14:03

The Convener: We move to item 2 and the first of three evidence sessions on the Transport (Scotland) Bill. I welcome from the Confederation of British Industry Scotland Allan Hogarth, who, in a previous life, stood as a candidate in 1989 in Glasgow Central against Mr Watson and me.

Allan Hogarth (Confederation of British Industry Scotland): Who was it who won, again?

The Convener: And we gave you a hard time then, Allan.

Allan Hogarth: You look as young as you did then, Alex.

The Convener: Thank you. Tony Cox is head of public policy at British Telecommunications plc. John Downie is not here, but Niall Stuart is in his place from the Federation of Small Businesses Scotland, and Susan Love is from the policy office of the same organisation. Welcome to everybody. Allan Hogarth will lead off.

Allan Hogarth: Thank you for inviting me along this afternoon. As I stand between members and their Christmas parties, I will try to make the question of looking into holes in the roads as exciting as I can.

CBI Scotland wants to know how the bill will help to tackle congestion and improve traffic flow for everyone in Scotland, which everyone agrees are important matters. However, we also need to ensure that Scotland's utilities, and therefore its competitiveness, are not threatened at the same time. Members are aware, through a variety of work in the Parliament, of the importance of utilities: broadband and communications, telecoms and water infrastructure. One of the major causes holding back development is the lack of quality water infrastructure throughout Scotland. Clearly, however, one way to improve congestion is to improve street works. By no means are we saying that all utility companies are perfect in the way that they carry out their work. When Tony Cox makes his comments, I think that he will accept that poor practice requires to be dealt with to ensure that the work is done properly.

The real causes of congestion, however, are too much traffic, insufficient road capacity and vehicle breakdown. It is worth noting from the statistics that no one has done any proper work to investigate the main factors involved in congestion. The only figures available are from the Transport Research Laboratory—they are United Kingdom figures because no Scottish figures are available—and show that UK utilities cause about 5 per cent of congestion; 65 per cent is caused by

overload of traffic; and 25 per cent is caused by traffic incidents. Tony Cox's company, BT, has estimated that the greater use of broadband could take three years' worth of increased traffic off the roads.

We welcome the positive aspects of the bill, which include the creation of a Scotland-wide commissioner to help co-ordinate road works and to ensure consistency of approach. There is a concern that, although the private sector is using the Scottish road works register properly, not all local authorities are following that example. It is important that the proposed commissioner treats both sectors evenly.

The thorny question of the reinstatement of road works is addressed in the bill, but we still have concerns, which were covered in *The Herald* at the weekend following the submission of evidence. I give the example of a utility company that digs up 10 yards of the Royal Mile outside the Parliament. Under the bill as currently drafted, that company could in theory be liable to restore the whole of the Royal Mile in five years' time. Another example is that companies that dug up the road 20 years ago could be asked to cover the costs of the restoration of the Royal Mile. How can a business do any forward planning on that basis? How does one decide which companies should share the costs? I hope that members will consider the impact that the bill would have on companies that operate within tight margins, such as the many Scottish utilities that are trying to maintain jobs and create economic growth in Scotland.

The bill proposes to decriminalise road works offences. One instinctively thinks that decriminalisation should be welcomed, but experience shows that if local authorities, which claim to be operating on a tight spending allocation, are given powers to levy charges, that income will be an incentive for those whose job it is to find ways to levy charges. For example, if a company has said that it will be digging at 100 Arcadia Avenue when in fact the company typist should have typed 110 Arcadia Avenue, the person whose job it is to impose the fine for the mistake would do so. There is a concern that unless the decriminalisation of road works offences is properly monitored by the new commissioner, the proposed measure could lead to local authorities using it as a means to increase revenue.

Local authorities having control over the timing of works is also of concern. In theory, it makes sense to say that road works will be allowed in certain months of the year, but the reality is that if a company wishes to expand its operations or needs to improve its technology, it might not be able to wait six months until the local authority says that the time is right to dig up the road. If

emergency access is required for whatever reason, it might not be possible under those proposals.

The suggestion has been made to increase the amount of work that is done at night instead of during the day. Environmental problems arise from that, such as the noise endured by neighbours, as well as safety issues for contractors who carry out the work and other issues that come from that.

I hope that members will look closely at the bill alongside the other work that they are doing to grow the Scottish economy. I ask them to realise the link between improving technology and growing the economy in Scotland and introducing legislation that might make that more difficult and uncertain for the companies whose job it is to provide telecommunications, water, gas and electricity infrastructure.

I will now hand over to Tony Cox from BT because he can give more of an industry perspective.

Tony Cox (British Telecommunications plc):

Allan Hogarth has covered most points in general and I will reiterate some of what he said. Roads are conduits for all types of essential infrastructure services. The fact that many of those services go underground should not blind us to the fact that they are as essential as those that travel above ground. I pick up Allan Hogarth's point about the need to create a good balance of the interests of equally essential services, which sometimes conflict.

Benefits to the Scottish economy accrue not only from transport, but from other essential pieces of infrastructure. One way to encapsulate that is to say that if somebody who arrived home 20 seconds earlier because his route had no street works that evening but who had no electricity was asked where the benefit lay, he would say that he would much prefer to have the electricity supply to his premises.

Allan Hogarth drew attention to the contribution of utility street works to congestion per se. As he said, the best figures that we have are for the whole UK, but they are generally supported. Other, more specific, studies support the notion that about 5 per cent of congestion can be attributed to utilities street works. When that is put in the context of the congestion problem that Scotland and the rest of the UK face, we must consider carefully the measures that may be introduced and their cost, not only to utility companies, but to our customers, the economy as a whole and the ease with which we can all do business.

The Convener: Will you explain quickly how greater use of broadband could reduce the rate of increase in congestion over three years?

Tony Cox: I am happy to do that. Communications infrastructure already makes a big but hidden contribution to reducing congestion. The developments in broadband and its roll-out throughout the country have increased flexible working greatly. That can be seen most clearly in two respects. It enables people to do away completely with a journey, so they no longer have to travel to work every day and may choose to work from home for a proportion of the week, or the entire week.

The other contribution is almost equally important. Broadband gives people much more choice about when they need to travel. A home-based worker does not do away completely with the need to travel to meetings, but they have more choice about when to travel. The evidence is that people choose to travel outside peak periods. That gives rise to a smoothing effect so that people use transport infrastructure better by travelling outside peak times. The two benefits are an absolute reduction in travel and the smoothing effect.

We have evidence that suggests that about 7.5 per cent of the UK population enjoys flexible working practices. That does not compare badly with some countries, but it does compare badly with some of the best. In Scandinavian countries, about 15 per cent of people work flexibly. The UK has much to do to reach such a level. We estimate that an achievable target is to reduce travel by the equivalent of about three years' growth on our current track of increasing road use.

The Convener: Those introductions were helpful. I emphasise that this is the first evidence that we have taken as a secondary committee on the bill. The lead committee is the Local Government and Transport Committee. We approach the bill from an enterprise point of view, so our questions will concentrate on that.

14:15

Murdo Fraser: Allan Hogarth expressed concerns about the timing of works and the powers of local authorities. Of course, there will not be any evidence, but has any feedback been received from local authorities or members of the Confederation of British Industry to the effect that allowing local authorities to dictate timing will be a problem?

Allan Hogarth: There is evidence. Some local authorities have tried to introduce moratoriums on street works and, ironically, one local authority had to break its own rule in order to improve its headquarters. The reality is that companies have met difficulties in situations in which local authorities have decided to impose a one-year moratorium on street works to prevent disruption. You can see the logic behind such a decision from

the point of view of someone sitting behind a desk who has spent a lot of money on resurfacing or whatever. However, the marketplace does not operate in that sort of long-term, structured way. Customers want changes to their premises, accidents happen, new water supplies and gas mains are required and so on. The poor state of the water infrastructure in Scotland will mean that a great deal of work will be required in years ahead. It would therefore seem illogical to have moratoriums that would prevent that work being done.

Murdo Fraser: My understanding is that the requirements that the bill places on installers of infrastructure will not apply to local authorities. Would your members regard that as constituting a level playing field?

Allan Hogarth: As I said earlier, there is a concern that local authorities do not have the same rigour with regard to registration as that which is provided by an industry scheme called Susiephone. That is a strange name, but it allows the utilities to register their work. There is no evidence that the local authorities are doing anything like that.

There is some reassurance that there is a level playing field, but that does not get over the problems of moratoriums or delays.

The Convener: Before we continue, I should point out that I was under the impression that the opening statement that we heard was on behalf of both organisations. My apologies to the Federation of Small Businesses, which I understand also has an introductory statement to make.

Susan Love (Federation of Small Businesses Scotland): We wanted to say a couple of words about two of the main aspects of the bill, so our statement takes a slightly different tangent from that of Allan Hogarth.

We agree with the reasons that have been given for the setting up of the regional transport partnerships, which are that there is a need to ensure that investment is focused on better delivery, that there is better policy making behind investment decisions based on local economic needs and that there is better engagement at an earlier point with local partners and stakeholders, such as the business community.

However, we are slightly concerned that that could add another layer of decision making, which could be less accountable than local authorities and which might defeat those original objectives by creating more complex structures and moving consultation further from those who need to make their views known, such as the business community.

I will not go over the problems that road works cause businesses, because issues such as the loss of time and so on are self-evident. We have to accept that many of the developments that the business community is calling for, such as broadband, water infrastructure improvements and so on, are going to necessitate road works. The problems for businesses, however, arise from the fact that the road works do not seem to be co-ordinated particularly well, especially with regard to the businesses that will be affected.

Some of the proposals in the bill should help to achieve better co-ordination, but we have concerns about specific aspects that might be impractical for some contractors to introduce and which might, ultimately, pass on more costs to sub-contractors and consumers. Those costs could take the form, for example, of increased training and reporting requirements on the workers who will be carrying out the road works.

We think that the bill might help, but there are obvious concerns about increased costs that might have to be borne by the companies and which might be passed on to smaller sub-contractors and consumers.

Christine May (Central Fife) (Lab): Good afternoon. I apologise for being late and missing the beginning of Mr Hogarth's statement. Forgive me if I ask about anything that you have already explained.

Some good and valid points were made in the various submissions, although I take issue with some of the terminology and language in which they were made. There is a sense of overkill in some of the material, which is very much saying, "Please don't do any of this—none of it is a good idea because it might impact on business." Do you accept that, and if not, why not?

The other point that I would like you to deal with is the idea that the bill is necessary because for many years the utilities have failed to get their house in order. I come to the matter from a local authority background, having been blamed by constituents for years for road works over which the local authority had no control whatsoever because they were being done under telecommunications legislation. Will you talk about how the voluntary arrangements have fallen down to the extent that the bill is necessary, which is what appears to have happened? I would also like you to say a bit more about the level playing field issue and the idea that some things do not seem to apply to local authorities. I support you on that point, in that there is a need for a level playing field.

As far as the economy is concerned, there is a need for infrastructure to be put in, but that has to be balanced with the increase in congestion that is

caused by road works. You contend that that increase is small, but nevertheless it is an increase and I argue that it could be reduced if road works were better planned and that that would be of even greater benefit to the economy.

Allan Hogarth: First, I will deal with the question on overkill. I will pass the point about public utilities to Tony Cox and I will then address the point about the need for a level playing field.

The language that we used in the submissions was to generate your interest—

Christine May: It did.

Allan Hogarth: It seems to have succeeded in that endeavour. As I said earlier—I appreciate that you were not here—there are concerns about the bill. In theory, it seems laudable to avoid increases in the digging up of roads and to provide ways to reduce disruption. However, we must think through the consequences for small businesses that require improved access to technology and consider the points that were made about the poor state of Scottish Water's infrastructure and the legislation that is required to upgrade gas mains, which require regular maintenance. We tried to make the point that in principle the intentions behind the bill are sensible, but you need to be made aware of the practicalities at an early stage. That is the reason for the language that we used.

Tony Cox will answer the point about the performance of utilities to date.

Tony Cox: We agree that when utilities fail in their duty to perform properly they should be held to account. However, the idea that legislation should be introduced to punish the utilities for past behaviour seems a little strange. I am not sure whether you were suggesting that. Perhaps more important is the point that the utilities have taken seriously the need to provide better co-ordination of road works. The point about lack of co-ordination comes through time and again, but it was the industry that set up the Susiephone system in Scotland to meet that need.

On your point about the negativity in the submissions, we welcome some aspects of the bill and the fact that the Scottish road works register, which is kept by Susiephone Ltd, is embraced by the bill as a method of providing better co-ordination. We see that as a positive step forward.

My other point is that we cannot consider the utilities in isolation. In complaints about road works, the public do not discriminate between road works that are carried out by utilities and those that are carried out by highways authorities. From where we are sitting, it seems that we tend to end up with the blame for all road works and we therefore think that it is important for the true causes of congestion to be identified. Only in that

way can we move forward and make a difference. The fact that only a relatively small amount of congestion is caused by road works points to the need to balance the cost of any additional requirements that are placed on utilities, and indeed on highways authorities, with the true causes of congestion.

Allan Hogarth: Tony Cox mentioned some of the concerns about the lack of a level playing field. At present, the road works register is open to the public and private sectors, but if one looks at it, it suggests that some local authorities carry out no road works at all. That is one reason behind our concern about the lack of a level playing field. We are heartened that the commissioner, once he or she is appointed, will ensure that that will not be the case in the future. Tony Cox and I are pleased that a commissioner will be appointed in Scotland even though there is not one in the rest of the UK. The concern is that the playing field is not level at present because the register appears to show that only utility companies cause disruption on the roads.

Christine May: The FSB made a point about the impact on small local business of road works, which sometimes happen one after the other on the same stretch of road. I ask the FSB representatives to elaborate a bit more on that.

Susan Love: Small businesses do not differentiate between utility company road works or local authority road works—it is all the same to them. The usual anecdote is that the same roads are dug up over and over again. I read a statistic that, a couple of years ago, Great Western Road in Glasgow was dug up 240 times. Businesses are concerned about what happens beyond the co-ordination. What really annoys businesses is that they do not know what is happening, when it is happening and what it is for. Nobody asks businesses beforehand whether another time of year might be better to carry out road works. The issue is about how local authorities use the centrally co-ordinated information to engage better with local business communities. In our view, the lack of engagement gives rise to many problems. We would like more focus on making information available to businesses much earlier and on consulting and forward planning with businesses.

The issue is not just about the loss of time or the extra fuel costs that result from drivers being stuck in congestion. One of the most common complaints comes from retailers, who complain about pavements being dug up. Businesses are not informed that there will be a loss of trade in the summer months, then a delay takes place, but the businesses do not know why. That is the kind of problem that we experience.

Niall Stuart (Federation of Small Businesses Scotland): Road transport is essential to all

businesses, but it is particularly crucial to small and medium-sized enterprises, which do not have any alternative way of moving goods around because, given the scale of the movements that are involved, they can be done only by road transport. Although only a small amount of general congestion is caused by road works, specific local problems can have a huge impact on a handful of local businesses. Susan Love mentioned repeat road works, which can cause specific problems in a local area that have a massive effect on individual businesses.

Christine May: My final point is on the issue of restoration and the length of time for which a company might be held liable for difficulties. After a road is backfilled, a temporary dressing is often put in place to allow for settlement, and it is necessary to come back and redo the dressing once the settlement has taken place. Is it Allan Hogarth's suggestion that, once the top dressing has been put on and the initial backfilling has been done, the utility company or other organisation should be absolved of any responsibility? If the period of liability should not be five years, what would be a reasonable time?

Allan Hogarth: I was simply trying to point out the situation under the bill as it stands. I hope that it is unlikely, but, as the bill is drafted, a company could be liable for the whole of a road, even though the work affected only 10yd of the road. That is a concern.

Another issue is how we apportion parts of the roads to companies. It may seem logical that all the cables should be put into one big trench, because that would save digging up the road lots of times, but the reality is not so simple: for health and safety and technological reasons, the cables must go into the road at different levels. If and when the Scottish economy continues to improve, more road works will take place as a consequence. We need clarity about the way ahead. The utilities operate with tight margins, so they will have to pass on extra costs to customers, who may not be keen to pick them up.

Tony Cox will pick up the issue of the time for which a company is to be held responsible for any restoration works that are required.

14:30

Tony Cox: We are certainly not saying that a utility company that digs up a road and then puts it back together should not be held responsible for any failure of restoration. However, the guarantee period must be reasonable, because the quality of a road surface can be affected not just by the digging of holes but by all sorts of factors, such as the amount of traffic that flows over it.

Our concern about the bill is less about the guarantee period for works that a utility company

carries out than it is about the much more wide-ranging powers that the bill envisages in relation to half-lane and perhaps full-lane reinstatement, whereby we might be required to resurface a whole stretch of road, far beyond the hole that we needed to dig to provide or restore our service. We would incur much greater costs and there would be much greater congestion while we resurfaced the much greater area of road, to the discomfort of all.

The provision in the bill for an ongoing obligation over an unspecified period—the bill does not specify the period—in relation to which we might be held liable for future restoration of a road surface, perhaps along with other utilities companies, would seem to create a never-ending obligation on us. How would we account for that in our books? It is one thing to talk about a single hole in a single road, but it is another thing to consider the whole country—the exercise would be massive and we are very worried by that. Allan Hogarth mentioned the practical issue about how costs would be appropriately apportioned between the different utilities companies and the highway authorities and I have heard no suggestion of how that could realistically be done. The proposal is a recipe for massive bureaucracy for very little benefit.

Christine May: We must remember that if the utilities companies—or whoever dug up the road—do not pick up the future costs, the public purse must pick them up. Do you accept that liability must be apportioned?

Tony Cox: It is absolutely right that utilities companies should pick up the cost of restoring a road surface that they have broken into to provide an essential service. Ultimately of course, that cost is passed on to our customers—it is part of the cost of the service that they take up. However, the general road surface is rightly and appropriately the responsibility of the highway authorities and it is appropriate that the public purse pick up such costs, as it currently does. The costs should be fairly apportioned and should lie where they arise.

Allan Hogarth: Local authority underspend on restoration of local roads is about £60 million—I think that that is the correct figure. The money is not ring fenced, so regardless of the role of the utilities companies there is concern that money that should be spent on local roads is not being spent and that roads are not maintained as well as they should be.

Christine May: I could debate local authority funding and budgeting with you all afternoon, but I suspect that no one else wants me to do that.

The Convener: I should point out that although we are half an hour into the meeting, we have yet to hear from two other panels of witnesses and at

least four members want to ask questions now. I do not want to curtail debate, but I ask everyone to be aware of the time constraints. It would be helpful if Allan Hogarth could make his answers a wee bit shorter.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I will pick up on that point and preface my questions by saying that it is important that we remain focused on the bill's role in addressing the areas that have been mentioned. I am conscious that we are raising hugely complex issues. There is a huge debate about congestion in Edinburgh and I recently sat through a briefing on local authority road repairs in the Audit Committee. I was very interested in what Tony Cox said about broadband and flexible working, which I would love to discuss all day. However, the key question for us is what the bill would do to aid—or otherwise—our progress on such matters.

My first question is about road works. Could you comment further on co-ordination? Susan Love effectively set out a scenario that many of us, as local members, recognise and about which we have heard from local small businesses. I cite my recent experience of Musselburgh High Street as an example. How will the bill aid co-ordination at the practical level as it impacts on local retailers?

I am particularly interested to know your views about the commissioner. I note that the CBI Scotland submission welcomes the creation of a commissioner. I understand that the commissioner's role in seeking co-ordination will be strategic. How will that enhance and develop the micro co-ordination that is necessary to ensure that road works are carried out as timeously as possible?

Local examples are often cited to me, such as the co-ordination that is required between people who do the work underground and those who do the surfacing work, and the gaps that arise such that areas are dug up and coned off for longer than necessary. With specific reference to the bill, can you tell us how co-ordination at the strategic and micro levels will be improved?

The Convener: Will we start with the FSB?

Susan Love: Briefly, the bill probably will not achieve the local co-ordination that is so important to small businesses, but it should make co-ordination easier at strategic level. At the moment, there is no central co-ordination of information, so authorities cannot discuss matters with small businesses. The bill will enable that information to be gathered and will ensure that it is accurate and up to date. However, it will not change the interaction between local authorities and businesses, which would make a difference. The commissioner will have a role in encouraging best

practice; we would like that. How can the information be used to solve the problems? The short answer is that I am not sure that the bill will tackle the problems.

Allan Hogarth: The Scottish road works register should provide the mechanism for small businesses to contact the commissioner or the local authority to find out when works are planned, and with that information to plan forward. The commissioner will be appointed by the Executive and one of their tasks should be to provide a mechanism to liaise with local businesses. The register should provide the vehicle—if you will pardon the pun—for that. The commissioner should also ensure that local authorities liaise with small, medium and large businesses.

On the need for better co-ordination, as I said earlier, there is an advert that shows one trench that has lots of cables going into it and coming out the other side, but the reality is not as simple as there being one trench that takes all the domestic and business technologies that are required. Tony Cox's company and other utilities companies will carry out research to reduce the workload, because they want to do as little work as possible in the shortest possible time in order to reduce their costs. There is no incentive for them to delay works, because it means they have to pay contractors for longer and, if the work is not done properly, they face charges.

Tony Cox: I will not repeat what has been said, in the interests of brevity, but I agree with Allan Hogarth, particularly on the street works register and the role of Susiephone Ltd, which we welcome.

Susan Deacon asked an important question about what the bill will do. We do not know; I am not sure that anybody knows. One of our big concerns is that there are no measurements of how much congestion is caused by road works and the other congestion sources that we talked about earlier. The only figures that we have to work on are the UK-wide figures. It is of concern to us that the bill does not spell out the magnitude of the problem from its different sources, how the measures will impact on that, the extent to which they will improve the situation, and how that improvement will be measured in the future. That is an important point when we are dealing with the possible imposition of considerable additional costs—not just direct costs, but administrative costs for utilities companies and costs for our customers.

Susan Deacon: That was a useful response.

In the interests of time, I will move on to my second area of questioning. When reading the CBI's submission, I was surprised to see no reference to part 1 of the bill. The question of

congestion, road works and so on is terribly important, but I presume that the proposals in the bill to create regional transport partnerships, and all that will flow from those, are of huge interest to business in Scotland. I would like to hear the panel's views on that. I recognise that Susan Love has commented on the matter from the point of view of small businesses, but I would like to hear more about part 1 of the bill, which is germane to the committee.

Allan Hogarth: There is on-going consultation of our members, which we plan to finish by the start of next year. We will feed that into the committee. That is why we focused primarily on the provisions relating to road works. We must examine the success of Strathclyde Passenger Transport and how it can be replicated. We must also consider how regional transport partnerships fit in with the idea of a Scottish transport agency, which we hope will provide greater co-ordination of transport activities. As members know, the agency has not yet been established. There are many unknowns that require further work. However, we will submit further evidence on part 1 of the bill shortly.

Susan Deacon: I would like to probe this issue further, as it is important that the committee consider it. I realise that there is a real chicken-and-egg question. As I understand it, the bill asks us to approve the principle of RTPs. The consultation on the detail of that proposal is on-going. I recognise that the same is true of the CBI's input. Does that concern you? As a parliamentarian, I recognise that there is a difference between approving something in principle—most of us would approve in principle the concept of greater partnership working, a more strategic approach at regional level and so on—and how that translates into detail. That will be the ultimate test of whether the proposal helps us to move forward effectively. Are you comfortable that you are being asked simply to approve a principle? Should we seek further detail in the bill?

Allan Hogarth: It would be beneficial for both sides of the desk if more detail were available so that we could investigate more fully what we are being asked to respond to. It is to be hoped that that would ensure that once the legislation had been passed the bodies that were created would be more successful in their endeavours. I agree that more detail on what is planned would help us in our response and it would help members in their decision-making process.

Susan Deacon: In two sentences, can you give us a flavour of the consultation on the detail of regional transport partnerships and how they will work? Can CBI Scotland or other members of the panel give their views on the substance of the

proposals and how they would like partnerships to work in practice?

Allan Hogarth: I am wary of jumping in before we have finished consulting our members, who have practical experience of existing agencies, and prejudging what they will say. Scotland is a small country and we do not want to have throughout Scotland small groups that lack co-ordination. We should be able to provide a strategic approach for the whole of Scotland without creating bodies that compete for resources and which have different levels of performance. We will provide a detailed response early in the new year.

Susan Love: The principles of regional transport partnerships and of encouraging more effective partnership working are fine. I refer to the achievements of local economic forums, which have brought local authorities and other agencies closer together. However, under the bill, many years down the line almost all of local authorities' transport powers could be transferred to partnerships. How long is a piece of string? You could be looking at a completely different model to that of the LEFs. Our concern about that is that local issues tend to be the most important to local businesses. It can seem hard enough to influence a local authority's transport policy, so a move to a more regional focus for transport might mean that concern about a parking bay outside a row of shops would be completely insignificant. The concern is that, if more and more powers go to the regional partnership, it will be harder for businesses to engage with the system.

14:45

Chris Ballance (South of Scotland) (Green): Like Christine May, I apologise for arriving late and missing the first part of your presentation.

Many witnesses, including yourselves, complain about the skeletal nature of the bill—that is the phrase that has been used by at least two witnesses. I would be interested in hearing about the flesh and blood that you would like to be added at stage 2.

Given that we all agree that excessive road works are a bad thing, how would you legislate to reduce road works if you were sitting on this side of the table?

Allan Hogarth: Briefly—[*Laughter.*] This is like “Just a Minute”.

The best example of the skeletal nature of the bill is the question of reinstatement. There is no meat in respect of how long a utility company will have to wait before getting a bill through the post, which might say, “Please pay for the work that you carried out 20 years ago.” As was said earlier,

there is no detail given on who will assess which company should pay the bills.

Further, there is no meat in respect of how decriminalisation will work, how local authorities will deal with the new powers that they will be given and who will pound the beat, for want of a better phrase.

On how we would legislate to reduce the number of street works, as I said, economic growth and development are not always easy on the eye. Broadband connections and improvements in infrastructure will require road works to be carried out until technology finds another way. No doubt BT and other companies throughout the UK are thinking of ways to develop that technology, but it does not currently exist. Road works are here to stay and the real issue is to ensure that rogue companies who do not carry out work properly feel the full force of the law and do not inhibit companies that want to provide a good service for their customers.

Chris Ballance: Is it your overall position that what we are discussing is not relevant to the central problem of road works?

Allan Hogarth: As Tony Cox said, no real research has been carried out to show what the impact of road works is on congestion. The only available figures suggest that road works are responsible for only 5 per cent of congestion. If congestion is the problem that you are trying to solve, tackling road works is not the best way to go about doing that.

Tony Cox: Your question was to do with how we would legislate to reduce road works, but the more important question is about how we can reduce the volume of traffic on our roads, which is the principal cause of congestion. If you want an answer to that question, you will have to go elsewhere. I know that the Scottish Parliament is looking into that matter and that different views are being explored.

I want to stress that road works are carried out not for fun but to deliver services—we do not undertake voluntary exercises to hold up traffic. Rather, we attempt to provide essential services to our customers. That does not mean that we are not in favour of greater co-ordination. As I demonstrated earlier, the industry has worked towards that and we welcome what the bill contains in that regard.

Mike Watson (Glasgow Cathcart) (Lab): To some extent, the FSB is coming at the issue from a viewpoint that is different to that of the utilities companies, particularly on reinstatement work and the subsequent three-year restriction on further works. I understand why that might cause problems for the utilities companies, but the FSB must welcome that. The sort of disruption that you

talked about for your members—especially those that run high-street businesses—would be lessened considerably if the current restriction of one year were extended to three years.

Susan Love: By and large, the measures that will enforce quicker road works and lead to longer-term responsibilities will help small businesses. Our only concern is about the costs and uncertainties that that will create for the utilities companies, which will be passed on to businesses as customers or as subcontractors.

Mike Watson: You are concerned about the indirect effect.

Susan Love: Yes.

Niall Stuart: The matter relates to Chris Ballance's point about whether we can reduce the number of road works. I do not think that we can, but we have to reduce their impact. We can do that by ensuring that people know about road works and can work around them and that they are carried out as quickly as possible.

Mike Watson: In your opening remarks on part 1 of the bill, you commented on the regional transport partnerships. I did not note down what you said, but I seem to remember that you said that you were concerned that the partnerships would offer less public accountability than local authorities offer. Given that at least two thirds of the membership of an RTP will be local authority representatives, why are you concerned about public accountability?

Susan Love: At the moment, we know exactly who is responsible for all our transport—the local councillor is responsible. We know who our local councillors are. They are much easier to get to than RTPs will be. By and large, businesses will feel more distant from some regional organisation that has only one councillor from their council on it. When that representative reports back, they might only be able to say, "Well, I tried, but the rest of the members didn't agree with our point of view; we were outvoted." Our experience is that, although partnerships such as the LEFs are successful, businesses feel that they are remote and are more comfortable working with their local authorities.

Mike Watson: Surely you accept that the whole idea of the RTPs is to provide strategic planning for public transport. That cannot be done by a single local authority.

Susan Love: We said that we agree with the objectives in setting up RTPs, which should lead to better partnership working. We are just concerned that some of the highly localised issues that are important to businesses might be lost in the new process and that businesses might feel that they will get less attention from their local

authorities on transport issues than they get under the existing set-up. That is not to say that the existing set-up is wonderful in the eyes of small businesses; we are just concerned about such matters being dealt with more remotely.

Mike Watson: I am sure that your kind remarks about councillors will be well received in that neck of the woods.

On congestion more generally, the freer flow of individuals must benefit your members—especially your high-street members, although I am aware that not all your members have high-street businesses. If the sort of strategic planning that we hope will result from the bill relieves congestion in cities by allowing greater access to public transport, surely the FSB would welcome that.

Niall Stuart: Yes, of course we would. As I said, small businesses are focused on road transport. If we improve public transport and give people a genuine alternative to taking the car by providing an effective, cheap and reliable public transport system, it is inevitable that that will have an impact on congestion.

Mike Watson: I have a few questions for Mr Cox. You talked about the contribution that effective use of broadband can make to relieving congestion through flexible travel patterns and so on. Your point was well made; that issue is perhaps not as widely understood as it needs to be. What are your fears about the effect of the three-year limit in restricting your company's continuing to roll out broadband? Are there exceptions that will enable new connections to be made where necessary? Will not the making of such connections fall under the exceptions in the bill?

Tony Cox: That is the question. From what I have heard, I am not satisfied that the bill contains the necessary exemptions. If there were suitable exemptions that applied to the three-year embargo period governing road works, that would be acceptable. Our concern is how those exemptions will be implemented and exercised in the future. If there are sufficient safeguards, our fears could be allayed; I hope that they will be. To return to the points that the FSB representatives made, the supply of broadband services is as essential to their businesses as is provision of transport. Provided that the exemptions are sufficient, our fears will be allayed.

Mike Watson: I put to you a point that is made in the submission from the UK Competitive Telecommunications Association, representatives of which will be in the next panel of witnesses. It refers to connecting customers to the network, which is not only about broadband. The submission states:

"If companies are barred from digging in a particular street outright or are delayed in so doing, customers are likely to cancel their orders and move to the company with ubiquitous network coverage, BT, thereby undermining the effectiveness of the market and reinforcing the market dominance of the former monopoly provider."

I would be interested to hear your comments on that.

Tony Cox: You will understand that that is not a point that I would make, but it is important. If we consider the matter dispassionately, we can see that there is a potential impact on competitiveness. Consider the situation when a company—whichever company, it need not necessarily be BT—provides a service to a particular customer: if the customer wants to consider alternatives for their physical infrastructure but restrictions on road works mean that the new service would be delayed or could be provided only at substantial additional cost, that would impact on the competitiveness of the industry.

Mike Watson: Do you accept that BT is in an anti-competitive position?

Tony Cox: I do not accept that—the telecoms market is extremely competitive. I was going to go to say more on the matter, but it would take too long.

Mike Watson: I will accept that.

My final point could be answered by any of the witnesses, but I ask Allan Hogarth to respond because his submission welcomes the creation of a commissioner. We have been told that the Society of Chief Officers of Transportation in Scotland stated in evidence to the Local Government and Transport Committee that

"The Commissioner does not appear to have significantly different powers than Roads Authorities currently have and would thus appear have the same difficulties in getting New Roads and Street Works Act 1991 ... offences prosecuted."

As you welcome the appointment of the commissioner, what does CBI Scotland think the commissioner will bring that will be additional to the current powers of local authorities?

Allan Hogarth: The commissioner will ensure that there is, as Christine May said, a level playing field and will improve co-ordination.

There is concern that there is not currently a level playing field for the public and private sectors. The commissioner would be an independent person who would ensure that there was a level playing field. Secondly, it has been reiterated throughout the afternoon that one of the commissioner's tasks should be to ensure that information is available on when work will take place.

Those are the reasons why we welcome the creation of the post of commissioner and those are

the ways in which the situation will be different from the current position under the roads authorities.

Mike Watson: The advantage of having a commissioner is that the commissioner can provide co-ordinated information and a strategic overview.

Allan Hogarth: In addition, in respect of our concerns about decriminalisation, we would have further concerns if there was no one to act as arbiter. I hope that the commissioner could act as an arbiter. If there is a peak of prosecutions in a particular authority, the commissioner could investigate the reasons behind that.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): What Susan Love and Niall Stuart say is not exactly music to my ears—it is not a happy tune. When I was a councillor, I went to a community council meeting to discuss the fact that the water authority had lifted all the roads and there was chaos. I was the councillor so I got it in the neck. The meeting was late in starting because the chairman of the community council had fallen in a hole, so I know what this is all about.

I cannot see an answer to the problem that you raise. You say that the situation can only get worse because as the issue will become more remote from local authorities communication will not be so good. How do we cross that bridge? Who will speak to the businesses in the high streets? There are resource implications for the utilities companies and for councils. Do you have any suggestions? We are the secondary committee on the bill, so how can we cross the divide? If we do not do so, no matter how joined up we are at the centre the situation will not be great out there among the wee businesses.

In a way, it is easy to achieve such communication in a small community, but in the high street of a big place such as East Kilbride or Glasgow it is almost impossible to get all the businesses together. I am concerned because we are building a beautiful building, but there may be a bit of dry rot in the middle of it that has been there all along.

Susan Love: We believe that the focus should be on improving face-to-face engagement between local authority officers—not only on transport but on other services—and the local business community. It is hard enough to get that to happen now, but if the drive is to focus on a regional level it will become increasingly difficult to achieve that focus, particularly if resources are transferred from the local authority up to the regional partnership.

We would like more resources to be provided for roads managers or even town and city centre

managers so that they can liaise more often with businesses about what is happening and what they would like to happen in their areas.

Mr Stone: Would those people report to the new centralised partnerships?

15:00

Susan Love: We would like them to use that information to speak to businesses. I return to Allan Hogarth's point that although we are talking about information from utility companies in the main, we are also concerned about how local authority road works affect businesses. We would like the local authority to act as a conduit for information to local businesses.

Allan Hogarth said that information was available. It is true that businesses could surf the internet and find out what is happening in their area, but the reality is that they tend not to do that and that they want someone to tell them what is happening. We would like more focus on such work.

Mr Stone: Has that point been made to the minister and officials in his department?

Susan Love: Not yet.

Mr Stone: Will you do that?

Susan Love: We make that point repeatedly. We have worked hard with many councils throughout Scotland to focus on the need to improve how they engage with business. We think that the focus should be on working with councils.

Mr Stone: Why should the focus be with councils? They may feel less engaged when the matter becomes slightly more remote.

Susan Love: We will make the point about the danger of removing resources up—or along—from local authorities to a regional partnership, given that the focus should be local.

Michael Matheson (Central Scotland) (SNP): I will pick up on the new enforcement provisions and particularly on the proposal to increase fines from level 3 to levels 4 and 5. Will those new provisions act as an incentive for companies to complete their work timeously, or will they merely be a way to pass on costs to utility companies' customers?

Tony Cox: The main impetus for companies to finish their work quickly and efficiently is the normal commercial pressure. I said that we do not dig up roads for fun; digging up roads is a costly business and we would much rather not do it. When we must do it, we want to do it as quickly and efficiently as possible—we have commercial pressures to do that.

That is not to say that we are totally against any penalty when we fail. However, we must question

how big that penalty should be. If the penalty is too big, it will push up our costs, because we do not get the work right every time. Sometimes we get it wrong and are—rightly—punished for it. However, the punishment should fit the crime.

Increased penalties should be allied to the impact that they have on congestion. Additional penalties should not be imposed for works on a side-street that have no impact on congestion or cause nobody significant inconvenience.

Do we need to increase the level of fines? Commercial pressures are placed on us already and we do not want to pay the existing fines, let alone increased fines. The fines should match the offence.

Michael Matheson: Do you suspect that the costs that you incur from fines will be passed on to your customers?

Tony Cox: The cost will have to be passed on to customers in some way. Some companies in the telco business are not profitable, so they have only one income source. At the end of the day, we all have only one income source: our customers. A fine will add to business costs in some way. I am not saying that costs would be passed on directly to a specific customer, but they would have to be absorbed. That returns to the question of benefits and the balance that must be struck.

Michael Matheson: The CBI's submission says that charges

"could be seen as a means of raising extra revenue from trivial breaches of legislation."

Which provisions in the schedules to the bill are trivial?

Allan Hogarth: The bill's skeletal nature means that the changes to permit decriminalisation allow a fine to be imposed for wrong application details, for example. If a company sent a letter to the register that was meant to say that on Monday 2 January it would dig outside 110 Holyrood Road, but the secretary made a mistake and typed 100, that company could in theory face a bill for wrongful registration.

The skeletal nature of the bill provides the opportunity for people who have been appointed primarily to find opportunities to have penalties imposed to do so in theory. That is why we are concerned about the change to decriminalisation without there being a clear picture of what those individuals are supposed to do and who is supposed to carry out activities.

Michael Matheson: The bill does not decriminalise as such, but it provides ministers with powers to decriminalise at a future date. Apart from timescales being wrong in an order that is issued, are there any other trivial offences in the schedules?

Allan Hogarth: Because of the skeletal nature of the bill, it is hard to sit here and prejudge what other trivial penalties could be imposed.

Michael Matheson: They are listed in the schedules.

Allan Hogarth: The full list does not give details of other changes that could be made by local authorities. Decriminalisation would open up offences beyond those that are listed, if ministers chose to go down that road. I accept that they do not have to do so, but one wonders why they are including such provisions if they are not keen on the option of decriminalisation.

The Convener: I have a final brief question. Do the FSB and CBI think that the powers that are proposed for the commissioner and the resources that will be available to the commissioner of around £200,000 a year will be satisfactory to do the job that you want them to do?

Susan Love: We would like the commissioner to focus on improving best practice in how local authorities work with information. We have not yet come up with any additional powers, so I suppose that the answer to your question is that they are satisfactory.

Allan Hogarth: The answer to your question will be evident once the commissioner has been appointed and we have given them time to carry out their job. It is too early to prejudge their success or failure, as they have not started their work. However, we welcome the idea that there will be someone to police what is happening on both sides of the fence.

The Convener: So the CBI welcomes additional regulation.

Allan Hogarth: There is always a place for ensuring that there is someone to police activities in both the private sector and the public sector.

The Convener: Great. Your evidence has been extremely helpful. I thank you for your written and oral evidence.

Agenda item 3 is evidence from another set of witnesses on the Transport (Scotland) Bill. I welcome Domhnall Dods, who is director of the UK Competitive Telecommunications Association; Alex Rae, who is new roads and street works co-ordinator for Scottish Water; and Harry Pendleton, who is chair of the management committee of the National Joint Utilities Group. I believe that Harry Pendleton is going to make some introductory remarks to open up the discussion.

Harry Pendleton (National Joint Utilities Group): I thank the committee for inviting us to give evidence. Unfortunately, Tony Cox has stolen my thunder and has said much of what I was going to say, but I will continue anyway.

As Tony Cox said, Scotland's roads act as a conduit not only for pedestrians and traffic but for utilities and essential services. I stress that I am talking about essential services. Everybody wants gas, water, electricity and telecommunications, and we think that the utility services are not adequately recognised in the bill.

Contrary to public opinion, we do not dig up the roads for fun, as Tony Cox has said. We undertake road works for three reasons only: safety, security of supply and to connect or upgrade a customer service. The companies that are involved in digging holes in the road are already subject to regulatory and customer pressures to minimise the cost and duration of their work and we feel that those are effective. We support any measures that can reduce disruption and congestion. The bill will not adequately do that, but it will increase the costs for utilities undertaking essential works. Unfortunately, we will have to pass that increase on to our customers and increase household bills across the board yet again.

For the bill to be comprehensively effective, a level playing field is needed. All works that are carried out on the road should be equally accountable. The road works that the local authorities undertake are likely to cause as much congestion as the works that we do; in some cases, they can cause more.

The bill proposes significant changes to the way that utility companies work, but it lacks detailed explanation of how those changes will work in practice. That has prevented us from accurately assessing the implications and cost of the proposals, but we have some detailed points that we will be happy to cover in questions.

Mr Stone: At the second bullet point under "Our Key Issues" in your submission—the point is also marbled through the rest of the submission—you take issue with the notion that the local authority could dictate where you put something. In the past, I have been frustrated that local authorities could not exert more influence over water authorities or other utilities. Do you at least accept that, apart from trunk roads, public roads are the responsibility of Scotland's 32 local authorities and that, ultimately, they have to account for them and explain to electorates and elected members what is going on? Are you really serious in saying that we should not have such provisions and that you should be able to put what you want where you want?

Domhnall Dods (UK Competitive Telecommunications Association): We accept that roads other than trunk roads are the responsibility of the local authorities, but we are saying that—I hate to use the word skeletal again—it is difficult to comment in much detail

because there is no flesh on the bones. A businessman might come to me to order a telecommunications pipe to connect him to the information superhighway, want it to go into his premises at a particular point, need two routes of entry for security of supply because the business is a financial institution and want the pipe to be installed in three weeks' time. If the local authority were given a blanket power to direct me as to where and when I can put my apparatus, it is easy to envisage a situation in which the authority might say that the proposed route was inconvenient because it had repaved the street and put monoblock down and say that we could not go into the building in two places, but that we could go down the next street and do it in six months' time. My customer would be very unhappy about that.

Edinburgh is a great banking centre and banks are infamous for their requirements for security of supply and diversity of routing, for example. We are not saying that local authorities should have no control whatever, but we are concerned that the blanket nature of the powers that would be given might compromise not only my ability as a service provider to carry out my business but that of my customers, because all Scotland's companies require state-of-the-art services. Our concern is the possible conflict between those two areas.

Mr Stone: That seems a fair answer. In recent years, I have seen local elected members and council officials carry out good work and discussion with utilities. When you talk about the bill being skeletal, are you referring to the lack of some sort of commonsense arbitration process that would allow everybody to get round the table and try to sort out matters in a way that is best for the customer but will not muck up what the local authorities want?

15:15

Domhnall Dods: Yes. One of the positive aspects of the bill is the creation of the Scottish road works commissioner, and we have stressed repeatedly to the minister that we support that because, in the world of utilities and roads authorities, two disparate sets of needs are in play and matters can sometimes become somewhat adversarial. The creation of an independent official who has an arbitration function and can say, "Look, it is unreasonable to restrict this company because it has a customer who has certain needs," is welcome.

The witness from BT referred earlier to an example that involved my company—not the body that I represent today but my employer. A local authority to the west of the city had imposed a voluntary moratorium on works—to which we all agreed—because it had resurfaced a road. During

that period, it said, "We are delighted to award you a contract for a big, fat telecoms pipe to connect our offices and upgrade our infrastructure." We said, "We would love to help you but can we discuss the contract in a year's time when the moratorium has expired?" The answer came back, "Never mind that—we need the work done now," and the moratorium was waived. Commercial concerns are well understood when they affect local authorities themselves. We would like to see some safeguards; we are not saying that there should be no powers whatsoever, but there have to be checks and balances in the system.

Mr Stone: We will have a commissioner, who will be a good person and work pro bono publico. In a good scenario, he or she will have six people working for them. How can a group of that size possibly deal with arbitration the length and breadth of the country on every hole from Wick to Dumfries?

Domhnall Dods: Alex Rae is probably in a better position to comment on that because he is a more hands-on practitioner than I am, but I do not envisage that every single case will need to go to arbitration. The mere existence of an arbitration route might make the parties behave more reasonably and get together to sort things out before there is a need for arbitration. As with an appeal court, one has to have a final route of appeal even though not every case uses it. The vast majority of cases can be sorted out beforehand.

Richard Baker (North East Scotland) (Lab): I have two questions on the UK Competitive Telecommunications Association's submission. First, on the power to require resurfacing of entire streets, you say that similar provisions were introduced in England and Wales. How long have they been in place? You say that they have caused "widespread concern", but that does not sound like the sky falling in.

Domhnall Dods: The powers in England are in the Traffic Management Act 2004 and they are less extreme than the powers in the Scottish bill. The powers that have been introduced in England will enable ministers to make regulations that could require a utility to resurface the part of the street that it dug up for either half of the width or the full width of the street. That caused concern in England because a study showed that, where my company did that on a voluntary basis, the eventual cost was 385 per cent of what it would otherwise have been. That will have an extreme impact on marginal business cases for rolling out broadband networks, especially in Scotland, which has more remote territory.

The Scottish proposal is more extreme. An example was given earlier about the road outside the Parliament building. Under the Scottish

proposal, I could be required to resurface not only the 10m of road that I dug up but the entire Royal Mile. I could be required to do that not only in five years' time but in 100 years' time. If I dug anywhere in a street at any time, I can be required to resurface the whole street or to contribute to the cost of that.

To answer the point that Christine May made earlier, if I did a poor job of reinstating the road outside the Parliament, I would have no qualms about being required to make that job good—no reasonable operator could object to that. However, I would have a problem if I did a perfectly good reinstatement outside the Parliament but was required to make good the castle esplanade or the road outside the Ensign Ewart at the top of the Royal Mile. That would be completely unreasonable, and if I am responsible for that work in perpetuity, it becomes impossible for the accountants to make provision for that.

Richard Baker: You outline an extreme situation, but presumably there will be checks and balances in enforcing something like that. You say that in England there are less extreme provisions, as you put it, that require half of the road to be resurfaced. Did you say that those powers are in force?

Domhnall Dods: The powers have been given to ministers in England, but regulations have not been brought forward. The provisions are fraught with the same difficulties. How can I price a service to a customer? If I know that digging to connect to the customer accounts for 80 per cent of the cost, I can say to the customer, "I can give you a service today and it will cost X number of pounds." However, if that is then suddenly going to be ripped up, my business case will be completely rewritten, because my costs will go up 385 per cent at some unknown date in the future. Do I set my prices for my customers according to the most extreme example, or do I reserve the right to say, "I know that I have sold it to you for this, but in five years' time I might come back and nearly quadruple your cost"?

Richard Baker: But the English and Welsh Parliaments have decided that it is okay for ministers to have those powers, and the regulations are likely to come in.

Domhnall Dods: The Department for Transport in England has indicated that those powers are not in its first tranche of regulations. It recognises that the measure is one of the more extreme clubs in its bag. The department has reassured the industry that it will try everything else first.

Richard Baker: That is interesting.

Finally, your submission states

"the Executive has failed to take account of the role that communications companies play in the solution to congestion"

through the use of broadband. What more should the Executive do? Is it not for businesses as well as the Executive to embrace broadband and allow for more flexible business practices?

Domhnall Dods: Absolutely. The comment stemmed from the initial consultation that led ultimately to the bill, in which the rhetoric was that utilities are a problem because they cause congestion and cost Scotland an enormous amount of money. That is a one-sided view, because we have a lot to contribute. In the telecoms sector we see ourselves as part of the solution as much as we are part of the problem.

The Convener: I notice that you referred to the English Parliament, Richard.

Richard Baker: I should have said, "and the other Parliament."

Mike Watson: That is the convener's job.

Christine May: I will be brief. I refer to page 3 of the NJUG submission, under "Powers to restrict works", which states:

"Utilities must be allowed to undertake unforeseen emergency works".

That point is made in a number of other submissions. Where in the bill is there a restriction on emergency works?

Alex Rae (Scottish Water): Clarity is required when using the word "emergency", because under the New Roads and Street Works Act 1991 "emergency" refers to life and limb-threatening situations. Utilities have a lot of urgent works to restore services. There is a need for clarification in the bill as to the meaning of "emergency".

Christine May: Thank you. I had not appreciated the formal definition.

The same paragraph refers to the moratorium, and you seem to say in the last paragraph on page 3 that, provided that the roads authority gave notice and people were effectively consulted, you might be prepared to accept some element of a moratorium. Do I read that correctly?

Alex Rae: Yes.

Michael Matheson: I turn to page 4 of the NJUG submission, on road works offences. You clearly have some concerns about the punitive nature of the provisions in the bill. You suggest that the Executive should consider

"measures that encourage good performance".

Could you expand on what you mean by "encourage good performance" and how you see such a system working?

Alex Rae: As a utilities group, we recognise that there is a quality issue, which we are striving to improve. It is no secret that national coring

programmes have been carried out over the past few years. As a utilities group, we voluntarily go into local authorities, to ensure that we are striving to improve the quality of our road works. The bill focuses on the administration side, as opposed to quality issues. If some of those issues were taken on board, it would drive quality forward vis-à-vis ourselves and our contractors.

Michael Matheson: So if that was addressed, there would still be a requirement for some type of punitive measure in the bill.

Alex Rae: We are working towards that voluntarily in any case, but in our submission we suggest that that should be considered.

Michael Matheson: You also express concern about a potential conflict of interest in the fact that the fixed-penalty notices will be issued by the local authority. Why are you concerned about that?

Alex Rae: As you probably heard from the previous witnesses, there are concerns that local authorities might consider that fixed-penalty notices offer an income stream when their budgets are restricted. From a utilities point of view, we need to make sure that the imposition of fixed-penalty notices is done in an independent manner. We therefore suggest that the commissioner is best placed to impose fixed penalties.

Domhnall Dods: Some of our scepticism or concern has been born out of experience south of the border where a fixed-penalty scheme has come in. We lobbied long and hard and the ministers assured us that the schemes could not be used to generate revenue.

Now that the detailed regulations are being worked out, the local authority representatives on the working groups are saying that they have to have a new workforce of wardens—the blue meanies are back—who have to have spanking new computer systems and back-office people to administer the scheme, and to hang with the cost because the utilities will pay. They do not worry about it. The fixed-penalty schemes are not for generating revenue, but they are raising money that is then being spent on the scheme itself. There is concern that the same things might happen here.

Michael Matheson: If that happened here, what impact would it have on business?

Domhnall Dods: I cannot speak for any other industries, but in my industry, other than BT, no operators are creating massive profits, if they are creating any profits at all. So any extra costs will be borne by consumers and businesses. They will be directly passed on.

Chris Ballance: You said at the very beginning that your thunder had been stolen by Tony Cox and Allan Hogarth. Their position seems to be

made up of four points. First, the bill is irrelevant to the main causes of congestion and seeks to tackle the wrong problem. Secondly, it is anti-competitive. Thirdly, the bill is skeletal and lacking in detail. Fourthly, if enacted, the measures are likely to hold back business growth. Is that your position?

Domhnall Dods: It is fair to say that it is. I do not want to sound entirely negative because there are positive aspects to the bill such as the independent role of the commissioner. We pushed long and hard for that to be put in the Traffic Management Act 2004, so it is welcome here.

If utility road works are not the major cause of congestion in Scotland—they represent only half of the road works congestion—we would like there to be a more level playing field. If road works are to be tackled, it does not matter whether they are being done by the private sector or by a public sector organisation. If there are going to be disincentives, or incentives to work better and faster, they need to apply to everyone. Arguably the private sector is already under commercial pressure that the public sector does not face. If additional incentives are needed, it is the public sector that needs them.

Chris Ballance: So utilities road works are only responsible for half of the 5 per cent.

Domhnall Dods: That is the best information that we have. That is a UK Government figure that I have seen quoted and not seen challenged.

15:30

The Convener: Thank you. That concludes our evidence session. I believe that Domhnall Dods is now required at the Local Government and Transport Committee. I thank the three of you very much for your written and oral evidence, which was very helpful.

We move on to item 4, which is the third evidence session on the Transport (Scotland) Bill. I welcome Alan Watt, from the Civil Engineering Contractors Association (Scotland), Sir Michael Hirst, from the Scottish Independent Airport Park and Ride Association, and David Flint, who is also from the Scottish Independent Airport Park and Ride Association.

To some extent there is a clear division in that Alan Watt is mainly concerned with road works caused by utilities, while Michael Hirst and David Flint are obviously more concerned with the airport situation. I will take introductory comments from Alan and from Michael. We will organise the questions in such a way that we cover both angles. Up until now, the utilities issue has dominated.

Mr Alan Watt (Civil Engineering Contractors Association (Scotland)): I feel that I have even less thunder now as most of the witnesses have covered the points that we want to put across.

As we state in our submission, our organisation represents about 80 per cent of Scotland's civil engineers.

We acknowledge that there is a congestion problem. There was a slight lack of clarity in the previous evidence session about the volume of congestion that road works cause. The Scottish Executive has used the figure of about 10 per cent, of which roughly half is caused by utilities and roughly half is caused by local authorities.

The previous witnesses have said that road works by utilities serve a purpose. The infrastructure that has been inherited is not in good condition. If you see something being dug up, you can see why. I reiterate the point made by previous witnesses that the roads are being dug up purely and simply because Scotland needs potable water, safe gas, safe electricity and state-of-the-art telecoms.

I also reiterate the point that there is no commercial sense in overrunning or in being called back. Companies in our sector operate with a profit of between 2 per cent and 4 per cent, and if they are overrun or are called back they lose their profit. There is an incentive to get in and get out as quickly as possible.

One point that we want to highlight is that we would like whatever rules are brought in to be simple, consistent and applied across the board in relation to all road works, whether they are carried out by a local authority, the Scottish Executive, private developers or utilities. That is by far the most sensible way of dealing with the situation. Others have said that the bill is skeletal. We certainly feel that it lacks detail about where and to whom it will apply, and it certainly needs to be made more robust in that sense.

That covers the main points of my introductory statement, as others have covered many of the issues.

Sir Michael Hirst (Scottish Independent Airport Park and Ride Association): SIAPRA is grateful to the committee for the opportunity to provide written evidence and to give oral evidence today. My colleague David Flint is here to provide answers on the more abstruse legal points, which I may be unable to answer.

SIAPRA is a Scottish trade body that represents the operators of park-and-ride facilities for public transport hubs—principally airports, but also railway stations and ferry ports. The association estimates that it provides park-and-ride facilities for nearly 1 million Scots per annum, many of

whom are holidaymakers or those who cannot conveniently travel to the transport hub by other means of public transport. We note that the Executive welcomes park and ride as a vital element in the Scottish transport infrastructure.

SIAPRA's members make a significant contribution to the reduction of congestion at the transport hubs and provide a competitively priced parking facility for those who would otherwise be compelled to use limited and expensive parking resources at the hubs. For example, the business traveller, who is vital to enterprise in Scotland, can choose to use the more convenient, and more expensive, airport parking facilities, in which space would clearly be limited if there were no park-and-ride facilities.

SIAPRA members also provide services to tourists to ease congestion at peak travel hours, and some of our members are in discussion with the Strathclyde Passenger Transport about offering its facilities to those who travel onwards by rail or bus.

Members will know that although air transport is generally a reserved matter those who drafted the devolution legislation recognised the importance of airport bylaws and made them a devolved matter. However, it seems to be somewhat unclear in law whether transport hubs such as airports have the right to impose a charge for access. I deliberately distinguish between a charge for access and a charge for services. SIAPRA members at Glasgow and Edinburgh airports have concluded agreements to pay for services that are provided by the airports and have no objection to paying a fair, reasonable and transparent charge for such services. Accordingly, SIAPRA proposes in its written submission that in the miscellaneous section of the Transport (Scotland) Bill, where other legislative matters are tidied up, Parliament should clarify the issue to inject democratic accountability into any proposal to levy such a charge in future.

Some members may be aware that the Glasgow Airport Parking Association, which is a member of SIAPRA, petitioned against the introduction of new bylaws that, inter alia, would have given Glasgow airport the right to charge for access to the public side of the airport. During the past two and a half years, petition PE528 has slowly but inconclusively progressed through Parliament and it is unfinished business. The proposed amendments to the bill would clarify the matter once and for all. In addition, they would provide a welcome boost for the principle of park and ride, thus giving passengers competitive choice, benefiting communities by reducing congestion and maintaining free, fair and open access for passengers to the public areas of transport hubs.

The Convener: In order to make sense of the issues, I think that we should take questions to Alan Watt first and then move on to questions to Michael Hirst and David Flint. Otherwise, we will be all over the place. It is clear that there are two separate issues.

Christine May: I thank Alan Watt and, like others, I note the point that he made about the need for a level playing field and for measures that apply equally to everyone who digs up roads. In his submission there is a paragraph on coring that I found interesting, as I had not realised that it is not routinely applied to local authorities.

I want to ask a question that I have not asked any of the other witnesses, although I probably should have. Given the focus on the small percentage of congestion that is alleged to be caused by road works by utilities, have you discussed with the Scottish Executive and local authorities measures that the utility road works groups could take to help to reduce congestion and therefore to reduce still further that small percentage, if the figures are correct?

Mr Watt: I have not been in such discussions, but there is a group at which they take place. That group gave evidence last week to the Local Government and Transport Committee. I am racking my brains—I think that it is called the roads authorities and utilities committee (Scotland); you might have heard the name RAUCS, which is the forum at which the policing of road works and their impact on congestion are discussed.

Christine May: Given the cost of carrying out road works, it is surely in the interests of utilities to carry them out at times when they will cause the least disruption and when there is ease of access. Is it not therefore reasonable for restrictions to be placed on you to encourage you to carry out works at times such as evenings and weekends?

Mr Watt: Yes, although of course that has other implications. Obviously, road works are noisy and there are social implications to working in the evenings or overnight. However, if one was working at the Broomielaw one would obviously do so at night because otherwise the disruption that would be caused to Glasgow would be immense.

If the work were done during what we might call social hours—post-school drop-off and pre-school pick-up—it would elongate the length of time that the road works were in place, which would impact downstream on business. There would also be health and safety implications, because it is well documented that road works are most unsafe when cones and barriers are being set up in the morning and taken down in the evening, and the number of occasions on which those tasks had to be done would increase. There are wider considerations.

Mike Watson: A lot of the issues concerning utilities and the road works that they necessitate have been covered. I am interested in a couple of points in your submission. You state that

“In principle, CECA supports the aims of reducing congestion”,

but you talk about the need for

“a broader focus on where ... issues lie.”

Maybe it is just my interpretation, but you are dismissive of the need for legislation, given that road works by utilities cause only 5 per cent of congestion in the UK.

You represent a civil engineering body and I would like to know the organisation's view on other aspects of reducing congestion, given that this committee is looking at the issue from the point of view of economic growth and the effects on Scotland's economy. What is the organisation's view of, for example, congestion charging and a shift from road to rail to try to reduce congestion? You note that traffic volume accounts for 65 per cent of congestion. Does the organisation have views on those issues?

Mr Watt: We have views although they are not prepared. There was no intention to be dismissive of the 5 or 10 per cent of congestion that road works cause. You will appreciate that we were simply attempting to put the issue into perspective. We support the transfer of freight from road to any other form of carrier, be it sea or rail, purely and simply because that will reduce congestion. The roads are our arteries and the tools of the trade are vehicles, so we are held up along with everyone else. Any measures that reduce congestion will automatically have our support, because they will mean that we can get to and from site quicker.

Mike Watson: So as an organisation you take a broader view.

Mr Watt: Yes.

The Convener: If there are no more questions for Alan Watt I thank him and invite him to stay at the table.

Now we will take questions to Michael Hirst and David Flint.

Mr Stone: I thank the SIAPRA representatives for their informative submission, which I read with great interest. The submission refers to somebody catching a cab at Heathrow and a BAA transponder being used for charging. I do not doubt your word, but is that right? If so, would BAA dare introduce that system here? Could it happen? I do not mean to be cheeky.

Sir Michael Hirst: I am glad that you asked the question. I cannot personally vouch for the

example in our submission. Any time that I have used a black cab at Heathrow there has been no transparency about the cost, but the meter has racked up pretty quickly. For example, many business people from Scotland use a taxi to get from Heathrow to Stockley Park, which is about the same distance from here up to the Meadows—maybe slightly more than that—and costs 11 quid. I always find that taxis from Heathrow are extremely expensive. As I said, I cannot personally vouch for the story, but I have it on very good authority from a member of the Independent Airport Park and Ride Association, which is the associated body in England and Wales.

SIAPRA members are anxious that airport owners might seek to charge for access. There is a paper from the House of Commons library setting out the position as it understands it. That paper states that an informal approach was made to establish the principle of charging in primary legislation, but for one reason or another BAA backed off.

SIAPRA members acknowledge that, in being able to bring passengers to an airport in an environmentally friendly way and in a way that enables the passengers to take advantage of off-site parking at a more modest price, they accept that their passengers are getting a service. That service is being provided by the airport and there is no objection whatever from any member of SIAPRA to paying for those services. However, they see payment for access as being the thin end of a decidedly undesirable wedge. Therefore, because of the apparent lack of certainty about the legal position in the Airports Act 1986, which is a reserved matter, SIAPRA members seek a minor piece of legislative tidying up to be done in the bill to ensure that any future intention to charge for access would be subject to approval by the relevant local authority. That process would provide proper democratic accountability.

15:45

Mr Stone: That is a very fair answer. In case you thought that my first question was hostile, I will now ask you an easier one.

The convener reminded us of our locus earlier. We must bear it in mind that the committee is the secondary committee in relation to the bill and that we are considering the bill from an enterprise point of view. You outline in your submission the benefits of park and ride—I say amen to that—and mention the positive impact that park and ride has on tourism. I give you the opportunity to support what you are saying by mentioning any other economic benefits that would be of interest to the committee.

Sir Michael Hirst: At the most basic level is the encouragement of smaller operators who provide

off-site airport parking, which confers a huge benefit on passengers, holidaymakers—both incoming and outgoing—and so on.

An important point is that anyone who regularly uses the airports at Glasgow and Edinburgh will know that until the multistorey car parks were built one could frequently turn up and find that there was no airport parking available—I am glad to see Alan Watt nodding his head. I have found myself going to car parks 1, 2 and 3 and finding them all closed, leaving me seriously worried about whether I would miss a flight. I am probably typical of many business people in Scotland who require to use the airports for business purposes and are prepared to pay a bit extra. For example, at Edinburgh airport it costs £10.20 a day to use the short-term car park, which is the normal business car park. That is quite a lot of money in comparison with the cost of off-site parking. It is important from the point of view of the business community that business people have the convenience of airport parking. In particular, when they get up early in the morning and do a full day's work they want to be able to get into their car and drive home at half past 10 in the evening. The value of such convenience cannot be understated.

Such provision is necessary if we are to encourage enterprise, which by its very definition will involve the use of transport from transport hubs. The questions have concentrated on airports, but of course SIAPRA covers the operators of parking facilities at other transport hubs such as railway stations and ferry ports. Such facilities are also important from the point of view of developing business, particularly in the non-industrialised parts of Scotland.

Mr Stone: Have you made similar representations to ministers and their officials?

Sir Michael Hirst: Yes. The Local Government and Transport Committee has received and acknowledged the representation that has been made on behalf of SIAPRA. We have indicated a willingness to provide additional information that it might require for its deliberations. The Local Government and Transport Committee has acknowledged that it has received that information from us and we wait to see whether it wishes to interview us. I appreciate that the bill is extensive and that it may not be possible to hear from everybody, but SIAPRA stands ready to provide evidence to anybody who wants to listen.

I appreciate that the Enterprise and Culture Committee is primarily interested in the encouragement of enterprise and the way in which the amendments that we suggest should be made to the bill may impact on that.

Murdo Fraser: There is in SIAPRA's written submission anecdotal evidence about what is

happening—Prestwick is given as an example. What is the attitude of BAA Ltd, which operates the major airports in Scotland apart from Prestwick, to proposed charging?

Sir Michael Hirst: I alluded briefly to the fact that GAPA—all members of which are also members of SIAPRA—found it necessary to lodge petition PE528 against the proposed new byelaws for Glasgow airport, because they would effectively empower a private sector operator, such as BAA, to impose a charge for access. I am not saying that a charge would have been imposed, but BAA was seeking to take powers to charge for access, which could have a decidedly adverse effect on people who choose on environmental and convenience grounds to use off-site parking. I emphasise parenthetically how environmentally friendly such parking is, because it stops congestion at a busy transport hub. I cannot read or X-ray the minds of BAA, save to say that in seeking the new byelaws—which have still not been approved two and a half years later—there was evidence of a wish to secure a charge.

I ask David Flint to comment on Prestwick because, although it is not a BAA airport, there is on-going activity that committee members will want to hear about and which SIAPRA finds concerning.

David Flint (Scottish Independent Airport Park and Ride Association): As members will know, Prestwick used to be a BAA airport, but was sold to a private group some years ago and is now owned by an Australian group of companies.

I will say a little about the configuration. When one approaches Prestwick airport on the main road on the coast, one is greeted at the airport entrance by a roundabout. Off the roundabout, one goes to one of the short-stay car parks or to the front of the terminal building.

A SIAPRA member has for many years provided a shuttle bus service for holidaymakers to and from a car park that he has and which is distant from the airport. Prestwick is used primarily by low-cost carriers; the parking charge is usually significantly greater than the cost of a ticket, even if one parked only for a day. Parking is therefore an important cost for passengers there who tend—unlike in Michael Hirst's example—not to be business people, but families and holidaymakers who are looking for low costs, and people like me taking their wives away for a weekend's holiday.

Mr Stone: Cheapskate. [*Laughter.*]

David Flint: That company is in legal dispute with the owners of Prestwick airport—PIK Facilities Ltd. The first part of the court proceedings has finished, and the case is presently at avizandum with the judge. The airport

operator is seeking to interdict the park-and-ride operator from bringing any of his buses into the airport for collecting and dropping off members of the public and argues that if he wants to bring passengers from the park-and-ride facility to the airport, he could drop them on the A79 and they could walk across the dual carriageway into the airport. I do not know how many ladies and gentlemen of the committee have ever tried to get a wife, two small children and a large number of cases even from the front of the airport building into the terminal. The idea of dragging them 150yd, pulling all the cases, and trying to persuade the children not to stop in the middle of the road because they have dropped something in front of the passing cars does not sound very attractive.

Prestwick's owners argue that the airport is theirs, so they can stop from coming in anyone they want. Part of their argument is that they operate a car park and do not see why they should allow another car-park operator anywhere near the airport.

Murdo Fraser: Thank you; that was very helpful. Convener, I suggest that if we are going to pursue the matter we might ask BAA to come to give evidence.

The Convener: I presume that we might also ask the owners of Prestwick airport to come.

Mike Watson: On the last point that Murdo Fraser made, SIAPRA's submission mentions that the issue is already in front of the Public Petitions Committee. I am a member of that committee, so I have some knowledge of the matter. BAA has given evidence to the Public Petitions Committee—although that does not mean that its representatives should not come to this committee.

I would like to put a couple of points on that to Sir Michael Hirst and perhaps also to David Flint, although I accept that he is here to talk about Prestwick. BAA's response has been that it had made facilities available for the drop-off. I think that it said that a covered walkway had been made available and that it provided an area for buses to wait when flights were delayed and so on. As those resulted in costs for BAA, it feels that it was entitled to recoup some of those costs, which does not necessarily undermine the basis of your case. How do you answer the point about BAA's feeling entitled to recover costs?

David Flint: I had to negotiate an agreement with BAA. An agreement on access to the facilities was reached between the members of GAPA and BAA Glasgow and between the Edinburgh operators and BAA Edinburgh. As Michael Hirst said, the position of SIAPRA, GAPA and the Edinburgh airport operators is wholly consistent.

They have said openly that where BAA provides additional facilities such as shelters for people to stand in, illuminated signage and a courtesy telephone so that the customer can phone and say, "The plane was four hours late. I have finally got here; can you send a bus round to pick me up and take me back to my car?" we are happy to pay for those.

The agreement with BAA in Glasgow provides for an annual charge being made for precisely such facilities. There is scope within the agreement for BAA to come back to members after discussion and say that, for example, they have agreed that the bus shelters will now be heated or whatever the case may be. The operators have no problem with paying for such additional facilities, which benefit the people who use them. The operators' concern is that they should not be required to pay just because they come to the airport. If my wife chooses to drive me to the airport then drops me at the front door and drives away, that is two journeys. If she comes back and picks me up the next night and drives away again, that is another two journeys, but she would not expect to pay—nor would any committee member expect that she would have to pay—for undertaking such activity.

The members of SIAPRA do not understand why they should be charged merely because they happen to drive a 12-seater or a 20-seater minibus to the airport to drop off passengers who have in all cases pre-booked their places. We are not touting for business. Instead of phoning a wife, husband or friend to ask to be picked up, people arrange with a taxi company or a private bus operator to do it. That is what the issue is about. Paying for services is not a problem.

Mike Watson: That was helpful and clear. I will sum up what you said. SIAPRA and the other organisations do not mind paying for services at the airport, but they do not regard the facility to turn up, drop people off and drive away again as a service.

David Flint: That is correct.

Mike Watson: You mentioned a four-hour wait when there is a delayed flight. Where would your members' vehicles expect to wait? I presume that they would not wait on airport property. They would wait somewhere off site in anticipation of a phone call.

David Flint: They would not wait at the airport. When passengers arrive at the airport they phone the operator, assuming that the bus is not there to pick someone else up; obviously, particularly in the summer, many people are waiting. If passengers arrive at a strange time of day or night they phone the operator and a bus is sent to pick up the passengers from that flight. There is no

question of the operators having buses waiting at the airport facilities; that would be a very inefficient use of resources.

Sir Michael Hirst: I want to emphasise that, as I said in my introductory comments, there is no objection whatever to paying for services. Indeed, agreements have been concluded between the operators and the airports for the provision of services. The debate is about the principle of a charge for access.

16:00

I cannot see into the future, but it is conceivable that Edinburgh will at some stage have a congestion charge. Under those circumstances, we would not ask to be exempted—we are not seeking a privilege that is not available to everybody else—but we think that payment for access by park-and-ride operators is unjustified if it is not levied on Mrs Flint, for example, who cares to drop her husband off at the airport. It is all the more unjustified because a park-and-ride operator is doing something worth while in providing facilities that prevent congestion at transport hubs.

Mike Watson: You conclude your submission by making four suggestions for potential amendments. I would like to ask Mr Flint, as a lawyer, about this. One suggestion is that

"carriageways within the environs of a railway station, airport or port ... be deemed to be public rights of way."

Is there legal precedent for that to which you might point in advancing such an amendment, although not necessarily in those places?

David Flint: I am advised by Strathclyde police—to whom inquiries were made in relation to Glasgow airport, which happens to be the one that is closest to my place of business—that airport roads presently fall into a confusing category: they are roads that are not public, but to which the road traffic acts apply. Even as a lawyer, that is a somewhat difficult concept: it is hard to work out how the road traffic acts apply to private roads. I am sure that you will know that one, though, ladies and gentlemen.

Given the activities of the Scottish Parliament over the past year in allowing members of the public to roam over private areas of Scotland's countryside, I am sure that it is not beyond the skill of draftsmen and the committee to find their way to allow people to roam in their cars over the front of airports. [*Laughter.*]

Mike Watson: Perhaps we need an amendment to the Land Reform (Scotland) Act 2003.

I was perhaps a little wide of the mark in my last question to Mr Watt. I will ask Sir Michael a question that he might view in the same way. In its response to the bill, Strathclyde Passenger Transport makes a critical comment. It states:

"there appears to have been no analysis of"

other proposals that are going through. It specifically mentions

"the Glasgow Airport Rail Link and the Glasgow Crossrail Scheme."

What would SIAPRA's approach be to the Glasgow airport rail link? The link would obviously contribute to relieving congestion and would aid business and holiday travellers. It would not help your members tremendously, however, would it? What would your approach be to that scheme?

Sir Michael Hirst: SIAPRA's members are unreservedly supportive of any such improvements, particularly rail links. There is no question about that. There has been significant growth in business because of the diversity of flight patterns and the growth in travel to short-stay holiday stops. I do not think that our members are at all opposed to the principle of developing a rail link to Glasgow airport. Business at the airport has grown substantially, and it is estimated that 1 million people per annum use the park-and-ride facilities. Some of them would switch to the rail link.

As far as airports are concerned, I emphasise that some charter flights leave at times when convenient public transport might not be available; you will perhaps know that flights start pretty early in the morning from Glasgow airport. Part of the reason why many people prefer to use the park-and-ride facilities is that they have tied up with hotels to get cheap overnight accommodation and can be ready to get to the airport to check in at, say, 5 o'clock in the morning, when public transport is not available. There will be some displacement with the opening of the rail link, but there will still be viable business for our members. Healthy competition is important: if an airport operator has exclusive parking rights, that is a private monopoly, which I doubt would operate in the interests of the travelling public.

David Flint: A meeting took place in the past month between the members of SIAPRA and SPT on the rail link. They see the rail link as a benefit and would provide a number of park-and-ride facilities to the west of the Glasgow airport interchange which—as members from the west will know—is a particularly bad congestion spot in the morning. They intend to use that as a park-and-ride hub; members of the public will be able to park their vehicles for the day in secure parking and catch a shuttle to the Glasgow rail link. They will be able to join the rail link at the Glasgow airport terminus with a view to using that rail facility to travel into the city centre. That will take a large number of vehicles off the M8. We are very supportive of that idea, which we see as an opportunity to provide integrated transport by dovetailing all the parts together.

The Convener: I want to follow up the point that Sir Michael Hirst made about competition and the fact that BAA has a monopoly in Glasgow and Edinburgh. Am I right in saying that, under the Airports Act 1986, the byelaws are created by BAA, although no normal—if I can put it that way—private company can issue byelaws?

Sir Michael Hirst: Yes. That is a product of the legislation that privatised the British Airports Authority which—I fear—the record will show I unwittingly, I suspect, supported in the House of Commons. It is time for confession.

The Convener: We will not go into all your mistakes.

Sir Michael Hirst: There was probably logic in a public authority—as BAA was then—having the power to produce its own byelaws. What is different now is that BAA is a stand-alone plc that has to protect the interests of shareholders as well as those of its customers, including the travelling public. BAA has the right to promote byelaws that require sanction by the Scottish Executive.

The genesis of the concern that has prompted the proposal to introduce a minor legislative tidying-up in the Transport (Scotland) Bill is that the new byelaws that Glasgow airport promoted gave it a power to charge for access. A petition against that was brought to the Scottish Parliament, as there was no other way an aggrieved party could seek to have the matter examined democratically. Under our proposal, byelaws would be subject to local democratic accountability.

The Convener: Let us get this clear. Under the current legislation, BAA can—as can any company—promote a change in the byelaws, but would the byelaws be generated by BAA? What is the process?

David Flint: Air transport is a reserved matter; however, the provisions in sections 63, 64 and 66 of the Airports Act 1986 are declared as not being reserved matters, but are to be referred to the Scottish Parliament. The airport operator—or the "aerodrome operator", as the 1986 act says—is responsible for preparing the byelaws, which have then to be approved by the Scottish minister. That is what BAA has sought to do in relation to Glasgow airport.

In my experience, byelaws that are promulgated by an organisation tend to go to ministers either here or in the UK Parliament to be, in effect, rubber-stamped. However, I understand that 23 sets of objections arrived at the Scottish minister's desk in relation to Glasgow airport, the first of which questioned the vires of the matter. It is evidently something about which people have strong feelings. The petition to which Sir Michael Hirst refers took a wider view than the petition

about Glasgow airport: it questioned whether that type of activity is something that the Scottish Parliament has a legitimate interest in pursuing. The question whether the matter is reserved or devolved caused a great deal of confusion among everyone, including BAA. It is unusual to find a statute in which only one section is devolved, with the rest reserved.

The Convener: Am I right in saying that statutory instruments are not required and that, if the Executive approves the byelaw, that is it?

David Flint: I defer to you on exactly the procedure that the Scottish Parliament would adopt for approval of such byelaws.

The Convener: I think that I was right, but we should check that out with Parliament's lawyers so that we understand the process.

Christine May: The byelaws might well come to the Subordinate Legislation Committee, as did the regulations for charging for parking in the royal parks. The royal parks are reserved, but management of traffic is devolved and goes before the Subordinate Legislation Committee.

The Convener: We should get clarification, to be absolutely sure. Basically, the matter is about fair competition.

David Flint: It is, unashamedly, about fair competition. We believe that the park-and-ride principle, of which the Executive approves, is a socially worthwhile initiative; however, in this case there is clearly an aspect of competition.

Members should not restrict their thinking on the matter to airports, although it is in that respect that park-and-ride facilities are probably most developed. There is also demand for such facilities near rail hubs and ferry ports. If there is to be a continuing increase in transport movement, with all the attendant concerns about congestion, park and ride will increasingly come into its own as a worthy concept. Our proposal would enshrine that and ensure that there was open, fair and free access for members of the public.

Chris Ballance: I read your submission with a great deal of interest and sympathy. However, I am aware that we do not have any context for your proposal. The committee does not know anything about petition PE528, the byelaws or the procedures. We should perhaps try to contextualise the proposal by finding out what BAA and Scottish ministers think about it before we consider it further.

The Convener: Once we have taken the evidence, we can have a brief chat about where we will go from here.

Susan Deacon: I seek clarification. Jamie Stone asked whether the matter had been raised directly

with ministers, and you said that the Local Government and Transport Committee had been furnished with all the information. I apologise if I missed your answer and you said something about this earlier, but can you tell us what the Executive's view is?

Sir Michael Hirst: I defer to David Flint. There is a lengthy history of correspondence on the matter.

The Convener: Can I pre-empt that? I do not think that it would be right to ask for your interpretation of the minister's view. I suggest that we find out whether the minister will be available for questioning on 18 December, as there are some things about both issues that we need to clear up. He can then tell us what his view is. It puts everybody in an invidious position when someone is asked publicly to interpret a minister's view.

Susan Deacon: Absolutely, but is there anything on the record, such as meetings that have been held or answers that have been given through the parliamentary processes?

David Flint: I quote from the Public Petitions Committee's webpages. That committee has considered the petition four times since it was lodged in July 2002. On the action that was taken in 2003, we are informed:

"The Public Petitions Committee considered a response from the Scottish Executive in relation to the issues raised and agreed to ask the Executive to provide details of the outcome of its consideration of the byelaws proposals. The Committee also agreed to write to the British Airports Authority seeking confirmation as to whether it is common practice across all of its airports to impose charges on certain companies to pick up and drop off customers."

Action was next taken on 7 January 2004:

"The Public Petitions Committee agreed to seek clarification from the BAA on a number of issues raised in its response and to request an update from the Scottish Executive."

As far as I can ascertain, from reading the minutes of the Public Petitions Committee and the update, that committee is still waiting for those responses.

16:15

The Convener: We will circulate that and the deliberations of the Public Petitions Committee.

I thank all three gentlemen for their written and oral evidence, which was extremely helpful. Just before we leave this item, I suggest that we have a brief chat about how we handle it. We are being asked to address two separate issues—the utilities issue, if I can call it that, and the airports issue. Our next meeting will be on 18 January. I suggest that members feed in to the clerks their views on utilities, and that we ask the clerks to prepare a draft paper on our response for that meeting.

On airports, from what Murdo Fraser suggested and from what I could glean from around the table, there is a feeling that we should, to be fair, give BAA and the owners of Prestwick airport the opportunity to give their points of view. We should circulate to the committee the deliberations of the Public Petitions Committee, and seek the views of the minister, either orally or in writing. We should also have the legal position, so that we understand the process that we are getting involved in, because we are being asked to support an amendment to legislation.

Mike Watson: Will we call the minister?

The Convener: That is one of the issues. As things stand we will not call the minister, but we can do so.

Susan Deacon: Before we agree a specific course of action, can we take a step back? Perhaps you or the clerks can clarify this for me. Given that the role of the committee is to consider the enterprise dimensions of the Transport (Scotland) Bill—that is, we are the secondary committee—as I said in my question to CBI Scotland, I am concerned that we have not spent time talking about the significant strategic transport issues and their impact on Scottish business.

I place alongside that the concern that we are on the brink of spending committee time on a point of detail—whatever its significance—that will be subject to detailed scrutiny at stage 2 and which, by the sound of things, is already being pursued by at least one, if not two, other parliamentary committees. I am anxious about that. I do not understand why we are pursuing the park-and-ride issue when there are other issues that we should pursue.

The Convener: The Local Government and Transport Committee has delegated to us responsibility for both issues. Our job is to report to that committee, so we are the secondary committee. The Local Government and Transport Committee will not at stage 1 go over ground that we have gone over. It has delegated responsibility to us, so we must complete the task. I presume that that committee will want to revisit the issue with amendments at stage 2.

There is the separate matter of what else we should consider, such as the need for and the economic impact of regional transport partnerships. I am open to suggestions if the committee wants to examine that, but there is an issue of timing, because the Transport (Scotland) Bill has been timed by the Parliamentary Bureau, and we have not been asked by the Local Government and Transport Committee to examine those issues, I presume because it is looking at them.

Susan Deacon: That is helpful, because it clarifies the point about whether we should or can spend more time examining the wider strategic issues. However, on whether we should pursue the issue of airport parking, I am left wondering why further inquiry is necessary at this stage, given that we are still at stage 1. Furthermore, the Public Petitions Committee has been considering this matter and has requested information from the Executive. Will it continue to play a role or has it simply referred the petition to the subject committee? Are we the subject committee for that purpose?

Mike Watson: As far as the Public Petitions Committee is concerned, the matter is still in the pipeline. We have considered the petition twice, but I cannot remember off the top of my head whether we have referred it to the subject committee. In any case, if we had done so, it would have gone to the Local Government and Transport Committee. That said, I would have to check the exact details with the clerks.

The Convener: Some aspects of this matter raise wider questions about how the Parliament operates. However, the key point is that an issue about airports has been raised in the Public Petitions Committee and this committee. In effect, the Local Government and Transport Committee has delegated the matter to us. I suggest that we bottom the issue out one way or the other and recommend to the Local Government and Transport Committee either that no action be taken or that it consider the matter in more depth at stage 2, because a genuine issue has been raised. In fact, we would be doing the Public Petitions Committee a favour because that would presumably close the matter one way or the other. After all, if anything is going to happen, it will have to happen during consideration of the Transport (Scotland) Bill, or else it will be a dead issue for the time being.

I do not think that it will take a great deal more effort—perhaps an hour or an hour and a half at the most—to put the matter to bed on 18 January and allow us to pass the matter back to the Local Government and Transport Committee with the recommendation either that the matter should stand as it is or that the legislation should be amended. At the moment, we are not in a position to make such a decision.

Susan Deacon is right to say that the matter raises wider issues about how bills are handled. The way in which the Parliamentary Bureau times these matters means that, frankly, we do not have the time to consider the economic aspects of the bill. Perhaps we should set aside time to discuss such issues and to decide whether we should make any input to the Procedures Committee to improve operations between the different

committees. As far as this bill is concerned, we are up against time, because the bureau has already set the timescale.

Richard Baker: The Procedures Committee has already concluded its report on the timescale of bills so, in that respect, the horse might have bolted.

I have never been a member of a secondary committee that has been scrutinising such a major bill but, because of its economic aspects, I am surprised that we have not been asked to take evidence before this. I realise that we are coming to the matter relatively fresh-faced and have taken three substantial lots of evidence on a major issue; however, we are talking about the strategic use of billions of pounds. I take your point that we should put the issue to bed, but an hour and a half of evidence-taking represents quite a chunk of our time. Could we not put the matter to bed by corresponding with ministers?

The Convener: I think that, to be fair, we have to offer BAA the chance to respond publicly. Indeed, we would have no credibility if we did not do that.

Richard Baker: Fair enough.

The Convener: We might be able to avoid any recurrence of the issue by finding out beforehand whether we might want to consider the economic implications of a forthcoming bill. Before the bureau sets the timetable, we could ask it for some time to consider a particular bill from an economic point of view.

Richard Baker: That is a good idea.

Susan Deacon: I broadly agree with that approach. However, perhaps we need to be a little more focused. After all, every single piece of legislation has an economic dimension. This bill is qualitatively different, because it is directly relevant to the Scottish economy and Scottish business. I am slightly concerned about making a blanket pitch to consider anything that has wider implications for the Scottish economy.

The Convener: We would identify whether a bill has economic implications. For example, if we are discussing our work programme and we know that a bill is coming up in three months, a member could suggest that we should consider its economic implications. We reserve the right to ask the Parliamentary Bureau for an extension of the time available for the Transport (Scotland) Bill to allow us to consider its wider implications. I am open to that suggestion, if committee members want to do that.

Christine May: I suggest that there should be an informal discussion of the issue at the Conveners Group, which meets on Thursday. We run the risk of treading on lots of people's toes if

we go barging in tramping all over the place with big tackety boots. Let us be careful and diplomatic and find out whether there is a way of getting another evidence session and being allowed to make our comments. Perhaps at the Conveners Group, the convener might want to say, "If the bill raises significant issues that might warrant a delay in the timetable, would you guys have any problems if I ask the Parliamentary Bureau for a bit more time?"

Mr Stone: That is a sensible suggestion.

The Convener: That seems reasonable. The issue throws up one unsatisfactory aspect of the way in which the Parliament operates.

Christine May: Unless we discuss everything in plenary session, not all members can know everything about everything.

The Convener: Exactly.

I ask members to give their views to the clerks for the beginnings of a draft report on the issue, which will be considered on 18 January.

Budget Process 2005-06

16:26

The Convener: We move to agenda item 5. Members might remember that, when we discussed the budget, we asked both the ministers to whom we spoke, Patricia Ferguson and Allan Wilson, to provide us with follow-up information. Patricia Ferguson provided detailed follow-up information—in fact, she provided more than we requested and I, for one, am satisfied with it. However, I am not satisfied with the follow-up information that we received from Allan Wilson, especially the information on the Scottish Enterprise budget. To my mind, the reply has all the hallmarks of civil service officials who are determined not to give the committee what it wants.

In the draft budget, the Scottish Enterprise budget is presented in four broad lines. Growing businesses accounts for £100 million or so. Then there are another two lines, plus one on management and administration that accounts for about £80 million. When we asked why £80 million is being spent on management and administration, the civil servant told us that the money is not being spent on that. If so, why does the budget say that? I put the matter on the agenda to get feedback from members on whether they agree with my view that we should tell the minister that the response is not good enough. We need far more detailed information on Scottish Enterprise's budget. It is not our job to rummage through the organisation's corporate plan; it is the department's job to provide the information for which the committee has asked.

Murdo Fraser: I agree. Appendix 4 of the minister's letter, which contains the figures on Scottish Enterprise, gives a figure of £136 million for management and administration, which does not equate to the figures in the broader outline in the draft budget. Also, the figures on operational and running costs bear no relation to the figures above them. It is by no means apparent where the figures on operational and running costs have come from and what the definitions of those terms are. We need more clarity.

Susan Deacon: I want to clarify the committee's role in the matter. There is an important question about the Executive's allocation to Scottish Enterprise, which we probed at the session with the minister. There is also the line beneath that and the issue of how the agency allocates resources. Is it appropriate for the committee to drill much further into that latter point, given that the Audit Committee, of which I am a member, spent considerable time examining those issues? The position is resonant of the discussion that we

have just had on the Transport (Scotland) Bill. However, as ever, I will be guided by the convener on such matters.

Christine May: Susan Deacon has put into words the niggle that was at the back of my mind. Is that not a question for the committee to ask of Scottish Enterprise, rather than of the minister, if it is an appropriate question for the committee to ask? I think that it is, and I do not see why we should not ask it if that is what the committee wants to do. I am conscious that there is a difference, having previously been a member of the Scottish Enterprise board. It is for the chairman and chief executive to come here and tell us how Scottish Enterprise has allocated its funds.

16:30

The Convener: I have asked the chief executive about that, and he said that he has to present the level 3 data in the way that he has done because he is ordered to do so by the Executive. Only two agencies are asked to present the data in that way: Scottish Enterprise and Highlands and Islands Enterprise. For the level 3 expenditure of VisitScotland or any of the other quangos for which we are responsible, there is quite a comprehensive breakdown. The gobbledegook about the expenditure being directed at strategic objectives renders the level 3 figures meaningless.

We are not the Audit Committee. It has a different job; our job is to ensure that the money is being spent effectively on enterprise, training and all the other things on which it is supposed to be spent. To be frank, I do not see why the Enterprise, Lifelong Learning and Transport Department should not provide the committee with the information that it requires.

Mike Watson: That is if it has it at that level. You have been told by Scottish Enterprise that it gives the figures to ministers, so the ministers must have them, and we are interrogating ministers, not Scottish Enterprise, on the budget. We can call in Scottish Enterprise at another time and ask its representatives about the figures but, at the moment, the issue is part of the budget scrutiny. If the ministers have the figures, we are not asking them to go to any additional lengths to put the information together. No staff time is being asked for if the information already exists, as Scottish Enterprise says it does. We speak to ministers about the budget; to go to another, outside organisation as part of the budget scrutiny is not correct. I understand what Christine May says, but the matter relates to the budget process and is therefore in-house.

Christine May: If the information is provided to the minister in the form that we want as part of a

comprehensive, detailed round-up of the level 3 spending, let not us not trawl through all the chapters of the network operating plan, but have another go and ask the minister once more whether we can have it.

The Convener: There is something seriously wrong if we are told that there is a budget of £80 million or £136 million—whatever the figure is—for management and administration, but when we ask for a breakdown, we find that it is not management and administration, but a whole load of other things. How can we measure the effectiveness of the enterprise spend when we get that kind of response?

Mr Stone: There is no reason why, in the letter to the Executive, we cannot say that it might wish the two enterprise agencies to present it with figures in a more understandable format, which it can pass on to us.

The Convener: That is all that the committee asked for when we questioned the minister.

Mr Stone: It would observe the nicety of what Mike Watson said.

The Convener: Yes. Are members happy that we write to the Executive along the lines that Mike Watson suggested?

Members *indicated agreement.*

The Convener: There is still resistance in the civil service to giving the Parliament what it is looking for, and we as parliamentarians need to take that on.

Susan Deacon: I seek your guidance on whether there is anything that the committee can or should do about this issue. We got back further information on the individual learning accounts spend—or, rather, non-spend. The point is that money was budgeted for ILAs but was not used, because the new scheme is not in place. Coincidentally, we have also received from the clerk a progress report on the introduction of the new ILA Scotland scheme. It is not part of our formal papers, but I think that it is in the public domain anyway. Am I allowed to refer to it?

The Convener: Yes, I think that it was announced yesterday.

Susan Deacon: I have a concern, which I know that others have voiced in other forums, about how long it has taken for the new scheme to come to fruition. Given that the committee has been contacted formally on that, is there any scope for further questioning on the matter? To return to the budget, I am concerned about whether there is any connection between the delay in implementation and the financial pressures on the departmental budget to which the resources have

been reallocated. Could or should that be referred to any further in our budget deliberations?

The Convener: I will make a suggestion. I think that Allan Wilson is due to appear before the committee on 25 January. *[Interruption.]* I have been told that Jim Wallace is due to come on 18 January. That is even better.

Mr Stone: Why is it better?

The Convener: The clerk informs me that both Jim Wallace and Allan Wilson are coming on 18 January. It gets better and better—why do we not have Jack McConnell as well? The main subjects to be discussed are renewable energy and smart, successful Scotland. If the ministers are agreeable, we can also raise ILAs. Would that be satisfactory?

Susan Deacon: Yes, if the committee is comfortable with that.

The Convener: I do not think that anything will happen between now and 18 January to change the situation. The scheme will not be up and running for months.

Work Programme

16:36

The Convener: Item 6 is consideration of our work programme. A paper has been circulated, but I would like to add something to it. On Friday, I spoke to the senior management team of Highlands and Islands Enterprise, which pointed out that 1 November next year is the 40th anniversary of the creation of the Highlands and Islands Development Board by Willie Ross and HIE intends to mark the occasion. I suggest to the committee that it would be appropriate for us to hold a November committee meeting in the Highlands and Islands to mark the anniversary. We need to arrange that now. Both as HIDB and as HIE, the agency has been substantial. We could combine our meeting with a visit to the new centre at Dounreay. Is that agreed?

Members indicated agreement.

The Convener: These matters take a long time to organise. If we agree in principle to the visit now, we can arrange it with the powers that be.

Mr Stone: As members will be aware, the proposal would be eminently suitable from my point of view. I have gone on about the economy of east Caithness at considerable length and it would be great if we could bring the attention of the committee briefly to bear on the issue. I am prepared to bribe my colleagues and our estimable clerking team with substantial quantities of Scottish cheese.

Christine May: That remark is on the record.

Mr Stone: Oh dear. I see that the official reporters are still here.

The Convener: We will ask Jamie Stone to take the lead, in consultation with the clerks, in organising the event in November. It would be logical for us to do our best to tie in with what HIE is doing.

Mr Stone: It will be a pleasure.

The Convener: Do members think that it would be appropriate for us to hold a discussion and to speak to people formally about the potential impact on the cultural strategy of the changes that were announced at the BBC last week? I am not suggesting that we hold an inquiry. Usually, I am not one for responding to short-term changes, but these are long-term changes that might well have an impact.

Mike Watson: Like all other members, I suspect, I have received a letter from Ken MacQuarrie about the changes in the past few days. In my reply, I have asked him to specify what the impact on Scotland is likely to be.

Regardless of what he says in his response, there will be many issues for us to ask him about. Although we do not want to hold an inquiry, a one-off meeting on this important subject is merited, given that we have responsibility for it.

Chris Ballance: I agree, especially because the proposals are vague and we have little knowledge of what the BBC is really doing.

The Convener: Are members happy with the suggestion? It seems that the changes will have a fairly substantial impact.

Mike Watson: In so far as the Parliament and the Executive have responsibility for broadcasting, the matter comes to this committee, so it is appropriate that we discuss the changes.

The Convener: That is agreed. Do members want to make any other points about the work programme?

Chris Ballance: I want to raise one issue. We have decided to take final evidence from ministers on the follow-up to the renewable energy inquiry. In the revised work programme, the green jobs strategy is meshed with that strategy. I am not absolutely sure how well those elements work together and I wonder to what extent considering the green jobs strategy as part of the renewable energy inquiry will detract from some of the other points that we wanted to raise. Many of the issues that we raised were not dealt with in the Executive's response. We should not confuse the two issues.

The Convener: Just before I left my office to come to this meeting, I received a letter from Jim Wallace about the unanswered questions on renewable energy that were referred to in the debate and which the Executive promised to get back to us on. I will circulate that to the committee today or tomorrow. Since both ministers are coming to our meeting on 18 January and the plan was to have Allan Wilson appear before us on 25 January to talk specifically about renewable energy, I do not think that there will be a problem with asking them questions about the updated response. I have not read the response in detail yet, but the covering letter more or less says that it contains the answers to the unanswered questions, so I presume that it will answer most, if not all, of the questions that were left unanswered before.

Chris Ballance: Some of my worry relates to what would be dealt with at the meeting on 18 January. How much other business are we going to pack into it? Will there be only one or two items on the agenda that day?

The Convener: We will ensure that enough time is available to cover the issues that we need to cover and to deal with the other business that we

must get through that day. We need to have a degree of flexibility to arrange that in discussion with the offices of Allan Wilson and Jim Wallace, but clearly ministers expect to cover a number of subjects.

Christine May: I would like not only to hear the answers to the unanswered questions but to tie up the issues relating to renewable energy and the green jobs strategy. The debate in the chamber quite clearly showed a bias towards the view that renewable energy is all about being green and environmental and I think that we need to drag the discussion back towards a focus on jobs, the economy and reduced costs for businesses, which will protect jobs.

Chris Ballance: The issue is not to do with green jobs; it is to do with energy, electricity and the future of energy supply.

Christine May: Nevertheless, the jobs that are created to support renewable energy are just as green as the jobs that will be sustained in existing industries as a result of a change in practices, the use of renewable energy or the adoption of more environmentally conscious procedures.

The Convener: We are going to have the ministers here anyway, so we might as well kill two birds with one stone. How we then decide to take the matter forward is entirely up to the committee.

Susan Deacon: I agree with the principle of killing two birds with one stone—

The Convener: I am not a member of the Royal Society for the Protection of Birds, as you can tell.

Susan Deacon: I know that we will be trying to kill a growing number of birds with one stone at the meeting and, while I am delighted that this committee does not follow other committees' practice of allocating pre-prepared questions and so on, it would be helpful in this instance if the clerks could—with a light touch—give us a note of some of the themes that we have suggested ought to be covered. This might sound rich coming from me, but it would also be useful if we could attempt to discipline ourselves to follow particular lines of questioning as we go through—[*Laughter.*] I said it first. If we do not do that, we might end up going in umpteen different directions.

16:45

The Convener: The subjects that we have identified as being those we want to cover are: the smart, successful Scotland policy; outstanding issues relating to renewable energy; the green jobs strategy update; and the ILA/budget issue. If the ministers agree, we could perhaps divide the session into those four subject areas. If committee members and ministers are happy with that, we will be able to keep the discussion coherent and

ministers will know what they will be asked about. Does that sound reasonable?

Chris Ballance: Yes, but this is the last bite that we will get at the renewable energy inquiry cherry, so we should ensure that we are able to tie up all the loose ends—if you will allow me to mix metaphors. The time that we spend on that issue should not be constrained by the fact that it is just one issue on a large agenda.

The Convener: We will plan to hold the discussion over an entire meeting. That should ensure that we have enough time to cover what we need to cover. Once we have read the response that I have just received from Jim Wallace, we will have a better idea of how long we want to spend on those issues. If members think that the response still leaves some questions unanswered, they should tell Judith Evans, the clerk, and we will try to ensure that they are dealt with when Jim Wallace comes on 18 January. She and I work closely with the minister's office because everybody wants to ensure that people get the maximum benefit from discussions between the committee and ministers.

Does that sound reasonable?

Members indicated agreement.

The Convener: The last issue in relation to the work programme is to highlight the fact that we are suggesting, in line with a previous agreement by the committee, that we begin to have fortnightly formal meetings after the February recess. That will allow us to catch up on our backlog and ensure that the Further and Higher Education (Scotland) Bill is dealt with before we set up a better *modus operandi* for our inquiry into business growth.

Chris Ballance: Could we give some thought to how we record the outcomes of the informal meetings that we will have during the business growth inquiry? Obviously, we will not have the staff of the official report with us but it is important that we have a summary of what was said, as I presume that the sessions will be public.

The Convener: When this committee's predecessor committee went on any informal visit, the clerk and the members who were involved prepared a note, which was circulated formally and placed in the public domain. Nothing was hidden and everything was recorded. That allowed us to be flexible and not to have to worry about some of the formalities.

Mr Stone: I do not know what Murdo Fraser thinks about it but I think that the way that he and I worked together on the arts inquiry—which was basically what you are describing—was pretty good.

The Convener: Yes. As long as the key points are reported to the committee, it should be fine. Is everybody happy with that?

Members *indicated agreement.*

The Convener: I was going to suggest that we now have a chat about the area tourist board review, following the evidence that we took last week, but I note that it is almost 10 to 5. Patricia Ferguson will come to our meeting on 25 January and it might be a good idea to have an informal discussion about what we think are the key areas that we should pursue with her, given the evidence that we have heard and the additional information that has been provided since. We could do that offline, as it were, before 25 January. Is everybody happy with that?

Members *indicated agreement.*

The Convener: Before we partake of our mulled wine, we will deal in private with item 8, which is consideration of the revised draft stage 1 report on the Further and Higher Education (Scotland) Bill.

16:48

Meeting continued in private until 16:58.

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