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Official Report

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Thursday 19 April 2012

Session 4

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Scottish Parliament

Thursday 19 April 2012

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

Bus Services

The Deputy Presiding Officer (Elaine Smith):

Good morning. The first item of business is a debate on motion S4M-02639, in the name of Elaine Murray, on transport. I advise members that the debate is tight for time and that, therefore, speeches in the open debate must be limited to five minutes. I call Elaine Murray to speak to and move the motion. Ms Murray, you have 14 minutes.

09:15

Elaine Murray (Dumfriesshire) (Lab): Scottish Labour selected the topic of bus services for a debate on 26 January. We bring it back for discussion today because, in the intervening 12 weeks, the situation has worsened considerably and events have shown the concerns that we expressed during the debate in January to be well founded. Indeed, recent developments in the Lothians have exceeded our worst fears of three months ago. Opposition debates are our opportunity to raise with ministers the issues that our communities raise with us. That is not being negative; it is representing the people whom we were elected to represent. Throughout Scotland, bus service users are experiencing inflation-busting fare rises, and many are witnessing services being cut or withdrawn altogether.

During the debate in January, the Minister for Housing and Transport told the chamber that he was reducing the bus service operators grant to £50 million but that he was adding £3 million for bus infrastructure, which, in this financial year only, would be used to make transitional payments to the operators that were most affected. He said that the reduction in the BSOG would justify bus fare increases—if there were any—of 1 per cent. What has the reality been? Here are a few examples. First bus fares in Aberdeen have gone up by 13.5 per cent; Stagecoach fares in the same city have gone up by nearly 8 per cent; Stagecoach fares in Dundee have gone up by 6.5 per cent this week; there has been a 7.5 per cent increase in the cost of a single adult fare in Edinburgh on Lothian Buses; and First in Glasgow has raised the cost of its shortest journeys by 27 per cent. Two weeks ago, we also had the announcement of the potential loss of up to 200 jobs at First Scotland East, as a number of services in East Lothian and all of that operator's

services in Midlothian are to be lost. Its depot in Dalkeith is also threatened with closure, and the one in Musselburgh will be reduced significantly.

The cut of 17 per cent in the BSOG was not the whole story. The Confederation of Passenger Transport Scotland points out that, this year, the BSOG is some 20 per cent less than the level that was agreed with the Scottish Government in 2010 and that it received only four months' notice of the impending cut. Furthermore, the change in the mechanism, from a fuel consumption component to a distance-only subsidy, has also reduced the BSOG that is available to some city operators by as much as 40 per cent. Although I understand the aim behind the mechanism change—to encourage fuel efficiency—the combined effect on urban services has been disastrous and, according to the operators, has been compounded by a shortfall of £7 million in the funding of the concessionary travel scheme last year.

I listened to Alex Neil speaking about the concessionary travel scheme on "Sunday Politics Scotland" this week. As usual, he was a little economical with the truth. I am extremely flattered that Mr Neil felt obliged to misquote me on national television, but I will put him right on the matter. I have never suggested that pensioners should be robbed to subsidise bus companies. In the debate in January, I drew attention to the evidence that Robert Black gave to the Finance Committee on working people over the age of 60 being eligible for free bus travel. He said:

"if you take the census data and look at the 60-plusers who are still working, you can do a fairly crude but nevertheless reasonably okay calculation that the cost of providing free transport to people who are over 60 and still in employment is £34 million".—[Official Report, Finance Committee, 25 January 2012; c 587.]

I merely suggested that the Minister for Housing and Transport should give consideration to the evidence that had been presented to the Finance Committee.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): For what purpose did the member ask for that if Labour is not considering changing the present situation?

Elaine Murray: For the purpose of considering what is said in evidence to the Finance Committee. It is necessary to assess all the evidence. Mr Neil misquoted me—anyone can see that on the BBC iPlayer.

The Cabinet Secretary for Infrastructure and Capital Investment (Alex Neil): As it is clear that the member watched "Sunday Politics Scotland", will she answer the question that Mr Baker could not answer and tell us what Labour would cut in order to reinstate the BSOG?

Elaine Murray: Mr Baker answered the cabinet secretary's question; indeed, Mr Rennie answered it, too, but the cabinet secretary was too busy shouting over them to listen to what they said.

I am not surprised to hear the ministerial team talking spin on concessionary fares. Mr Brown issued a press release that said that

"£187m funding has been set aside for concessionary travel for the coming year, up around 4% from last year."

However, according to the Government's budget documents, the estimated concessionary travel budget in 2010-11 was £192 million and was capped at £185 million last year. That is the underfunding by £7 million that CPT Scotland said had contributed to the recent fare rises.

Christine Grahame: Will the member take another intervention?

Elaine Murray: No—I will get on.

The budget has returned to £192 million this year, where it will remain for the rest of the spending review period, according to the spending review documents. In cash terms, the budget will rise by 3.7 per cent between 2011-12 and 2012-13. However, if the Treasury deflator is applied to the £192 million, it is worth only £187 million at last year's prices. The real-terms increase is more like 1 per cent and it will decrease over the spending review period. In real terms, this year's concessionary fares budget is worth almost £10 million less than the budget of two years ago.

If members do not believe me, they can listen to others. David Stewart, the managing director of First Aberdeen, has explained that

"the cuts introduced by the Scottish Government have a big impact on our business".

CPT Scotland says that the combination of higher fuel prices—which now play no part in the BSOG mechanism—with the BSOG cut and the underfunding of the concessionary travel scheme forces operators

"to meet these additional costs by increasing fares ... or reducing service levels".

A former chair of CPT Scotland and the managing director of McGill's Bus Service, Ralph Roberts—who is, incidentally, a Scottish National Party candidate in Inverclyde—said in a letter to *The Herald* on the 4th of this month that the Scottish Government was being "pig-headed and obstinate" on the matter. He said:

"What has really caused a ... problem is that the method of payment changed at the same time"

as the cut of which operators had only four months' notice was made,

"and this has hit town and city operators ... worse."

Mark McDonald (North East Scotland) (SNP): Does the member agree with Ellis Thorpe, the Labour candidate for Inverurie and district, who said in *The Press and Journal* on 4 April:

"Arguably the problem isn't 'cuts in public grants,' but the long-term dependence on taxpayer handouts. Isn't a re-examination of subsidised public transport by economists and politicians long overdue in the interests of taxpayers?"

Elaine Murray: I do not even know whether that quote is about the BSOG. If it is about the BSOG, I disagree with it, so that is fine.

Paul Thomas, the managing director of First Scotland East, courteously phoned me to advise me of the sad announcement of potential job losses in Midlothian and East Lothian. He told me that those services had been struggling for some time but that the cuts were the final straw. He told me that he had 40 years' experience in the bus industry and that this was the first time ever that he might have to make drivers redundant. His career has spanned the Transport Act 1985 and the years of rule by a Tory Westminster Government that had no interest in public transport unless it was privately owned and made a profit, but it is under the SNP Government—under the watch of Mr Brown, Mr Neil and Mr Salmond—that Mr Thomas is, for the first time, contemplating sacking bus drivers.

After learning of the problems that FirstGroup faces, I contacted Stagecoach in my area to obtain a local perspective. Edward Hodgson, the managing director of Stagecoach west Scotland, advised me by e-mail that

"Those in rural areas such as Stagecoach West Scotland, are not as badly affected as more urban operators, but as a result of these changes and the forthcoming increase in duty we have been forced to increase fares by a greater amount than would otherwise be the case. Even for an operator such as ourselves, the changes to BSOG will directly affect marginal urban bus services and we are planning to reduce or withdraw a number of such routes in the near future."

In e-mail correspondence with me, Paul White of CPT Scotland commented that

"this is a time for government to be identifying ways in which to help operators grow their services, not cutting BSOG or underfunding the concessions scheme".

The Minister for Housing and Transport (Keith Brown): The member mentions other parties. Tim O'Toole, the chief executive of FirstGroup, has said that

"underlying weakness ... led to this performance".

He identified that the price increases that FirstGroup previously imposed had not had the effect that was wanted.

If the member thinks—as she seems to say—that the BSOG is virtually the sole reason for service cuts, does she think that the 27 per cent

cut by the Labour Party in Wales might have had a far greater impact than the impact here?

Elaine Murray: If the minister bothered to read our motion, he would see that we identify any number of factors, of which the BSOG is one. I am giving him the evidence on the matter.

What is the Scottish Government saying? It is, of course, blaming Westminster, but Transform Scotland makes the succinct comment in its briefing for the debate that

"That is complete rubbish. The overall transport budget is due to increase not fall, between 2011-12 and 2012-13".

However often Scottish ministers blame membership of the United Kingdom for every decision that they make, they cannot shirk responsibility for how they spend their devolved budget of more than £30 billion and for the decisions that they make about their priorities.

The First Minister claims that

"safeguarding bus routes is a priority for this Government".

Who does he think he is kidding? He is certainly not deceiving the bus users campaigning throughout the country to preserve the services on which they rely. How does he answer the petitioners in Dalkeith and Danderhall who are campaigning against the withdrawal of their service? How does he answer the worried commuters in Pencaitland, who face not being able to travel to work by public transport? What about the concerned residents of Stewartfield in East Kilbride, who may lose their number 31 bus service, which is the only regular service in that area? What does he say to the residents of Clackmannan villages who are raising a petition against the loss of their service? What about the bus passengers in Coatbridge who are campaigning to retain their number 17 service from Townhead? What does he say to the employees of First Scotland East facing redundancy, who are represented by Unite the Union and some of the drivers who are in the public gallery?

We reiterate our call for regulation. We do so in the full knowledge that other parties, other than possibly the Greens, will oppose that. However, regulation is the other side of the coin: it is the guarantee that value is obtained in return for public subsidy. It is used in service provision in other modes of public transport, such as rail and ferry. The voluntary approach to quality bus contracts has resulted in only one being formed—last year in Renfrewshire, as George Adam informed us in the previous debate on buses.

Local authorities must be empowered to develop integrated public transport systems in their areas. I was interested to hear the minister for Housing and Transport argue on Radio

Scotland's "Call Kaye" programme on Tuesday that he did not have the power to reverse deregulation. He said:

"unfortunately, this is not one of the powers the Scottish Government has".

I replayed the minister's statement several times on the iPlayer, and that is what he said. If he does not have those powers, it is slightly strange that that option seemed to be discussed in the context of East Lothian.

I admit that some of the provisions of the Transport Act 1985 are reserved, but there are actions that we can take under our current powers. The member's bill that Charlie Gordon proposed in the previous session of Parliament fell not because it would not have been competent but because other parties would not support it. If members of other parties now regret not having supported Charlie Gordon's bill to regulate bus services, they need not be too dismayed: unlike buses in many parts of Scotland, there will be another bill along shortly, courtesy of my colleague Patricia Ferguson.

Bus passenger numbers have been falling over the past three years due to the recession but, even so, 438 million journeys were made by bus last year, which is more than were made by any other form of public transport in Scotland. If people are to be enticed out of private cars, bus services need to be affordable, reliable and integrated with other forms of public transport. We are going in the wrong direction and we believe that the measures proposed in our motion would allow the fortunes of the industry to be reversed.

Mr Hume's amendment leaves out regulation, as I suspected that it would; Mr Harvie's says a plague on both your houses; and Mr Brown's says that he is doing a brilliant job. He is a bit like a schoolboy who failed his maths exam but says that it does not matter because he got a good mark for his English essay. We will not accept any of the amendments.

I move,

That the Parliament notes the concerns expressed by bus service operators, passengers and the trade unions that represent bus workers regarding the impact of the Scottish Government's changes to the Bus Service Operators Grant; notes that the Scottish Government's decision to cut the grant by 17% in 2012-13 and to revise the formula has, along with the underfunding of the concessionary travel scheme and high fuel costs, resulted in fare increases and service reductions across the country; recognises that this has also contributed to the decision by First Scotland East to reduce dramatically its services in Lothian and Midlothian, with the potential loss of around 200 jobs; believes that the Scottish Government has failed to listen to the concerns of operators, bus service workers and passengers; urges ministers to take action to address the immediate problems of the industry, including urgently revisiting the 17% cut in the Bus Service Operators Grant, and instead begin proper negotiations with operators to

ensure that the scheme is sustained at a level that does not threaten services, jobs and high fare increases, and believes that new legislation is required to enable the regulation of bus services in Scotland to ensure sustainable and reliable bus services throughout the country.

09:29

The Minister for Housing and Transport (Keith Brown): As Elaine Murray said, the previous debate that we had on buses was held in Parliament on 26 January 2012. At that time, we had a fairly wide-ranging discussion and there was, I think, some degree of agreement about the importance of bus as a mode of transport and the need to continue to consider future policy in relation to bus transport.

For my part, I set out the Government strategy and how it would involve a range of key stakeholders in determining bus policy. On 3 April, we had our first meeting of the bus stakeholder group, which was very constructive and productive.

I note that the motion that Elaine Murray moved in January contained no mention of any other influence on bus fares—or cuts, as Elaine Murray describes them. We have seen some change since then; today's motion at least mentions fuel. It is interesting to note the impact of fuel alone: for example, over the past five years, the price of diesel has increased by 57 per cent. There was no mention of fuel in the motion in January; at least there is some acknowledgement now.

There was also no mention of some of the other factors that are at play. I have already mentioned the view of FirstGroup—it acknowledges that there were difficult trading conditions, not least in East Lothian and Midlothian—and some of that company's previous actions on pricing policy.

I can only assume that the change and the bringing back of the debate to the chamber have more to do with political events than anything else.

The Labour motion is full of promises, but it is worth taking the time to work out what those would cost, in the absence—as the cabinet secretary mentioned—of any commitment from Labour on how such costs would be met.

We have to deliver bus services in the real world, which means using fixed budgets. Elaine Murray glibly tried to skim over the fact that we have to work within a fixed budget from Westminster that has been reduced by £1.3 billion. We have not heard from members on any side of the chamber—excepting, perhaps, the Liberal Democrats, who have asked to cut the concessionary travel scheme for those over 60—about the cuts that would facilitate any spending increase.

We have had endless lists of demands for further spending in my portfolios of housing and transport, and in many other areas.

Jim Hume (South Scotland) (LD): I want to correct the minister. Willie Rennie stated on "Sunday Politics Scotland", and my amendment states, that consequentials of some £7 million this year and £9 million next year are coming to Scotland, so those can be used. The minister does not recognise that we have shown a way forward, which Labour has failed to do.

Keith Brown: I have lost track of the number of times that the Liberal Democrats have spent the consequentials that have been allocated.

It is important to acknowledge that substantial cut in our budget. A good starting point is to work out the cost of the commitments in the Labour Party motion. For example, we calculate that it would take approximately £85 million immediately to reverse changes to the BSOG subsidy and £50 million to reverse the fare increases that have been mentioned.

It is sometimes genuinely difficult to work out what the Labour Party means by reregulation, to go back to Charlie Gordon's member's bill, so we have to take a stab in the dark. It could cost up to £1 billion to fund the changes that he mentioned. I am less certain of the Labour Party's current position.

The suggestions from Strathclyde partnership for transport, among others, are fairly reasonable. We cannot implement them all, because some—as Elaine Murray acknowledged—relate to reserved powers, and some of the decisions rest with parties other than the Government, but we are looking seriously at progressing a number of them. We have listened to those suggestions, which were discussed by the bus stakeholder group, and the cabinet secretary has made it clear that we will give them a warm welcome.

Those suggestions involve changing some of the regulatory aspects of the current regime to ensure that as far as possible we have bus services of the required standard in the required places at the required prices. They do not involve a £1 billion project for renationalisation or reregulation. The Labour Party had eight years—10 years, in fact—in which it could have reregulated, but for whatever reason it chose not to do so. We need therefore to ask whether Labour's commitment is genuine.

If that is Labour's position—which is sometimes hard to work out—how can it be that the 17 per cent cut that Elaine Murray mentioned is causing all those things to happen while a 27 per cent cut to bus services by the Labour Party in Wales is apparently not causing such chaos? There is a fundamental inconsistency in that.

Richard Baker (North East Scotland) (Lab):

What has happened in Wales is a matter for the Welsh Assembly. The Welsh Government has listened to the concerns about the cut in the grant there and imposed a moratorium on the new changes to allow for further dialogue. Why will the Scottish Government not—at the very least—take the same approach?

Keith Brown: I have different information. I read a publication this week that stated:

“Labour meanwhile blames the SNP for bus cuts and pretends that it would end deregulation if it governed. ‘Ministers don’t seem to understand that people rely on buses,’ wailed Johann Lamont, Labour’s Scottish leader. Let’s hope nobody points to Wales, where people who rely on buses have suffered”

—they are not about to suffer, but have already suffered—

“huge fare rises after Labour ministers there announced bigger bus-subsidy cuts than the cuts in Scotland or England.”

Those are the facts of the situation.

We also have to ask whether that £85 million—

Elaine Murray: Will the member give way?

Keith Brown: I will let the member in once I have made some progress.

I have mentioned the £85 million and the £1 billion. Labour has not identified one penny of the money to fund what it is calling for. Even if it had done so, we must also ask whether that would be the best use of public money. As members know, the bus industry is dominated by five operators, representing 95 per cent of the bus market. FirstGroup and Stagecoach are large multinational companies that are based in Scotland and of which we are rightly proud. However, they are extremely successful companies that make substantial profits. It is important that we obtain value for money for the public—it is taxpayers’ money that we are using—and I suggest that providing further subsidies to successful operators is not the best use of public money.

Elaine Murray: Can the minister give me the source of the quote that he read out about Wales?

Keith Brown: The source is this week’s edition of *Private Eye*. I will give the member a copy if she likes. [Laughter.] Obviously, those on the Labour benches are avid readers of *Private Eye*.

Franchising is another of Labour’s long-term solutions. Everyone knows how expensive the franchising process is. Once again, I have to ask whether that would be the best use of taxpayers’ money. The cost of Labour’s solutions makes them unaffordable. Renationalisation would cost around £1 billion.

Kezia Dugdale (Lothian) (Lab): The minister is two thirds of the way through his speech and has so far shown no empathy whatsoever for the people who are affected by the service cuts. What does he have to say to the people in Whitecraig who study at Jewel and Esk College and who, from June, will no longer be able to get to college?

Keith Brown: I might have done that if I had not been intervened on so much, so I am happy to get to that point.

Some of the coverage in the papers has been disappointing. For example, an invitation from CPT to hold a bus summit in 2011 was presented as my summoning the organisation to attend a meeting to discuss bus policy.

There have been reasonable and moderate changes to the calculation of the bus service operators grant. To come back to the point that Kezia Dugdale mentioned, there have been substantial effects, particularly in East Lothian and Midlothian. To that end, I have been happy to meet with Unite, representatives of which are in the gallery today. I met them inadvertently this morning, but I also met them yesterday and on previous occasions, and we have had constructive and positive discussions. It is up to Unite to say what it believes, but I believe that it is a commonly accepted fact—First itself has said so—that the issues that we are dealing with are to do with the way in which those services were run over a number of years, not the fact that, in the past two weeks, a new BSOG regime has been brought in. I am not saying that First is happy about the changes to the grant, but it acknowledges the other factors that impact on the situation, not least the United Kingdom Government’s proposed further increase in fuel costs later this year. An increase of 57 per cent in diesel costs will be hard for any company to cope with.

I have discussed the issue twice with Paul McLennan, the leader of East Lothian Council, who contacted me as soon as the announcement was made. I met him during the bus stakeholder group meeting and have spoken to him since then. East Lothian Council has also had a summit with the bus companies. To come back to Kezia Dugdale’s point, an assurance has been given that not one community in that area will go without a bus route. I have not heard the same representation being made by Midlothian Council, but I have said to Unite that I am happy to work with Midlothian Council and East Lothian Council on the issue. It would be productive if they worked together.

I have heard from local MSPs, such as Christine Grahame and Colin Beattie, and I have seen Iain Gray’s motion, although he has not yet spoken to me directly about the issue. We are keen to do what we can. I have said that the officials in

Transport Scotland will provide every assistance to the councils in their efforts to ensure that they can backfill those services, by whichever means.

I have never said that we could not regulate in Scotland. If Elaine Murray goes back and listens to “Call Kaye” again, she will realise that I was speaking in an entirely different context. It is possible to regulate. As we see in Lothian, it is possible for a successful bus company to run at arm’s length from the council. There are possibilities and we will work constructively in that regard. That is what we have to do in Government in the real world. We cannot just make promises worth £1 billion-plus, which nobody has any faith will be delivered—I do not think that even Labour believes that they can be delivered, especially not in the context of a fixed budget.

We will continue to work with people on the issues around jobs and the routes that are affected, and will do everything possible to help the councils and others in relation to their commitments. I have said to Unite that we will meet its representatives any time. If they want to pick up the phone, we will speak to them.

There are very challenging conditions, and we recognise in our amendment that fuel is one of the biggest factors. We call again for the introduction of a fuel duty regulator and for common sense on fuel costs. That will have a much bigger beneficial impact on the bus industry.

I am happy to listen to what other members have to say.

I move amendment S4M-02639.3, to leave out from first “concerns” to end and insert:

“total funding of nearly £250 million per year provided to Scotland’s buses as part of total Scottish Government support for public transport of £1.181 billion; welcomes the Scottish Government’s continuing commitment to the national concessionary travel scheme and Bus Service Operators Grant; welcomes the inclusion in these schemes of demand-responsive transport services available to the general public, such as dial-a-bus; welcomes the Scottish Government’s additional funding of up to £40 million for Glasgow Fastlink, £6 million for low-carbon buses and up to £10 million for Halbeath Park and Ride; welcomes the Scottish Government’s commitment to innovative solutions such as hard-shoulder running on the M77 and the new £3 million Bus Investment Fund; welcomes its ongoing financial support for passenger-focussed organisations such as Bus Users UK, the Community Transport Association and Traveline Scotland; notes the role of local government in supporting local bus services, previously through the Bus Route Development Grant, which is now incorporated in the general funding of local government; recognises that the per capita subsidy for bus services in Scotland is significantly higher than in England; welcomes the constructive dialogue initiated in the Bus Stakeholder Group and in the Lothians over the future of bus services; notes that First Bus states that fuel prices and economic conditions over a number of years are contributing to its increased costs; notes that the price of diesel has increased by 57% over the last five years and the price of

petrol by 55%; further notes that fuel duty in the UK is the highest in the EU, and therefore calls on the UK Government to ease the pressure on all forms of transport by introducing a fuel duty regulator to stabilise fuel costs for all forms of transport and to scrap plans to increase fuel duty in August.”

09:40

Jim Hume (South Scotland) (LD): Earlier in the year, when bus operators were still coming to terms with the proposed 17 per cent cut to the bus service operators grant, they were informed of a fundamental change to the funding mechanism for the grant. The landscape is very different now. A new financial year means that fare increases are already starting to bite. The frequency of services has been reduced, services have been withdrawn altogether, and the reality of substantial job losses is a worrying prospect for the 18,000 people who are employed in the bus industry.

A number of problems with the way in which the Government is managing the support for Scotland’s bus network have led to the chaos that is being witnessed in communities across the country. In my amendment, I highlight the underfunding of the concessionary travel scheme, which I will come to later. First, I will focus on the bus service operators grant.

Alex Neil: Will the member take an intervention?

Jim Hume: I have hardly started, but I am always delighted to take an intervention from Alex Neil.

Alex Neil: Will the member join me in asking the UK Government to reverse the crazy decision that was announced in the budget to have a further hike in fuel duty from 1 August this year? That would be far more beneficial than any further changes that we could make.

Jim Hume: I do not think that the bus operators would agree with that. First and Stagecoach have highlighted that the change to grant funding has major implications in relation to the reduction of their services. That is in the press, and I can quote what was said. The decision was not only a result of budgetary pressure; the situation is entirely of the SNP’s own making. It cannot blame others. Transform Scotland has said that to do so would be “complete rubbish”. Alex Neil can have words with it after the debate.

Mark McDonald: Will the member take an intervention?

Jim Hume: I have hardly started.

Apparently, environmental reasons are the rationale behind the move. That is what we have been told. In January, the minister stated that the change would

"incentivise greater fuel efficiency and emission reductions".—[*Official Report*, 26 January 2012; c 5717.]

I noticed that, on Sunday, the cabinet secretary highlighted that the reform of the system would encourage bus operators to be more fuel efficient. No one believes that. From the beginning of April, bus operators will receive 14.4p a kilometre instead of 41.2p per litre. Does the cabinet secretary really believe that bus operators require the Scottish Government to reform a mechanism for funding distribution to ensure that they are more fuel efficient when, as he pointed out on Sunday, fuel costs have risen steadily for operators over the past few years? We are talking about commercial operators that exist to make profits, and they will do so only if they do not waste money. It simply makes no business sense to waste a litre of fuel that costs more than £1.40 purely to receive 41.2p in subsidy. That is the point. The Government claims that there will be environmental benefits from its changes, but the opposite will be true.

Keith Brown: Can I take it from what the member is saying that he thinks that we should reinstate something that rewards fuel consumption rather than distance travelled? He might say that what we say makes no business sense. I disagree. It certainly makes environmental sense not to reward fuel consumption, but to reward distance travelled.

Jim Hume: I completely disagree with the minister on that point, which I will cover.

An above-inflation hike in fares and the reduced frequency and withdrawals of services in urban areas are driving people to private vehicle use on already congested roads. Far from incentivising fuel efficiency, the Government will see that more fuel is consumed.

The other assertion concerning the mechanism change is that it will help to protect rural services. That is a laudable objective, but plenty of rural operators stand to be just as inconvenienced as their urban counterparts. I recently spoke with the owner of a rural bus operator that is based in Lanarkshire, who told me that their company would lose out significantly and that the changes were disastrous. The changes were compounded by the lack of consultation and the incredibly short lead-up time, which gave operators little wriggle room to adapt to the new environment.

It is widely understood that operators in urban areas are the big losers. The formula change discriminates against the smaller, vital routes that operate in congested areas of towns and cities. Such services may consume disproportionate amounts of fuel and therefore may be unattractive under the new mechanism, but they often serve

deprived communities and help to drive social inclusion.

In reply to a question, the minister stated in January that

"The reduction in the bus service operators grant would justify an increase in fares, if any, of about 1 per cent."—[*Official Report*, 26 January 2012; c 5715.]

How wrong could he have been? At the time, it appeared that he was being somewhat cute, and recent events have certainly confirmed that. The Government asserts that 75 per cent of the 176 operators in Scotland that receive the BSOG subsidy will not be worse off. What it does not mention is that the remaining 25 per cent of operators carry in excess of 80 per cent of Scotland's bus passengers, all of whom will be affected.

The reality for passengers is that some of the operators that run their services have just experienced a cut of 40 per cent in their grant. Fares have risen by 13.5 per cent in Aberdeen, 9.5 per cent in Edinburgh, 10 per cent in the Borders and 27 per cent in Glasgow. The people who depend on bus services are the most vulnerable people in our communities and the people for whom car ownership is a distant prospect. The Government is doing them a disservice.

I had hoped that Labour members would support the amendment in my name. I am disappointed that they will not do so, given that the amendment is the only one that identifies funding to back up its position.

I move amendment S4M-02639.1, to leave out from "has, along with the underfunding" to end and insert:

"was arrived at without any formal consultation with bus operators or users, with bus operators given inadequate time to adjust their businesses to the formula change and has, along with the underfunding of the concessionary travel scheme and high fuel costs, resulted in fare increases and service reductions across the country; recognises that this has also contributed to the decision by First Scotland East to reduce dramatically its services in Lothian and Midlothian, with the potential loss of around 200 jobs; believes that the Scottish Government has failed to listen to the concerns of operators, bus service workers and passengers, and urges ministers to take action to address the immediate problems of the industry, undertake proper consultation with operators and users and use extra money available to Scotland, following the UK Budget, to prioritise and safeguard bus services and guard against high fare increases."

09:46

Patrick Harvie (Glasgow) (Green): I very much welcome the debate and I congratulate the Labour Party on bringing to the Parliament another motion on this important issue. I live in and represent a city in which about half the residents do not have

access to a car. Bus services are fundamentally important as a means of getting about, for me and for many other Glaswegians.

The context of the debate is the period just before a local government election, so temperatures are a wee bit higher than they might normally be and the debate is a wee bit more contentious than it should be. I commend Kezia Dugdale for making the point, in her intervention during the minister's speech, that the debate should be about the people who rely on bus services and about the impact of changes in service levels and prices—and other factors—on the people whom we represent and serve.

What is wrong with the current situation? Members have talked about prices. The 27 per cent increase in the short hop fare in Glasgow was mentioned; the even bigger increase in child fares means that if a family wants to get from one side of Glasgow to another it is often cheaper to go by taxi than by bus. Is not that astonishing? Should not that shock us into action, given that many of the people who do not have access to a car are the least well-off in our society?

There is a host of things that we could do in relation to the reliability of services and the provision of information—even before we start debating regulation—to improve the quality of the bus service that people can access. Another issue is the lack of a voice for bus passengers. Passenger Focus, for example, has no remit in representing bus passengers in the way that it does train passengers.

Why do we have such a poor quality of provision? A fundamental part of the problem is the free market approach. Jim Hume rightly said that the bus companies exist to make a profit and not to run a quality, affordable service—that is not their objective. I know that there are individuals working in the companies who are personally committed to public transport as a public service, but the companies' free market approach will not deliver that.

We can look back at the process of deregulation and recall the remark that was attributed to Margaret Thatcher—it might be apocryphal; I am not sure—that is, that any man who finds himself still using the bus by the age of 30 can consider himself to be a failure. Whether or not Margaret Thatcher said that, it is very much part of the ethos of deregulation and what has happened since then that buses are perceived as the option of last resort, at the bottom of the list of priorities.

Lack of regulation is an issue, as is the lack of finance and subsidy, which means that it is more expensive to go by bus than by train and sometimes even by taxi. There has been a failure to prioritise bus services and there has been a

lack of consistency. However, we need to be honest about the political dynamic that is in play, too. I do not expect the Labour Party or the SNP to agree that when parties are in opposition it is easy to call for regulation and that when parties are in government it is easy to say no, or to admit to doing that. Both parties have swapped their positions over the years.

I think that part of the reason for that is that passengers do not have a strong political voice. Who here thinks that the motoring lobby is not a strong political voice in the UK and in Scotland? Bus passengers do not have that strength of voice and I believe that, if we are to change the political dynamic, it is important for them to act together to bring their collective voice into the debate. That is the idea behind the better buses website that I recently set up. Now that we are allowed to do such things, I can show it to members in the chamber using my tablet.

Christine Grahame: I cannot see it—it is too small.

Patrick Harvie: The website is called betterbuses.org, if the member would like to visit it.

The idea behind the site is that it should be a place where people can offer a first-person perspective on their bus services and say for themselves what their priorities are. Rather than presenting a proposal from another politician, I wanted to give people a space in which they could set their own priorities. For some people, price will be the issue; for others, it will be reliability, cleanliness or safety. Different issues will affect different people, and I wanted to provide a place where those perspectives could come together. I encourage members to take a look at the site, and I encourage anyone who is listening to the debate who uses the bus in Glasgow or elsewhere to send in their comments.

I will read out a few of the comments that have come through to the site already. One user said:

"I've given up on buses since First Glasgow started shamelessly exploiting their monopoly on routes ... with extortionate fares. Now, rather than walk the 110 yards from my front door to the bus stop ... I'll walk 3 miles to get the train".

Not all the comments are about prices. Another user said:

"Would it really be asking a lot for First to give some explanation, and maybe even say sorry, when they turf everyone out of the bus and tell us to wait for the next one? Instead of just shouting 'Youse have all tae get aff.'"

A stream of people have cited cleanliness as the biggest issue that impacts on how they feel about using the bus. Many others have commented on the difficulty of getting access to a ticket and the lack of integrated bus and train tickets. Another comment was that if buses cannot give change,

vending machines should be available at the stops or elsewhere in the streets. Many people have mentioned the option of having an Oyster card-style system in Glasgow or across Scotland, which should be a priority of the Scottish Government and should not have been shelved for the duration of its present period in office. Many other comments have been posted on the website, which I may have time to come to in my closing speech.

The principal issue is that, as politicians, we should not be grandstanding on the issue; we should be listening to the people who use the services, who are being affected by the radical cuts in those services and the increases in fares.

I move amendment S4M-02639.4, to leave out from second “notes” to end and insert:

“believes that successive Scottish administrations have failed both to provide the level of financial support necessary to maintain high quality and affordable bus transport in all communities and to adequately regulate the industry to ensure value for taxpayers’ money; recognises that bus fares in many parts of Scotland are now less affordable than train fares and even taxis in some circumstances; considers that fuel prices are likely to continue to rise and that this will create a greater need for high quality and affordable public transport as an alternative to private car use; notes the lack of any statutory body protecting the interests of bus passengers; believes that bus users’ voices are not being adequately heard in the debate on bus transport; encourages bus passengers to publish their views through the <http://betterbuses.org> website; calls on the Scottish Government to reverse the cut in the Bus Service Operators Grant, ensure that overall public spending on bus services is adequate to protect services, jobs and fares and extend the remit of Passenger Focus in Scotland to bus users, and believes that new legislation is required to enable the regulation of bus services in Scotland to ensure sustainable and reliable bus services throughout the country.”

09:53

Alex Johnstone (North East Scotland) (Con):

As I have not been burdened with the responsibility of proposing an amendment, I can comment on what is contained in the motion and the other parties’ amendments.

There is a broad principle at stake. Along with one or two other members, I remember what it was like when we were in the old Parliament building up the road. I had the unfortunate experience of being in that office on the first floor that was only half a floor above street level. First Minister’s question time used to be on a Thursday afternoon, so every Thursday lunch time I had to sit through the protests that built up outside as people sought to influence the First Minister as he went past to go to question time. Almost invariably, the system was in place whereby someone would shout, “What do we want?”, and everyone would shout, “Mair money.” Then the cheerleader would say, “When do we want it?”,

and the crowd would shout, “Now.” In those days, of course, there was more money to be had and the Government of the day could spread its largesse widely and thickly.

The Deputy Presiding Officer: Mr Johnstone, are you coming on to talk about buses?

Alex Johnstone: The problem that we have today is that money is not so easy to come by. It ill behoves the Labour Party—which, in my view, is the party that is responsible for the economic crisis that we must all address—to come to Parliament with a series of proposals to deal with the problems of the bus industry that would cost a fortune. It wants more money to reverse the decisions on the BSOG and to reregulate at a cost of £1 billion-plus, which would also have an on-going cost that has not been addressed at all so far.

Patrick Harvie: Will the member give way?

Alex Johnstone: I am afraid that I will not, because I have further points to make.

I am aware that buses have become an issue for the local elections and I understand that that is why the Labour Party is so keen to bring the issue forward. I took the trouble to speak yesterday afternoon to Conservative candidates who are campaigning on the ground in Scotland’s major cities. It was brought home to me more clearly—if that was necessary—that a genuine problem is building up in our cities. It is a crisis that has been building up consistently for the past six months and it is more important to us today than it was when Labour first brought it to the chamber on 26 January.

The problem is that we have market failure in the bus service system. I am a fan of markets and will continue to defend the market approach whenever it can be used effectively. I believe that the deregulated market approach to bus services has a great deal to commend it—that was the case for the past, and it remains so for today and for the future. I do not regard markets as being about profit and loss; I see them as being about supply and demand. The market failure in the bus service system in Scotland at the moment is interfering with the relationship between supply and demand.

The cause of the problem is that the bus system’s biggest customer by some margin—and which is growing as a proportion—is the Government itself. Government decisions are having an increasingly disproportionate effect on how services are run.

I will consider the changes that have happened and how they are affecting us. Various changes have been made to the BSOG, which have had different effects. First, the overall cut in the grant

has an effect across the whole bus industry. The causes of that are financial constraints, and the Government can of course blame London for that if it wishes. However, the reduction must be managed so that the pressure is spread more evenly. The decision to pursue a mileage-related payment rather than a fuel-related payment has positive elements, because it will encourage fuel efficiency and investment in fuel-efficient buses in the future. However, it also skews the balance of payments towards rural rather than city bus companies and city services are suffering as a result.

At the same time, the concessionary fares scheme is being increasingly underfunded. The result is that bus companies are doing two things. First, they are using fare payers to cross-subsidise the concessionary fares scheme; that will increase over time, which will force up prices. Secondly, decisions have to be made about which bus services might be cut, but the number of people travelling on the buses is influenced by the number who use the concessionary fares scheme. The consequence is that more buses might run during the day, which is when the concessionary travellers naturally wish to use them, but fewer buses will be available at key times of the day when people want to get to their work, college or whatever. That distortion is caused by the Government's market decisions.

I want the Government to accept the constraints within which it operates and to realise that it has contributed massively to a short-term crisis. The reduction in total funding is part of that, but the Government must realise that what it is in control of and how it targets the available funding to support bus services are also critical factors. The Government must review how it invests that resource and consider whether it is appropriate to provide concessionary fares to people from the age of 60, many of whom are in work, and at the same time to use reductions in support to critical, economically important bus services in our major cities as a way of funding that.

The Deputy Presiding Officer: Mr Johnstone, you must conclude.

Alex Johnstone: That distortion will only get worse. The Government needs to review its priorities and how it allocates the funds.

The Deputy Presiding Officer: We move to the open debate. As intimated earlier, speeches should be of five minutes.

09:59

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I thank the Labour Party for bringing forward the motion for debate, because it is always useful to debate the provision of bus

services—although I do not consider that the content of the motion bears much relation to reality.

The provision of good, reliable bus services is an issue that all members are concerned about. It is an issue of importance to many of the people whom members represent—many people who are without access to a private vehicle rely absolutely on bus services. When there are changes, alterations or cuts to bus services in any of our constituencies, that is rightly an issue of concern for us all. The human aspect that has been referred to is one that we would do well to remember.

Much has been said, today and previously, about the funding and the support that are provided for the bus industry in Scotland. Let us consider the facts and the reality of the situation for a little minute. We have a Government that is committed to supporting the bus industry, despite what members have heard today. In the motion, we have an extraordinary claim from the Labour Party that the concessionary fares scheme is underfunded. That is an interesting proposition when we consider the fact that the budget for the scheme this financial year is increased from the same budget line the previous financial year. It seems a little disingenuous of Ms Murray to claim that the scheme is underfunded.

Elaine Murray: It is actually the Confederation of Passenger Transport Scotland, not us, that says that the concessionary fares scheme was underfunded by £7 million last year.

Jamie Hepburn: With due respect, Ms Murray, it is you who says it; you make the claim in your motion. We will always hear special pleading from industries and representative bodies; I understand that—that is their job. However, you—I beg your pardon, Presiding Officer, not you—the Labour Party is in Parliament and it has a duty to make its case responsibly. To be frank, Ms Murray, it is clear that you do not even know your own motion, because you—I beg your pardon, Presiding Officer, not you—the Labour Party makes the claim that the scheme is underfunded.

Elaine Murray: I refer Mr Hepburn to his Government's budget documents, which show that the budget the previous year was £192 million and fell to £185 million. That is a reduction of £7 million.

Jamie Hepburn: I refer you to the budget documents. It is exactly the other way round: the budget is going up to £192 million from £185 million. We will leave the matter at me referring you, Ms Murray, to your motion. You need to read it again. I have dealt enough with that subject.

Suffice it to say that it is interesting to hear Elaine Murray singularly fail to reply to my

colleague Christine Grahame's well-made point about the reason for quoting the Auditor General. It is all well and good for Ms Murray to say that she is quoting someone else, as she just tried valiantly to do again, but she is the one who is raising the issue in Parliament.

It is interesting to hear the blame for cuts to bus services being laid entirely at the door of the Scottish Government. Let us take the case of First in the Lothians. We are, understandably, concerned about the cuts to those services, the effect on the people who use them and the potential for job losses. First has confirmed that the decision

"comes after years of poor trading and rising fuel prices".

That reflects the situation in many other areas of Scotland. I understand that Transport Scotland is discussing the matter with First and trying to assist it to implement a solution to the situation in which the company finds itself in the Lothians.

Previously, the Labour Party has failed even to refer to fuel costs. At least there is a slight improvement, in that the motion takes some cognisance of the matter. I remind Elaine Murray of that, because she does not seem to know what is in her motion. It refers to fuel costs, but she barely mentioned them in her speech.

It is clear that fuel costs are the main driver in the problem. No one could fail to notice the increased cost of fuel. The SNP at Westminster has proposed a solution—the fuel duty regulator—but other parties have failed to support that measure. It is time for this Parliament to have control over that policy area so that we can assist bus companies.

I commend the Government amendment.

10:04

Jenny Marra (North East Scotland) (Lab): Dundee community spirit action group, which is based in the Pentland area of the city, has been campaigning in the wake of cuts to local bus routes and service frequency. The community was previously well served by two regular services into Dundee city centre, both of which have been withdrawn and replaced with a service that starts at 9.45 am—which is not much use for people going to work in the morning—and stops at 5.30 pm. No service connects the community with the city centre in the evening or at all on Sunday and, on weekdays, the service runs only every two hours.

At a meeting with National Express, which runs the services, residents were told that they should walk either half a mile down to Blackness Road to catch the company's most profitable bus service in the city or half a mile down to the Lochee Road to

catch a bus into town. Many elderly people who live in the community cannot manage a walk of such a length, especially with the hills that it involves, which means that going out at night is not an option for them and journeys to church on Sunday are, I am told, impossible.

The community spirit action group in Pentland is not asking for a bus every five minutes; it understands the financial imperative behind running services. The group's spokesperson, Len Jamieson, said to me:

"We accept that we can't have all the buses running full all of the time, but profitable routes should subsidise non-profitable routes."

The minister might want to heed such sound advice and sensible observations. The Pentland residents are not asking the earth; they simply want buses that connect them with the heart of the city and which run all day and all weekend to allow them to get their shopping, go to church, visit their friends and get to the doctor. That is not too much to ask.

In Dundee, bus companies are now pulling school buses because they are not profitable. When did anyone ever expect school buses to be profitable? Recently, the school bus from the west end of Dundee to St John's high school was taken off because it no longer made a profit, which means that pupils have to take a much longer and more circuitous journey to school that is simply a waste of time. I know that, because I have made the journey with the pupils. Longer bus journeys—

Mark McDonald: Will the member give way?

Jenny Marra: I do not have much time, Mr McDonald—I do not have to look up to know who is speaking.

Longer bus journeys and less access to buses can affect school rolls and damage communities as parents are forced to make other decisions about their children's schooling if they find it too difficult to get them to and from school. I should also point out that this is happening within the school's catchment area. When I asked the SNP convener of education in Dundee whether there could be a subsidy for this school bus, I was told no. Because the SNP refuses to regulate the buses, teenagers cannot get to a school in their catchment area and elderly people cannot get to the shops, to the doctor or to church.

Our council tax is being used to add to the bus companies' profits.

Jamie Hepburn: Will the member give way?

Jenny Marra: Go on then.

Mark McDonald: What does he have that I don't?

Jamie Hepburn: I have a lot that you don't, Mr McDonald. Thank you for throwing me. [*Laughter.*]

The term "regulation" has been used a lot this morning in a rather euphemistic way. What does the member actually mean by it?

Jenny Marra: Len Jamieson from Dundee community spirit action group put it very well when he said that if we are going to let bus operators run public services, we have to strike a deal with them to ensure that they run less profitable services. I am sure that the member will let me talk about that in my last minute.

The Presiding Officer (Tricia Marwick): The member is indeed in her last minute.

Jenny Marra: The SNP council in Dundee has given £300,000 to National Express, which makes £180 million in profits each year, but last year it cut 99 teachers from Dundee schools. We might call that a subsidy but if we allow commercial companies to run our public services we should strike a deal with them to ensure that they run all the services that are required. I say to Mr Hepburn that that is what I mean by regulation and it is what the SNP refuses to do because the bus tycoon Brian Souter will not like it.

I support the Labour motion.

10:09

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I welcome the debate, which gives me an opportunity to speak on behalf of my constituents in Penicuik, Gorebridge, Newtongrange and Fountainhall, for example, for whom the issue is concerning, particularly with the announcements by First. The minister is aware of those concerns and has addressed some of my constituents directly about them.

However, we simply cannot walk away from the fact that we are in this position because banking regulation failed under the Westminster Government. We have a ruinous deficit that is costing the UK hundreds of billions per annum in borrowing and we are not even cutting the deficit. Gordon Brown's fingers were all over that. The situation is costing our domestic budget £1.3 billion.

Against that fact, we are asked to ignore it all and instead look at Labour's manifesto for the local government elections. I have no problem with creating new jobs and training opportunities, spending more on schools, greater support for childcare, proper support for carers or further subsidy for bus services, but there are no price tags on any of those things. I would vote for all of them, but I would want to know, first, the cost, and

secondly where the money will come from under a fixed budget.

Elaine Murray: Will the member take an intervention?

Christine Grahame: I will let the member in in a moment.

Am I right in presuming that Labour still supports the council tax freeze, or is that a presumption too far? Am I right in supposing that it still supports the concessionary fares scheme, which we have extended to veterans and dial-a-bus, and that the member's question about the savings that could be made, with reference to the Auditor General, was just a question and the answer does not matter? If Labour would not touch those things, it has to tell us where the money would come from. It did not do that during the budget debate; there was not a single amendment at stages 2 or 3 of the budget process that dealt with the buses.

Elaine Murray: Can we return to price tags? Will Ms Grahame advise us what the price tag for independence might be?

Christine Grahame: We could certainly afford better bus services. I will tell the member something, to get right to the nitty-gritty of the matter. The real issue for the bus companies is the price of fuel. The irony is that the Labour motion hardly addresses that. I quote:

"The irony is that the main driver of increased costs for public transport lies in fuel costs compounded by fewer passengers on account of job losses and therefore loss of commuter passengers due to this UK recession."

Those are not my words but the words of the transport correspondent at *The Herald*.

The success story in Scotland is Lothian Buses, which made a profit of £13 million in 2010 and increased its passenger numbers by 1.9 per cent to 109 million. How did it do that? The answer is careful cost control and a favourable fuel hedge position. The problem is that, as Lothian Buses says, higher fuel prices will

"significantly impact on this year's trading results".

That is the nitty-gritty of the issue, but Labour will not face up to it, because it is a UK issue.

The Government has put forward money that we could use. We have called for a fuel duty regulator to stabilise fuel costs for all forms of transport and we have called for the scrapping of plans to increase fuel duty in August. That would be a start, but those proposals fall on the deaf ears of those in the Conservative and Liberal Democrat parties who have just learned that the rich avoid paying tax. What do they talk about at their cocktail parties—pasties?

We can add to that the costs of Trident, which run into billions, and an illegal war in Afghanistan,

which is and always was unwinnable. Money that would support Scotland's communities and services, including interlinking public transport, is being squandered. There is no oil fund here. We have false promises, no costings from the Labour Party, and no budget proposals. Labour's position is pie in the sky. Is it the saviour of our bus services? I do not think so.

I am realistic. I look forward to realistic and practical discussions with the minister on behalf of my constituents who travel to work, hospital or the social work centre in Dalkeith, and on behalf of the people who work on the buses, so that we can resolve the issue. However, I will not tell them porkies just to get through the local government elections.

10:14

James Dornan (Glasgow Cathcart) (SNP): I agree with Patrick Harvie that we are talking about people. I appreciate that local elections are coming up very soon and perhaps we are all going to be party political—although in discussing an issue such as this we should not be party political, and I assure members that I will not be. Patrick Harvie is right to say that we are talking about the effect and impact on people and our responsibility as MSPs to ensure that we represent the communities that we were elected to represent as well as we possibly can.

We have all heard Labour's political scaremongering before. Every time that a transport issue is raised, Labour members get out there and criticise the Scottish Government. Funnily enough, Labour MSPs are saying that the bus companies are making huge profits. If that is the case, why is Labour asking us to give the bus companies more money? Why does Labour not ask the bus companies to do what they should be obliged to do?

Jim Hume: Will the member take an intervention?

James Dornan: No; I am sorry, but we are very short of time.

Instead of politically motivated scaremongering, let us talk about what is going on on the ground. I will talk about Glasgow because it is the city that I know best and I represent part of it. We have been working to protect bus services within the community and my colleague Bob Doris has been working to ensure the continued existence of his local community transport group, which is the North Area Transport Association—members will know it well—so that it can continue to work for those who are in most need in the community. Why is NATA at risk? Because the Labour-run community planning partnership decided to cut its funding by 100 per cent. That is the reality of

Labour on the ground. Thankfully, the group is continuing but for how long and in what guise is anyone's guess.

Unfortunately, my constituency of Cathcart has seen a similar situation that had a much less happy ending. The Castlemilk community transport group, which had been running for 16 years and received no public funding, just payment for services, is closing down this week because a number of local organisations were persistently slow in paying their bills. Three quarters of the payments owing were from the Labour-run Glasgow City Council family; they should be ashamed of themselves. The knock-on effects of Castlemilk community transport group ceasing to exist are clear, because other local groups are no longer able to take advantage of the subsidised travel that was offered to them. There will be a huge knock-on effect in Castlemilk.

Just this week, one local group, which was doing magnificent work for women and children who are victims of abuse, came into my office to see whether I could help to find alternatives to take those women and children on their annual trip to Largs. They look forward to that trip every year, but it looks as though it will be nigh on impossible without that subsidy. I will take no lessons from Labour on the importance of bus services to the community and how to protect them.

One Friday a few months ago, I received a number of phone calls and e-mails relating to the proposed termination of a bus service in the Hillpark and Mansewood areas of my constituency. If any members know those areas, they will know that they are hilly, fairly remote, and fairly heavily populated by elderly people. I immediately organised a public meeting for the following Thursday, which was attended by representatives from First as well as by more than 150 residents and local politicians from other parties. The massive negative impact of losing that service came across loud and clear. One resident said that without the bus service, she would become a prisoner in her own home. Another talked about simple things that are taken for granted, such as collecting messages, going to church or visiting friends, being made nigh-on impossible for some if the bus service was withdrawn.

As I touched on earlier, there was a feeling that First, which is part of a multimillion pound, multinational, profit-making organisation, has a social responsibility to provide a bus service, particularly to those areas of the city that are not well served by other bus routes, and to those residents who have, for a long time, paid into that huge company's coffers. At that meeting, I agreed to talk to First and Strathclyde Passenger Transport to see whether we could work towards a

solution; to be fair, the SPT staff and officers were incredibly helpful during that process. After meeting them, I was much more confident that the area would continue to be served. Two weeks ago, it was confirmed that the bus service was saved.

The purpose of my telling that story is that instead of putting up posters saying "Missing Buses", which people cannot see for all the missing buses driving past, we worked on the ground with other local politicians, community organisations and transport organisations and we got a positive result. No one is pretending that money is rife and that there are any easy solutions, but if politicians do what they are paid to do and get out and help their communities, their communities will be much better served than they are by the political posturing that we have seen here today.

I support the SNP amendment.

10:19

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): Today is not the first time this year that Scottish Labour has felt compelled to bring the issue of transport to the Parliament. We make no apology for doing so; indeed, we are proud to be able to stand up for our constituents who depend on public transport to go about their daily lives. We do so today to highlight another area where the SNP Government is simply out of touch with the lives of ordinary Scots.

We are not alone in wishing to express our concerns to the minister. On 13 March, the leaders of all the political groups in the City of Edinburgh Council, including the SNP group leader, wrote to the minister about the changes to the bus service operators grant and the effect that they knew that those changes would have on the people of Edinburgh. The leader of Glasgow City Council, Gordon Matheson, did likewise, and the leader of the SNP group on Glasgow City Council has stated publicly that she wishes that she had thought to write, too. All the parties in Edinburgh think that the minister is wrong, the leaders of the Labour and SNP groups in Glasgow think that the minister is wrong, the bus operators think that the minister has got it wrong, and the workers in the Lothians know for a fact that he is wrong, but the minister persists in his wrong-headedness.

Keith Brown: Will the member give way?

Patricia Ferguson: No, because my time has been cut.

The minister stated in answer to a parliamentary question that bus operators

"have been told and have accepted that we must move to provide further support for operators in rural areas, where

there are pressures from fuel duty costs".—[*Official Report*, 23 February 2012; c 6553.]

However, we have heard from Dr Murray and others that rural operators have not been protected. Does the minister really not understand that fuel duty is charged at a flat rate, that city buses use more fuel per kilometre because they have to travel at lower-than-average speeds on lower-mileage routes and that they have to use high-capacity vehicles and operate in heavier urban traffic? All that begs the question: who are the operators that the minister seeks to protect?

The irony is that—I never thought that members would hear me say this—the UK Government, which is also making changes to the BSOG, seems to be handling the issue slightly more sensibly and sensitively. It is devolving payment of the BSOG to local authorities and transport authorities to ensure that the changes to the grant take account of local circumstances. Those bodies are consulting passengers and bus operators before they make any changes to ensure that there is no disproportionate impact on particular services.

In contrast, the SNP Government made a three-year agreement on the BSOG with the Confederation of Passenger Transport but, after a matter of months and without discussion, it broke the agreement. The Government failed to consult bus operators or passengers before deciding to cut funding for urban bus services and made no effort to assess the impact of the changes on services. At the end of the day, what will be the effect of the minister's decisions? We have already seen them: cuts to routes; fare-price hikes; possible job losses; and a reduction in investment in newer buses and things such as low-floor buses, which are important to disabled people and people with children in buggies.

The minister's latest decision on the BSOG is only the tip of the iceberg. We need a complete overhaul of the system. There is no democratic accountability in the planning and delivery of bus services. The public do not understand why services are not organised to take account of local communities, or why it is so hard for local politicians to influence decisions. Who can blame the public for that?

In Milton and Springburn in my constituency, 60 per cent of households do not have a car and 20 per cent of people are pensioners. The areas have the highest jobseekers allowance claimant count in the country. However, earlier this year, the number 31 bus service was withdrawn. The service allowed my constituents to take one bus to access the nearest large supermarket, from an area where there are few local shops. The service also allowed people to access the city centre for

work and, most important, their local hospital and the nearest accident and emergency department.

Over the years, there have been cuts and reductions in services in the area. I have campaigned long and hard, in and out of government, on many of the issues. At public meetings and in other ways, I have collected the names of thousands of constituents who have been affected, although ultimately often to no avail. My constituents need a bus service that is democratically controlled by people who understand their lives and who care about the decisions that they make. We need to find a better way to organise our bus services, and Scottish Labour is committed to doing that. This time, I hope that SNP members and others will support us.

10:24

Colin Beattie (Midlothian North and Musselburgh) (SNP): My constituency, Midlothian North and Musselburgh, has suffered disproportionately as a result of the decision by First to cut the number of routes that it runs. I deplore that decision, because communities that are already considered deprived areas will now suffer from additional disadvantages due to the lack of a bus service. People will have difficulty reaching hospitals, whether as patients or as employees. Shift workers will no longer have adequate bus cover. Transport to supermarkets and stores will become difficult and, for the less able, impossible.

However, it is not just the loss of services that will affect my constituents—200 people are to lose their jobs in Dalkeith, with more in Musselburgh. That is tragedy enough for the employees and their families, especially those with mortgages and other commitments that they will now struggle to meet. Just as important is the loss of spending power in the community, for example to the local sandwich shops and others that provide for and support the First workers.

The first step to helping commuters is to establish how many of the First routes Lothian Buses in particular is able to pick up, or to accommodate by modifying its existing routes. I hope that information on that will be available shortly to enable us to focus on those routes that may be unattractive to a commercial bus company but which have social imperatives. For example, it is unacceptable that the village of Cousland should have its only bus link to the outside world cut off.

In the last election, the Labour Party floated the idea of reregulation of bus services. In hustings and in local leaflets, it extolled the advantages of that, apparently believing that bus operators could

be controlled in that manner. The fact is that, however attractive reregulation may seem at first glance, it is no panacea for our current problems. Indeed, I believe that reregulation, including buying out the bus companies, would cost nearly £1 billion—hardly a practical proposal at this time of financial stress.

The Labour Party has focused on the idea that bus routes are being withdrawn largely because of the Scottish Government's decision to reduce the bus service operators grant. That is astonishing and naive. It can be only an element in the commercial decision by First to withdraw its services. The grant is spread across some 300 operators, big and small.

Jim Hume: The member states that the withdrawal of services is not the result of the cut in funding, but would he agree with Paul Thomas, the managing director of First Scotland East, when he said in the *East Lothian Courier* in the middle of February:

"As a result of the cut in funding, First Scotland East Ltd is undertaking a comprehensive review of bus services throughout south-east ... Scotland."

Colin Beattie: I said that the cut in funding is an element in the decision; it is certainly not the major element. In the case of First, the support amounts to barely 1.9 per cent of turnover.

First withdrew its services because it was not making enough money. The reasons that it gave are principally fuel prices and competition over some years. I would contend that the reason why it was not making enough money is that it failed to invest and failed to manage its operating costs. Quite simply, it has been running elderly stock for years. It recently brought up aged double-deckers from Wales to replace already-old stock that it had used in my constituency.

Among my constituents, there was a clear preference to use Lothian Buses because its buses were cleaner and more reliable. The result was that passenger loading dropped because the product offered was of lower quality than the market demanded. Coupled with that were much higher running costs due to the higher maintenance costs for old vehicles. More modern buses can be as much as 50 per cent cheaper to run, based on fuel usage.

The SNP policy on introducing a fuel duty regulator, which would provide relief to bus operators, motorists and haulage companies, might have prevented that situation arising. However, the UK Government has consistently refused to listen. I repeat that lack of investment, leading to stock that is out of date and expensive to maintain and operate, leads to a classic result. That should surprise no one. The reduction in the bus service operators grant clearly results from the

cuts being experienced elsewhere within the Scottish Government, arising from the Tory-Lib Dem coalition Government's inappropriate policy to cut spending, to the detriment of the economy and the people of Scotland.

The Scottish Government has not been slow at coming forward to help, but there is a difference in approach that I must highlight. When I spoke to the SNP-led East Lothian Council, I was assured in no uncertain terms that no community in East Lothian would be left cut off from a bus service. I was engaged in ideas about forming a local bus company that might pick up some of the routes or develop new routes—not a short-term solution but a longer-term opportunity that could be brought to fruition with energy and vision. I saw community commitment and leadership.

I contrast that with the minority-run Labour administration in Midlothian. I say "minority-run" because it has rather carelessly lost two of its councillors, one due to the arcane selection—or, should I say, deselection—process of the Labour Party, and one due to an immoral cash grab to acquire a public pension and a public salary simultaneously. No decisive leadership was shown by Midlothian Council, yet council officials claim that they have not ruled out any solution. There is complete confusion and contradiction there.

We are in a position in which we must await details of what Lothian Buses can do to fill the gap that has been left by First. Only then will we know where to focus our efforts. Labour's motion is not helpful and contributes nothing to a solution. I commend Keith Brown's amendment.

The Presiding Officer: I call George Adam, to be followed by Iain Gray. We have a wee bit of time in hand so, if members want to take an intervention, I will allow time for that.

10:30

George Adam (Paisley) (SNP): I welcome the debate, as I always welcome anything that shows Paisley as a countrywide leader. As was mentioned in the previous debate and as Elaine Murray rightly said today, the quality bus partnership in Paisley is the only one in the country, mainly because of the issues that we faced. Given the time, I thought that I might just read from the *Official Report* of the previous debate, but I have some other comments to add.

The Transport (Scotland) Act 2001 is difficult to work with at a local level to make a difference. Why did Labour not do anything while it was in power? Why, all of a sudden, when they are in opposition, do Labour members feel that they have to raise the issue when they have nothing—

Iain Gray (East Lothian) (Lab): Will the member take an intervention?

George Adam: Yes. I was going to bring up SPT and the subway, but I will let Mr Gray talk.

Iain Gray: Mr Adam's speech is self-contradictory. When we were in power, we introduced quality partnerships and quality contracts. We now believe that we need to go further.

George Adam: In the previous debate, your own members admitted that there was a problem—

The Presiding Officer: Could the member stop using "you" and speak through the chair?

George Adam: Sorry, Presiding Officer. I was following Mr Gray's lead. Labour members admitted that there was a problem with the Transport (Scotland) Act 2001 and that they wanted to do something about it, yet they did nothing about it. Now, two weeks before a council election, they come here to complain about the situation while offering very little.

Mr Harvie and Ms Dugdale are right to say that it is about the people who use the bus services—the older people, the disabled people and the mothers with the prams. Part of the idea of the quality bus partnership is that we can ensure that we have a certain stock of buses that they can use. In Paisley, the older buses will be phased out after a time and all the buses will have low floors. We must think about how we can work within the existing constraints. We can talk and debate non-stop but achieve nothing; it is what we deliver that is important, and that is what we are focusing on in Renfrewshire. We have cleaner buses with a lower level of emissions and we are working in partnership with the bus operators on timetabling in various areas.

That brings me to another issue. It is Strathclyde partnership for transport in the Labour-controlled Strathclyde region that operates the subsidy in the local areas. Our area is subsidising Labour-controlled areas, supporting bus services in rural Lanarkshire and in some places in Glasgow as well. I feel that SPT needs a radical overhaul, as it has a £10 million corporate budget that is being spent just on salaries for its chief executives and it is a £50 million organisation. That cannot be the correct way forward.

As the minister asked, what is Labour's current position? What would Labour do with buses nationally? Is it talking about reregulation at a cost of £1 billion? Is that its position? Would it do anything? I am waiting for a Labour member to respond to those questions.

Michael McMahon (Uddingston and Bellshill) (Lab): Just get on with it.

George Adam: There are obviously no answers there.

The bus service operators grant is not the issue. A local bus operator whose company is in the quality bus partnership in Paisley told me that the cost of fuel is the main issue and the reason why her company is having difficulty in getting its buses on the roads. She is working in partnership with the council to ensure that we get bus services throughout Paisley.

In the real world, we must ask whether Labour wants to do anything. Does it want to empower local people and local authorities to do anything? What is Labour offering in terms of the national concessionary travel scheme? Does it want to follow the Liberal proposal of cutting 60-year-olds out of the scheme, or does it not agree with that?

We increased funding for the scheme from £180 million to £185 million in 2011-12, and it is up to £192 million in 2012-13. In difficult times and with a finite budget, we are delivering in all ways nationally and locally where there are SNP administrations.

In the main, buses are used by older people, the disabled and those who are on low incomes. This is about people, but we must work within the fixed budget to provide the service that they need now and not in some mythical alternate reality that the Labour Party proposes. That means working in partnership with all partner organisations and bus service providers.

I back the minister in the work that he is doing. Should any other public organisations want the direct telephone number of Renfrewshire Council's head of roads, I am willing to give them it, so that he can help them with their problems with quality bus partnerships.

10:35

Iain Gray (East Lothian) (Lab): Bus services are being cut and fares are rising everywhere, but my constituency of East Lothian and next-door Midlothian are the hardest hit, as First is to pull out from all but a handful of routes there. Our thoughts are particularly with the 200 people who face redundancy at the Dalkeith and Musselburgh depots and with their families. I welcome to the public gallery some of those who are affected.

First's predecessor, Eastern Scottish, was one of the most profitable parts of the Scottish Bus Group. Its routes in East Lothian and Midlothian were reliable, regular and very busy. I know that because I spent my summer holidays working as a bus conductor on those services. Those routes were sold off for the highest price in the whole Scottish Bus Group when it was privatised, so how can it be that, from June, communities such as

Pencaitland, Ormiston, Gifford and Whitecraig could find themselves with no buses at all and no routes that link East Lothian and Midlothian?

First certainly must accept some of the blame. I agree with Mr Beattie—like him, I regularly receive complaints from constituents about the condition of First's vehicles, breakdowns, timetable changes and of course soaring fares. However, the Scottish Government must take its responsibility, too. The number of bus journeys in Scotland peaked in 2007 and has been in decline ever since. The annual number of bus journeys now is the lowest since the advent of the Parliament. It is no coincidence that that decline parallels the SNP in power, because it has never prioritised or supported the bus industry.

First, the SNP scrapped its policy of regulating services. It then scrapped the £27 million bus route development fund, cut the bus service operators grant and systematically underfunded the concessionary travel scheme. The SNP has no strategy for taking the bus industry forward. Patrick Harvie was right—the Government believes that buses are the transport of last resort.

Jamie Hepburn: The allegation that the concessionary travel scheme is underfunded has been made again, but does the Labour Party not realise that funding for it has increased from the past financial year to this financial year?

Iain Gray: SNP back benchers are the only people in Scotland who believe that funding point—nobody else does.

I repeat that, for the Government, buses are the transport of last resort, although there are four times as many bus journeys as there are rail journeys in Scotland. The truth is that the Government does not understand buses. Unlike the Prime Minister, the First Minister probably has bought a steak bake from Greggs, but it would be worth asking him when was the last time he bought a bus ticket and took a bus home or whether any of his Cabinet could find their way to a bus stop.

I am astonished that the transport minister seems to know and care far more about buses in west Wales than he does about buses in my constituency of East Lothian. It is no surprise that he is reduced to reading out from *Private Eye*, because the SNP's bus policy is a joke.

When services are cut, local authorities are left to pick up the pieces. East Lothian Council is retendering supported services and is getting welcome help from the Government to do that, but it has also promised in the press and in election leaflets to set up a company of its own to run local bus services. The council says that the transport minister supports it, so why did I hear Mr Brown say on Radio Scotland on Tuesday that

"councils aren't allowed to run buses. The law prevents them from doing that"?

Should we believe SNP council candidates, who tell voters that they will set up a bus company to save the day, or the SNP minister, who says on Radio Scotland that they cannot do that?

Keith Brown: If the member thinks for a second about his own experience, he will know, as I do from my experience of using Lothian Buses when I was younger, that the relationship between Lothian Buses and the council is not one whereby the council directly provides bus services. He must surely be aware of that distinction.

Iain Gray: I am aware of that distinction, but I am surprised that Mr Brown was not aware of it when he spoke on Radio Scotland two days ago.

I say to the minister that to set up the equivalent of Lothian Buses in East Lothian would require, for example, the purchase of a number of buses that cost about £200,000 each. I await the indication that he is prepared to fund such an initiative, which is being promised. SNP councillors state in the *East Lothian Courier* this morning that the Scottish Government will give them money for bus services to link our villages to towns and trains, yet Mr Brown has told us repeatedly in the debate that no more money is to be provided.

We do not need election promises that the SNP has no intention of keeping. As Christine Grahame, if she were in the chamber, would put it, we do not need porkies to get councils through the election. We need the immediate restoration of the cut to the bus grant and a rise in support for concessionary journeys, because that would make the axed routes more attractive to new operators. In the long run, we also need better regulation of buses.

It is East Lothian and Midlothian today, but how many other communities will have to see their buses go before this Government wakes up and steps up?

10:41

Sandra White (Glasgow Kelvin) (SNP): I say to Mr Gray that, as someone who constantly uses the buses and the subway in Glasgow, I know about the people, including my constituents, who use the buses. I am one SNP member, back bencher or not, who certainly knows what the public think.

In fact, in 2010, I held a transport summit in Glasgow in Partick burgh hall, at which the general public, SPT and First and other operators were present. We asked the people in what is now my constituency exactly what they wanted from transport. I know that we are concentrating on

buses, but the motion is entitled "Transport", so I could perhaps widen the debate out a little bit.

People certainly wanted decent buses running at the proper times with a decent bus fare, but they also wanted joined-up thinking. I think that we have sometimes lost the point about the importance of joined-up thinking. If my memory serves me right, this is the third debate that the Labour Party has held in Parliament on transport and buses, in particular, as there was Patricia Ferguson's members' business debate and there have been two other debates since then.

I welcome the debates, but I do not welcome the people we represent being used as political footballs because a council election is round the corner. [*Interruption.*] That may not be happening in Ms McMahon's constituency but, unfortunately, in Glasgow we have now got to the stage at which that is the only game in town, in that it is the only issue that Labour can produce. That is a sorry state of affairs.

I agree with a number of the points that Patricia Ferguson made in her speech. I also thought that Jenny Marra's speech, which concentrated on the people, was very good. I agree with most of Patrick Harvie's amendment. We must look at every single issue.

Following the transport summit that I held, I had meetings with the then transport minister, Stewart Stevenson, to try to talk to the bus companies. Members are basically saying that it is about this Government or that Government or previous Governments, and no one has talked about First, which is the bus operator in Glasgow. We must bear it in mind that the Government gives a substantial amount of money to First and other operators.

Patricia Ferguson will be aware, as are other members in Glasgow—I do not apologise for concentrating on my own constituency—that the buses pollute Glasgow city centre. It is sensible to change the way that the money is being invested, because the approach that is being taken is more environmentally friendly. If members get a copy of the summit report, they will see that people in Byres Road, Great Western Road, Woodlands Road and other areas in my constituency, including Maryhill Road—part of which is in my constituency and part of which is in Patricia Ferguson's constituency—complain consistently about emissions.

Jim Hume: I find it strange that SNP members keep referring to the fact that we want to see buses being as economical as possible with their fuel. Does the member not realise that it is already in bus operators' interests to have fuel efficiency?

Sandra White: I am coming to that point. The changes in the way that the money is spent make

bus companies more fuel efficient. Coupled with that is the Scottish green bus fund. I was astonished—as Gordon Matheson and others in Glasgow City Council appeared to be—that First did not apply for a grant from the Scottish green bus fund 2012. That grant could have improved the environment for the people who live in my constituency of Glasgow Kelvin and in Glasgow city centre. It could also have created jobs in Scotland, because these new buses are being built in Falkirk by Alexander Dennis Ltd. I would like the minister to raise with First the issue of why it did not apply for such a grant. We can argue in the chamber about the various issues, but we must ask the bus companies—particularly those in Glasgow—why, given the contribution that this Government and previous Governments have made, they did not apply to the green bus fund.

10:46

Paul Wheelhouse (South Scotland) (SNP): I welcome the opportunity to speak on a subject of vital importance to the residents of South Scotland. In the immediate aftermath of First Scotland East's decision to discontinue key services in East Lothian and Midlothian, Paul McLennan, the leader of SNP-led East Lothian Council, met FirstGroup and the minister to discuss possible solutions in order to minimise the decision's impact on jobs and commuters.

I congratulate the Scottish Government, East Lothian Council and FirstGroup on getting round the table so quickly to seek solutions, which is why I lodged an amendment to Iain Gray's motion S4M-02567. I hope that Iain Gray and everyone who supported his motion calling for dialogue will join me in commending all those who were involved in those early talks.

The meeting was constructive, and a groundbreaking idea was mooted for a public bus service that would run on non-commercial routes to ensure that people who depend on buses to get to work, to do their shopping and generally for getting about remain connected. Paul McLennan told the *East Lothian Courier* on 13 April:

"We are working tirelessly to protect and support our communities and I can give reassurances that none of our communities will be without services in June."

Neil Barker of FirstGroup did not, as Elaine Murray's motion suggests, state that the changes to the calculations in BSOG were a primary ground for that difficult decision. He said:

"Even without [government] changes this decision would have ended up being taken in the same, or very similar, way ... This part of the business has been trading badly for a prolonged period of time."

He did, however, cite rising fuel costs as a key contributory factor. As the minister identified, costs

have risen by 57 per cent, and although it is tempting for Labour to blame the SNP for everything from rainy days to spiders under the bed, the cost of fuel is regrettably not something over which the Scottish Government has any control while we remain in the UK.

Iain Gray: Mr Wheelhouse repeats the suggestion that Labour is saying that the BSOG cuts are the only problem. Nobody is saying that high fuel prices are not a problem for bus companies—indeed, in its statement on cutting its services, First cites the current economic climate and high fuel prices. However, it goes on to cite cuts in external funding, which means cuts in the BSOG. When fuel prices are high, that is surely the last time that we should be cutting other support for our bus services.

Paul Wheelhouse: It is nice to see that Mr Gray is finally acknowledging that fuel costs have something to do with the cuts in services in East Lothian and Midlothian.

The Labour Party is obviously applying the Bain principle to the SNP's very sensible fuel duty regulator proposals that would protect car drivers, haulage firms, bus operators and ferries from fluctuations in fuel prices. The Conservatives and their Liberal Democrat friends are just as bad, as they all reject a fuel duty regulator.

I will comment on the bus service operators grant itself. To be clear, past funding mechanisms for buses were not sustainable, and bus operators were essentially subsidised for burning more fuel rather than travelling more miles. As the whole point of a bus service is to provide a public means to get from A to B when there are limited or no alternatives, it is clearly more sensible to subsidise routes where there are limited or no alternatives to taking the bus, and that situation is most common in rural areas.

First and foremost, the changes to the bus service operators grant reflect that need. By subsidising operators based on the distances that they cover as opposed to the volume of diesel that they burn, we will kill two birds with one stone: it will create a significant incentive for operators to lower their emissions in various ways, and it will make running buses on rural routes more attractive.

As an MSP for the rural South Scotland region—I am most familiar with rural East Lothian and the Scottish Borders—I understand the importance of public transport to people in rural areas, and I am certain that the switch in the BSOG funding mechanism to pence per kilometre will not stand in the way of new rural routes being established.

With regard to lowering emissions, I am delighted that the Scottish Government's green

bus fund, which recently allocated £1.8 million to bus operators across Scotland, will continue to remain in place and will allow operators to apply for grants of up to £1 million for new, eco-friendly buses. As my colleague Sandra White said, those buses are mainly manufactured in Scotland, because we lead in hybrid bus technology.

I also hope that the green bus fund will establish itself as another measure that will put operators in a more competitive place from which to offer longer-distance routes. Once again, that is something that will encourage new services and protect existing services in the rural areas of the Lothians and the Scottish Borders that need them the most.

I want to address Elaine Murray's assertion that the concessionary travel scheme is not properly funded. As Jamie Hepburn has mentioned, the funding for the concessionary travel scheme has increased this year by £7 million to £192 million for 2012-13.

Elaine Murray: Will the member give way?

Paul Wheelhouse: We have heard enough from Dr Murray on this point.

When the concessionary scheme was introduced, it was agreed that it would be reviewed intermittently. Given the enormous difference in the financial climate today compared with that in 2006, that is a sensible thing to do.

I support the Government's amendment. I am proud of the SNP Government and of SNP-led East Lothian Council for the speedy response to the cuts in East Lothian.

10:51

Michael McMahon (Uddingston and Bellshill) (Lab): In response to Paul Wheelhouse, I think that it is only fair to acknowledge that many of the problems that face transport companies are caused by circumstances that are outwith the control of the Scottish Government. Anyone who provides or relies on public transport has known for some time that there are huge pressures bearing down on companies due to the cost of fuel.

The level of fuel prices at present is determined by a combination of international economic circumstances, oil production issues and many other commercial variables. That situation must be understood. What is not understandable, however, is the Scottish Government choosing to exacerbate the problems that bus operators face when it should be seeking to ameliorate the economic environment that bus operators are enduring, bus passengers are being subjected to and transport company staff are paying the price for with their jobs.

As Transform Scotland has pointed out, Scottish ministers' attempts to blame the UK Government are "complete rubbish", as it is entirely within the power of Scottish ministers not to make the cuts.

What is even more perplexing is that, reverting to type, the Scottish Government and SNP members choose to decry those who raise concerns rather than genuinely seek to address the concerns that have been highlighted. James Dornan and others have accused us of scaremongering, but I remind the Government that a few months ago it rained down its bombast in the chamber to reject concerns about the curriculum for excellence. Less than two weeks after that, it had to concede that remediation was needed. As with hospital blankets, we were not scaremongering then and we are not making up the problems now. These are not Labour's warnings; they are the warnings of the public transport sector, transport workers and bus users.

When we learn that there will be increased fares, a reduction in service levels and less support for socially necessary bus services—for example, those that are used to reach health facilities—we believe that we have a duty to raise concerns in Parliament and a right to call on the minister to address those concerns. That is why my colleagues in South Lanarkshire Council are listening to the people of Hamilton and Uddingston and why councillors such as Davie McLachlan and Maureen Devlin have been out collecting hundreds of names on a petition that I hope will soon be before the Parliament, to ensure that something is done to address the issue.

Unlike the SNP, Labour has been listening to people such as Ralph Roberts, the managing director of McGill's bus company, who is, as Elaine Murray pointed out, an SNP local council candidate. His comments are worth rehearsing. He claims that the Government is being "pig-headed and obstinate" in pushing through the cuts to the operators and that it is in denial about the impact of the grant changes. He accuses the transport minister of going back on an agreement that was struck with the industry in 2010 over the concessionary travel scheme. He is making those allegations; we are not. We are simply ensuring that members know about them.

Keith Brown: I am sure that the member is aware of Henderson Travel, which is a company in his own area. When I met it to announce the latest hybrid bus vehicles that will go to it—those buses have exceeded fuel savings expectations—it said that the BSOG changes had worked very well for it, because many of its routes benefit from them. Does the member acknowledge that more than 200 companies are benefiting from the BSOG changes?

Michael McMahon: We know that there are winners and losers from the BSOG changes, and we know that Mr Souter is a winner and that Henderson Travel might be a winner. The problem is that there are far too many losers. That is why the minister is not listening to his SNP colleagues in the City of Edinburgh Council, who share Labour's concerns. They are not trying to wriggle out of their responsibilities in the way that he is.

More important, as Patrick Harvie said, we should listen to ordinary constituents, such as Josie in my constituency. She can no longer get a direct bus from her home in Holytown to Bellshill health centre, which is only 2 miles away; now, she will have to take two buses to get her to Bellshill via Motherwell, and the journey will be 6 miles. It will not cost her any more to do it because of her free bus pass—Labour introduced those passes—but the price of her packed lunch for the days out that she now has is becoming a financial burden that she would rather not have. Her problem is not so much the level of funding that the Government provides, but the absence of effective regulation of the bus industry in Scotland, which allows bus companies to reduce service levels, withdraw routes and generally run buses with little regard for the social needs of local communities. Bus regulation must be reintroduced.

When the SNP meets in a few weeks' time to change its position on NATO, perhaps it should also change its position on bus reregulation. Mr Souter may not like that, but the people of Scotland will.

10:57

Mark McDonald (North East Scotland) (SNP): Anyone would think that there was an election on. Far be it for me to deviate from the tone that has been so graciously set for us today.

The comments of Jenny Marra, who discussed the difficulties for certain communities in Dundee, struck me as being a little rich. Labour's Dundee City Council budget would have cut £210,000 from non-committed spending in the supported services budget that was specifically for buses and would have meant that the council could not have added further routes or invested in existing ones. By contrast, the SNP Administration in Dundee gave £50,000 to National Express, which was in addition to the £500,000 that was given from the Scottish Government green bus fund to support the bringing of 10 eco buses to Dundee. This is about delivering for Dundee, not dithering for Dundee.

I know that the minister has been outed by *Holyrood* magazine and that he will get his dancing shoes on in the not-too-distant future, but

the Labour Party is undertaking a bizarre dance on concessionary travel. Dr Murray has stood up and said, "I'm not telling you to take the bus pass away from people over the age of 60 who work; I'm just asking you to think about listening to somebody else who is telling you to do that."

We know the reason for that: the Labour Party will then be able to say, "We didn't suggest this. It's not the Labour Party that is suggesting this, but the Scottish Government is now actively considering taking away your bus pass. Naughty ministers are considering doing that." It is inconceivable that a member should stand up and say, "You should consider what somebody else has said, but I'm not recommending that you actually do what they are suggesting. I'm just suggesting that you look at it and then disregard it, because we don't actually support what they are suggesting."

Dr Murray is sitting next to Mr Baker, with whom she might want to have a conversation. He put out a press release on 28 March that said that the SNP is threatening the future of the concessionary bus pass. It is interesting that Labour put out the press release before we had even agreed to listen to what Dr Murray has told us she does not actually want us to listen to.

There was talk about subsidies for large private organisations, such as companies that are part of FirstGroup, which turns over hundreds of millions of pounds in profit every year. I quoted to Dr Murray the words of Ellis Thorpe, the Labour candidate for Inverurie and district on Aberdeenshire Council, who said:

"Arguably the problem isn't 'cuts in public grants,' but the long-term dependence on taxpayer handouts ... Isn't a re-examination of subsidised public transport by economists and politicians long overdue in the interests of taxpayers?"

That appeared in *The Press and Journal* in Aberdeen on 4 April. Dr Murray said that we did not give the context for the quote and that she did not know to what it referred. I can reveal to Dr Murray that the letter was written directly in response to an article in which FirstGroup in Aberdeen had claimed that the bus service operators grant cuts would cause it problems, a point that was directly contradicted by a Labour council candidate. If the Labour Party wants to trade quotes from council candidates that is fine with me, but it should check that it has its own house in order before it starts throwing stones.

Elaine Murray rose—

Mark McDonald: No, no.

Let us consider the complaint that fare increases are chiefly the result of the changes that are being made to the bus service operators grant. "The Auld Toon News", the newsletter of the Old Aberdeen community council, reports in relation to

the high fares in Aberdeen compared with fares elsewhere:

"We wrote to Firstbus to ask for their comments. While their cost base in Aberdeen is rather higher than Edinburgh and Glasgow, they consider the key issue is passenger numbers—Aberdeen buses are simply not so well used."

FirstBus in Aberdeen is telling community councils that the key issue is not the cuts to BSOG but passenger numbers. It ill behoves politicians to hold up the fig leaf of BSOG and suggest that it is somehow the all-singing, all-dancing panacea for the problem of fare increases. The issue is much more complex.

I met David Stewart, the managing director of First in Aberdeen, and talked to him about the bizarre idea that increasing fares while passenger numbers are decreasing will increase patronage. I suggested that First in Aberdeen should consider a short-term drop in fares and assess its impact on patronage in the city. That would be a worthwhile experiment for First to undertake. First also needs to look again at whether the routes that it offers meet the needs of the public. To the company's credit, that is something that it will do.

The Labour Party did nothing to try to amend the budget in relation to the bus service operators grant and it ill behoves its members to shed crocodile tears that they hope will appeal to voters in the local elections in May.

11:02

Patrick Harvie: I express my gratitude to the members who reflected on and endorsed my suggestion that the debate should be about people and the impact on them rather than party politics. Given the tone of the debate, it seems that that is easier said than done.

The members who criticised Labour, in particular, for not going far enough on regulation when it was in office at UK or Scotland level are quite right and I agree with them. We must now decide what we do with the opportunities that we have.

To the members who defended the SNP's position—the Scottish Government's position—I ask a straightforward question: is anyone in this chamber actually satisfied with the level, quality or price of bus services in Scotland? I certainly do not think that many people in Glasgow are satisfied with their bus services, and I have heard many members from Aberdeen saying that they, too, are not satisfied. If we can agree that we are not satisfied and that Scotland does not have the high-quality and affordable bus service that it deserves, we must agree to take a different approach.

Mark McDonald: I am a resident of Aberdeen and I absolutely agree with Patrick Harvie about the high fares in the city. Does he support me in calling on First to consider implementing a short-term fare drop and assessing its impact on passenger numbers, given that First said that passenger numbers are the key issue?

Patrick Harvie: I endorse the member's suggestion, but a short-term fare drop will never be sustainable unless taxpayer funding is there to make it so.

This might chime with Iain Gray's comments. I was reflecting on the unerring wisdom of "Yes Minister"—pretty much every day we come across something on which "Yes Minister" had it right. There is a scene in which the minister is being driven by his chauffeur, George, who says that he was listening to a chap on the radio who said that the problem with health, education and transport was that ministers and civil servants all went to private hospitals, sent their kids to private schools and went to work in chauffeur-driven cars. The minister scoffs. George observes that it would be a bit different if the minister and Sir Humphrey had to go to work on the number 27. The minister replies that that would be quite impractical. George says that the minister would have to make the bus services a lot more efficient. "Of course we would," replies the minister. George responds by noting that that was what the chap on the radio said. George's point was well made.

We should not think of bus services in the way that George Adam seemed to think of them, as things that are of concern only to older people and disabled people. He seemed to have the idea that bus services are about the lowest common denominator and that they are an option of last resort. That is not good enough. We deserve a higher standard of service.

The SNP's main policy response to the debate has been to emphasise the idea of a fuel duty regulator. The introduction of a fuel duty regulator in the context of a quite reasonable expectation that energy costs and oil costs will continue to rise globally would simply result in ever-declining revenue from fuel duty, which would mean lower public spending, whether on public transport or anything else. A fuel duty regulator is not sustainable in the long term; it would simply give a bit of tax back to anyone who burned fuel. It is not a reasonable response economically or environmentally.

I would like to respond to Alex Johnstone's speech. He made some important points; principally, he asked where the money would come from to finance bus services or to regulate them. It is a matter of priorities. There is always another £1 billion to throw at the road-building programme, and there is always money available

for tax cuts for the wealthy, whether in the form of the SNP's policy on corporation tax cuts or of the UK Government's decision to give a tax cut to high earners. The issue is whether we choose to prioritise bus services.

Alex Johnstone talked about market failure. Competition has done some good things—it has had some benefits—but it has failed some people very badly. Patricia Ferguson said that there was a lack of democratic control and accountability when it came to the delivery of bus services.

Alex Johnstone's other main point was that the Government, or the taxpayer, was becoming the biggest customer in the bus system. That is absolutely unsustainable. It is quite right that we should pay for bus services on a collective basis because they are best provided on a collective basis to meet public interests. That is not the problem—it is a vital aspect of public services; the problem is that we underfund for the standard of service that our constituents deserve and that we do not specify the standard of service that we expect them to receive. We provide neither the necessary funding nor the regulation.

I will close by reading out a few more comments from bus passengers in Glasgow who have sent in their views to my website. The first one will particularly appeal to Alex Johnstone. Its author said:

"The fight for Better Buses means a fight for a socialist alternative."

We might not all use that language. They went on to say:

"Bring the bus companies back into democratic, public ownership, accountably run under one umbrella organisation."

Another passenger said:

"Catching a First Bus from Shawlands Cross is like Russian roulette—you never know if it will change drivers at the Larkfield Depot and if it does, whether the replacement driver will turn up."

Another person said:

"I've spent a winter waiting for buses, or so it seems. The timetables ... seem like a work of complete fiction."

A stream of people said that they had taken their complaints to FirstBus but had been fobbed off.

That is not good enough. We should all agree that the standard of service is inadequate and that services are underfunded and overexpensive, and we should do something about it.

11:08

Jim Hume: We have heard at length from many members about the ramifications of the Government's damaging actions, some of which I mentioned earlier. None of those ramifications

should have come as any surprise to the Scottish Government because it was forewarned months ago of what would happen by the Confederation of Passenger Transport Scotland. It was not just the industry that issued warnings. Earlier this year, Gavin Booth of Bus Users UK said:

"Bus Users UK is concerned that the 20% cut in the budget for Bus Service Operators Grant to bus operators, and the way that this is awarded, will have serious implications for passengers, with the likelihood of fares increases and threats to the future viability of some bus services."

How right he was.

In my opening speech I spoke of the impact on urban areas of the change to the bus service operators grant, but the communities of Midlothian and East Lothian provide case studies that show how no part of Scotland, including the largely rural areas, will be left unaffected.

Christine Grahame: Will the member take an intervention?

Jim Hume: I do not have much time. I have only a tight six minutes.

In February, the managing director of First Scotland East, Paul Thomas, announced a

"comprehensive review of bus services throughout South-East and Central Scotland"

as a direct result of the reduced subsidy from the bus service operators grant. The result of the review, which was instigated by the Government's actions, is the withdrawal of 22 services and amendments to a number of others in Midlothian and East Lothian. Significantly, that will result in villages such as Pencaitland and Elphinstone, which were mentioned earlier, being removed entirely from the bus network in June, which has obvious complications for pupils who travel to and from school by commercial bus services between Pencaitland and Haddington and between Elphinstone and Tranent.

Paul Wheelhouse: Will the member take an intervention?

Jim Hume: I am sorry, but I do not have time.

I hope that Midlothian Council and East Lothian Council can find satisfactory solutions in spite of their tight budget settlements and promises from the SNP locally that it has got the situation sorted. As Iain Gray stated, the minister is on the record as saying on Radio Scotland that the Government cannot fund bus companies in that way.

The news of job losses and the possible closure of a depot in the First Scotland East division is a real blow for the staff and communities in those areas. Bus passenger patronage fell by 6 per cent in 2010-11, and I fear that the 200 redundancies at First Scotland East as a result of the review may

not be the last in the industry, unless the Government rolls back on its decision.

The Government's recent decisions have only added to the pre-existing uncertainty and unease in the industry due to the consistent underfunding of the concessionary fares scheme by the Administration. Indeed, the concessionary fares scheme in the past financial year exceeded its budget by £8 million, which was cited as a factor by First for its review of its Scotland east operations.

The current situation is untenable and Audit Scotland, the Public Audit Committee and the independent budget review panel all agree that the concessionary fares scheme needs to be looked at again. I am aware of the Government's independent research paper that will be published later this year, but its remit does not go far enough to investigate ways of truly making the scheme sustainable for the long term. The free bus pass has been a great success and we should be proud of the way in which it allows some of our more vulnerable citizens to live independent lives. That is why we need to protect the scheme in the long term and ensure that those who depend on it so much can still use it in the future.

Christine Grahame: I ask Mr Hume not to use the word "free" when referring to the bus pass. The scheme is concessionary and the people who use the bus pass, among others, have paid taxes.

Jim Hume: I take the member's point.

The scheme will founder if all the Government ever proposes is to cut the reimbursement rate given to bus operators. It is time to consider a full review to investigate how the scheme can be made affordable for the long term and to consider perhaps how to extend it to more community transport groups.

What is the solution to protect our bus services? Labour failed on Sunday and today to address that question. £1 billion has come into the hands of the Scottish Government since last year and the UK budget added £20 million to the Government's spending power. That money can free up money elsewhere in the Scottish budget and allow bus services to receive the protection that passengers are crying out for. The Government has the ability and flexibility to protect Scotland's bus services.

Joe FitzPatrick (Dundee City West) (SNP): Will the member take an intervention?

Jim Hume: I am just coming to the last minute of my speech—apologies.

The Government needs to explain adequately why it has changed so fundamentally the mechanism for funding Scotland's bus services. It cannot be for environmental reasons—that does not make sense, as I and others have pointed

out—nor can it be for the apparently limited benefit that the change may provide to our remotest communities. As I have said, bus companies in my area are saying that there will not be such a benefit. Passengers and staff members of the bus companies deserve to know the genesis of the Government's bungled policy decision. To protect jobs and services, the Government must take immediate action to fix the mess that it has created. The money is there—we have shown how—so I urge the minister to utilise it and support our bus services now.

11:14

Jamie McGrigor (Highlands and Islands)

(Con): I thank those organisations that provided useful briefings for the debate. Oddly, I did not get a briefing from *Private Eye*, but I hear from the minister that he uses it for his research. I respectfully suggest that he should also cast his eye over *The Economist*, a magazine that is universally respected for its economic wisdom, including, of course, in relation to transport.

Today I spoke to West Coast Motors, which is based in Argyll and produces good services for the people of Argyll who use the buses. The people there asked, in essence, for no more regulation, but a better thought-out, better funded concessionary system, because that system is apparently costing them a lot of money.

I emphasise that the Scottish Conservatives are fully committed to regular, efficient and affordable buses in urban and rural districts in Scotland. We recognise that such services are crucial to many of our constituents, who rely on them for commuting, shopping and visiting and seeing their friends and relatives. Bus services are also important for many of the tourists who come to Scotland, including to my region, the Highlands and Islands.

We are very clear that private sector operators play a big part in delivering those services and, because of deregulation, many Scots have a choice between operators on routes. Deregulation has been a success. We are proud of it and the Labour Party is simply out of touch and backward in calling for reregulation.

If reregulation is so important to the Labour Party, why did it not do something about it in the eight years in which it was in power in Holyrood? The reality is that reregulation would simply burden the bus operators with yet more bureaucracy and divert money away from services—something that we would all want to avoid.

The ill-thought-out underfunding of the concessionary scheme is adding to local government costs and to the price of bus fares for people who use the buses. Alex Johnstone has

set out our position on the cut in bus service operators grant, and I agree with him. We are aware of the concerns that are being expressed, especially about services in the Lothians, about which we have heard a lot today. MSPs from that region are, understandably, speaking up for their constituents.

At the same time, the Scottish Government is trying to get better value for money from discretionary grants such as BSOG. We, of course, would want that to happen, but the Government should at least assess how services throughout Scotland have been affected by the changes that it has made to the scheme and be ready to be flexible with it as we go forward.

We want there to be continuing, regular and genuine dialogue between ministers, their officials and the bus companies on BSOG and the concessionary fares scheme, about which they are all talking. We also support the Scottish Government's desire to use BSOG to encourage bus operators to provide the most fuel-efficient vehicles possible and to consider using biofuels if that works.

A number of members mentioned fuel costs. They impact on all forms of public and private transport and remain a big issue throughout Scotland. My constituents in the Inner and Outer Hebrides, Orkney and Shetland are being assisted from this March by the 5p cut in the price of a litre of diesel or petrol that the UK Government introduced. That did not happen in 13 years of Labour Government. The UK Government will monitor the impact of that pilot and determine whether it might be replicated in future.

I liked Patrick Harvie's speech. He talked about the motor industry. Perhaps we will see high-level talks between the Scottish Green Party and Jeremy Clarkson. I agree whole-heartedly that we should listen to the people who use the buses and, to some extent, take their advice on future services.

The Deputy Presiding Officer (John Scott): Before we move to the fourth closing speech, I ask party whips to note that several members who took part in the debate are not in the chamber for the closing speeches. The Presiding Officers are not happy about that.

11:19

Keith Brown: There were some very good speeches in this debate, some less so. Patrick Harvie's speech was referred to several times and, certainly in his opening speech, he made a few points that I would want to examine further. I should also tell him that bus passengers already have a voice—for example, we have Passengers View Scotland and Bus Users UK—but I am more

than willing to listen to any other suggestions that he might wish to make to improve the situation. On Mr Harvie's comment about spending money on roads, however, I have to say that I am not sure how buses will get around the country if we do not spend money on that, and we will continue to do so.

Patrick Harvie: Is the minister aware that for the cost of 5 miles of urban motorway in Glasgow he could have repaired every pothole in the city, bought a publicly owned bus fleet, introduced some form of Oyster card system, built crossrail and the airport rail link and still have had change?

Keith Brown: As I have said, buses need to travel on roads and we will continue to invest in them.

One of the best speeches this morning came from Alex Johnstone. I did not agree with many parts of it, but it was certainly very considered and in his six minutes he touched on a lot of important issues. On his basic point that, in spending money, we should at all times consider our priorities, I can reassure him that we do so regularly.

However, Mr Johnstone's most telling point was that we are in this situation because of the Labour Party's legacy in destroying the UK economy. Indeed, when he left office, the previous Chief Secretary to the Treasury, Liam Byrne, left the written message, "There's no money left." That is the root of the problem with regard to the money that we can afford to give not just to the bus industry but to everyone else.

I thought that Jim Hume's speech was bizarre. I am sure that the few remaining Liberal Democrat supporters in Scotland who live in rural areas and are interested in the environment will be interested in hearing his staunch support for the consumption of fuel over environmental benefits and his special pleading on behalf of urban operators at the expense of rural operators. He will be able to explain his position when he gets back to his constituency.

In his own speech, Jamie Hepburn very tellingly pointed out that the Labour Party did not even know the terms of its own motion. That is important because a number of members in the debate were seriously trying to address the issues that we are facing while others clearly were not. It is also true that Richard Baker—he has not yet spoken publicly but I am sure that he will make this point when he winds up—has said that there has been a £7.5 million cut in the concessionary travel scheme. However, I can tell him that the funding has gone up by £7 million from £180 million to £187 million.

Richard Baker: Will the minister give way?

Keith Brown: Mr Baker will get his chance to come back on that point shortly and I hope that he will apologise for getting it so badly wrong.

On the subject of ignorance, I point out to Iain Gray that the bus route development fund has not been abolished; instead, under the concordat, the money has been given to local authorities as a direct grant, to allow them to support local bus services. Indeed, as a former transport minister, Iain Gray should know the difference between a council running a bus service itself and it doing so at arm's length. The two things are quite distinct. One is possible; the other is not.

Iain Gray: As the current transport minister, Mr Brown must know that to get the exemption under the legislation to run an arm's-length bus company a council must demonstrate that it has enough vehicles, drivers and everything else that is needed. Given that a coach costs around £200,000, what financial help does the minister intend to provide to East Lothian to allow it to pursue that option?

Keith Brown: The East Lothian proposal is a matter for East Lothian.

Iain Gray: None, then.

Keith Brown: We have said that we will ensure that Transport Scotland provides as much advice as possible on the issues that the council will have to face. The council has also talked about running the services in conjunction with school transport and other services. It all depends on how it intends to configure the business. In any case, if Iain Gray is so determined that the bus industry should receive more support, why did he support the spending of £770 million on the trams in Edinburgh? Does he think that the bus industry was happy that the trams received three times the amount of support that we can give to it each year?

As I have said, the important speeches in this debate sought to address serious issues in a serious way. Indeed, as Kezia Dugdale suggested, at the root of all of this lie the people who might lose their jobs and communities worried about the future of their services. I suppose that we can address the matter in a number of ways: we can meet the people concerned and support them in what they are trying to do; we can meet their representatives, by which I mean councillors or MSPs—and indeed we have done so; or we can meet the communities and the operators. For example, we have had fairly productive discussions with First since the announcement was made about the future prospects for its staff, which we hope will safeguard as many jobs as possible.

James Dornan made the point that the serious way in which to go about trying to address the

issue is to talk to people and see what resolutions we can get. That is what we have to do in government, as I am sure Iain Gray knows. We betray rather than serve those people's interests if all that we do is to make promises that we have no intention of keeping. Labour does not have the costings or the track record of putting forward proposals during the budget process that would give credibility to the things that it proposes in its motion.

A number of members—Paul Wheelhouse in particular—pointed out the problems that First has had in East Lothian and Midlothian. First has acknowledged those, but that never finds its way into speeches from the Labour benches. As I mentioned, we have had discussions with First and we are also going to speak to Lothian Buses—that came out of the meeting that I had with Unite. We will also try to get Midlothian Council on board, as it will be much more effective if both of the councils that are most concerned talk together.

In a good speech, Sandra White discussed green buses. She asked the pointed question—which I cannot answer as it is for those concerned—why there were no applications for green buses in Glasgow. When we put in additional money to provide the green buses in Edinburgh, particularly on the number 10 route, we estimated that savings of about a third in fuel consumption would result, but the company tells us that the saving is more than two thirds. That is the way to go in investing in buses. What Lothian Buses has done with its services must be the way to go for the future benefit of both passengers and the environment.

Not enough mention has been made of the fact that the cost of diesel has increased by 57 per cent in the past five years, and the figure for petrol is about 55 per cent. We also have the highest fuel duty in the European Union. People who wonder why the bus companies are looking for more support should look at those facts. What is the UK Government's response? It is going to hike fuel duty again in August. That is the biggest driving factor for the fare increases. Just before the 2007 election, we had support from the Conservatives and the Liberal Democrats for a fuel duty regulator and tough action on fuel. It will be interesting to see whether we get the same support today.

We will continue to make representations to the Westminster Government and encourage it to scrap the increase in fuel duty. No mention was made in the speeches from the Conservatives or the Liberal Democrats of the effect of the fuel duty increase, which vastly outstrips the impact of BSOG. The impact of BSOG is 1.9 per cent in relation to the turnover of First, but fuel duty is bound to have a massive impact. It would have

been far better for the Conservatives and the Liberal Democrats to support us in our call for the Westminster Government to look at that seriously.

I am convinced that we are doing a great deal to support the bus industry, not least by trying to get rid of some of the worst effects of the fuel increases from Westminster. In that regard, I am happy to commend to the Parliament the amendment in my name.

11:28

Richard Baker (North East Scotland) (Lab):

This has been a good and important debate, even if there has been little agreement across the chamber.

It should be evident to all members that there is real concern not just in the Parliament but throughout the country about the withdrawal of bus services and the sharp increases in bus fares. As we have seen again today, the minister's approach is to pretend that his Government has no role in the matter. He is sticking his fingers in his ears and ignoring those who have understandably expressed their deep anxiety at the developments. That is simply not acceptable. All that we have had today is excuses and complete intransigence. There is no willingness to engage with the issue or offer another way forward or discussion. That is failing bus passengers throughout Scotland.

The Scottish Government should instead recognise the problems that their decision to cut the bus service operators grant has caused—problems that are compounded in our urban and city areas by the change in the formula for the grant. Rather than constantly attempting to pass the buck, the Government should halt the changes and work with bus operators and others in the industry, such as the bus workers who are in the Parliament today, to map out a better and fairer future for our bus services and our bus industry.

As so many members on the Labour benches and others have pointed out, access to affordable bus services is vital to those on lower incomes. Patrick Harvie rightly mentioned the personal impact on those who depend on bus services, who cannot afford cars and who need buses to get about and to get to work.

Far from protecting those who are on lower incomes from the UK Government's cuts agenda, in this case in particular the Scottish Government has acted to make life more difficult for the less well-off in our society. It is no wonder that the SNP is making common cause with the Conservatives today. If someone is on a low income and their bus fare has gone up by a quarter, as it has on some routes in Glasgow, that is going to hit them hard in the pocket.

In my city of Aberdeen, where we already have high fares, we have seen hikes of 8.5 per cent. We have heard from members about the effect that the grant cut is having on services in other parts of the country. In Glasgow, fares have increased and services have been withdrawn. In Dundee, fare increases were announced this week. Of course, the change in the formula for the bus service operators grant might be helpful for particular operators, such as Stagecoach, but it is more punitive for our urban areas.

In Edinburgh, where there have also been significant fare increases, there has been a cross-party campaign to get the Scottish Government to change its approach to the bus service operators grant. Why is the Scottish Government so dismissive of the concerns when its group leader on City of Edinburgh Council has also asked it to think again?

Mark McDonald: I seek clarification. Is Richard Baker suggesting that if the bus service operators grant funding changes were not implemented, there would be no fare increases in Scotland?

Richard Baker: I find it extraordinary that Mr McDonald refuses to accept that his Government's actions have contributed to an 8.5 per cent increase in bus fares in Aberdeen. That is hitting the citizens of Aberdeen hard, and his refusal to acknowledge local concerns about the issues is breathtaking. The childish behaviour that we are seeing from Mr McDonald and other SNP members ill serves this debate and those people who have to pay through the nose for their bus services in areas of Aberdeen when they cannot afford to. The behaviour on the benches opposite is disrespectful to them and to Parliament, and is frankly disgraceful.

Why is the Scottish Government as dismissive of these concerns as Mr McDonald seems to be when others from within the SNP have asked it to think again?

The Scottish Government would have us believe that it has nothing to do with this; it is all everyone else's fault and the bus companies, principally, are to blame. That just does not stand up to any scrutiny at all. Moreover, the horror that the SNP has expressed today at the profits that the bus companies are making has not stopped it taking sizeable donations from Sir Brian Souter.

The fact is that a fuel duty rebate has been in place for bus services since 1965. We have greater fuel subsidy support for operators of other forms of public transport than we do for bus operators. Public transport—including bus services—does require subsidy. Patrick Harvie made good points about that.

The bus service operators grant had already been cut by £6 million from the level originally

agreed with operators before it was cut by a further £7 million in the last spending review, bringing the total cut to around 20 per cent, as Elaine Murray said in her excellent opening speech. Yes, there are other financial pressures on bus operators, with rising fuel costs—our motion acknowledges that—which make this the worst possible time to compound the situation with these cuts. Operators are already being disadvantaged by the cap on the costs of the concessionary travel scheme, despite the SNP's pledge to continue—as we pledged—to fund the scheme in full. That underfunding threatens the future of the scheme.

The minister asked me for figures and I have the Scottish Government's figures for the concessionary fares budget. In real terms, between 2012 and 2015 there will be a cut of £10 million. I am happy to provide the minister with those figures.

Keith Brown: The member made the point that the concessionary fares budget is reducing by £7 million this year. Will he acknowledge that it is going from £180 million last year to £187 million this year? At the same time, will he tell us what exactly the Labour Party's position is? Is it to support concessionary travel or is it, as Richard Simpson said before the election, to take it away from those who are over the age of 60?

Richard Baker: To be clear, we have been committed to funding the scheme and its full continuation. The £7 million that I mentioned is the cut in the bus service operators grant for this year. The figures that I have show a clear real-terms cut of £10 million in the concessionary fares budget. The minister should know his own budget figures.

The SNP's approach to the concessionary travel scheme mirrors its approach to local government when it says that it is someone else's job to deliver the commitment but it does not give that someone else the required funding. That is a dishonest approach to government.

The timescale for the changes has created further problems. While there have been cuts to the grant at the UK level as well, at least operators have been given more notice to prepare for the change; only three months notice was given here. It would have been far better to have a moratorium on the cuts, as happened in Wales, because that would have allowed proper negotiations with operators.

A number of factors are involved in the desperate situation in Musselburgh and Dalkeith, where not only are services being withdrawn, but bus workers are contemplating the prospect of around 200 jobs being lost, but the cut in the BSOG is the straw that broke the camel's back. That is one reason why the Scottish Government's

decision is so damaging—as well as fare increases, it is resulting in the threat of job losses.

That is why we ask the Scottish Government to think again. It simply will not wash for the Government to seek to evade all responsibility for its decision by blaming everyone else. We share the Government's concern about the 2 per cent cut to the Scottish budget, but the cut in the grant is 20 per cent—10 times as bad—and is completely inconsistent with the Scottish Government's stated aim of protecting people in Scotland from the coalition's cuts. The decision will affect those on lower incomes in Scotland disproportionately.

We are not alone in saying that the cut to the bus service operators grant is wrong; nor is it just the operators who join us in saying that. Bus workers and representatives of their trade union, Unite, are here in the public gallery because they care passionately about Scotland's bus services. They want to continue to provide these vital services and they want passengers to have a fair deal. That is why they call on the Scottish Government to change its decision on the cut to the grant. Pat Rafferty, the Scottish secretary of Unite, said before today's debate:

"This decision beggars belief in a time where everyone is affected by economic conditions. Bus patronage is down across Scotland, fares are increasing and jobs and services are being cut—without intervention our bus industry is heading into a perfect storm."

We are urgently calling for the Scottish Government to repeal the BSOG cut as a first step to bring some short-term stability to the sector but in the long term we must revisit the issue of bus re-regulation if we are to return affordability and growth to this vital public service."

It is ludicrous that the SNP refuses to accept the impact of its decision, blames everything on the bus companies, and then refuses to support greater regulation of our bus industry, for which the Labour Party has consistently called. In the previous session of Parliament, the SNP opposed a legislative proposal from Charlie Gordon that would have made it far easier to establish the quality contracts and partnerships that we should now have across Scotland, and which would have ensured greater accountability of the bus industry for the services that it provides, for which we provide the subsidy that we are discussing. The SNP's position is that it is all the operators' fault, but it does not want to do anything to provide extra regulation. The approach is that the operators should just get on with it and passengers will have to make do. That is a mess and a poor vision for the future of bus services in our country.

The SNP's refusal to make any concession on the cut to the grant or to consider revising its approach threatens to make the situation worse. However, it is not too late for ministers to recognise the concerns, change course and

intervene now to protect services and avoid further fare increases. The Scottish Government might not accept our argument that the cuts should be reversed, but it should at least move away from intransigence and ultimatums and on to meaningful dialogue with bus operators, trade unions that represent bus workers and passenger groups to try to establish a different way forward.

If the Government continues to ignore the concerns that have been raised and to pretend that there is no problem with the action that it has taken, the situation for bus services and passengers will get worse. Ministers do not have to dig their heels into the ground. They should be big enough to realise that they have made a mistake and to think again for the sake of bus services and passengers across Scotland.

Scottish Executive Question Time

General Questions

11:38

The Presiding Officer (Tricia Marwick): It is a wee bit early to move on to general questions, but I see that everybody is in their places, so we will just start.

Water Environment (Controlled Activities) (Scotland) Regulations 2011

1. John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): To ask the Scottish Executive how many acres of farmland it estimates will be affected by the proposed changes to the Water Environment (Controlled Activities) (Scotland) Regulations 2011. (S4O-00879)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): We estimate that very few acres of farmland will be affected. Those who are in receipt of the single farm payment and rural development programme funding already have similar controls under cross-compliance legislation.

John Lamont: I have been contacted by many farmers from the Borders who are extremely concerned by the proposed rule changes to ban farmers from applying slurry, fertilisers and solid manures on fields where the land is on a gradient of more than 12 degrees. The proposals come from a Government that portrays itself as the farmer's friend, yet they would render many of Scotland's farms completely uneconomical. Why is the cabinet secretary trying to burden Scottish farmers with yet more red tape, and why did the Government try to introduce such a controversial rule change in such a low-key manner, with a consultation of only four weeks at the busiest time of year for farmers?

Richard Lochhead: As I am sure the member is aware, the industry met Government officials just last week and left that meeting reassured that the proposed changes will not add any unnecessary red tape to industry. There was perhaps some misunderstanding about their potential impact.

I am sure that the member agrees that it is important that we protect our water environment. Agriculture has a role to play in that, hence the European legislation that is in place at the moment, which we have to enforce in Scotland—often for very good reasons, and supported by many farmers in Scotland in the first place.

Nevertheless, I am keen to get to the bottom of why there was such a misunderstanding in the first place. I am currently discussing that with officials and the industry. In the meantime, I can assure the member and the chamber that our objective is not to add any unnecessary red tape or bureaucracy and not to stand in the way of any farming businesses in Scotland that are acting responsibly.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): I am sure that the cabinet secretary will agree that we should deplore the “shoot first and ask questions later” approach of the Tory and Lib Dem spokespersons on this issue. These light-touch regulations will be necessary to bring the binding rules up to date. Will he reassure crofters and farmers in my constituency, many of whom have steep land on their farms and crofts, that the general binding rules will not be overburdensome to them?

Richard Lochhead: Yes, I can give that guarantee to the member's constituents, as I have done to many farmers throughout Scotland over the past few days. However, I cannot assure him that I will be able to stop the Tories and Lib Dems in this chamber from jumping on bandwagons and adding fuel to fires that do not exist.

Jim Hume (South Scotland) (LD): I cannot speak for the Tories but I can assure the cabinet secretary that I could never be accused of such a thing.

There were two criteria in the consultation: whether there was a slope of more than 12 degrees, and whether the land was next to water. A press release from the Government and NFU Scotland stated that the changes would apply only to sloping land that goes into water. Will the minister clarify that?

Richard Lochhead: The legislation should impact only on those farmers whose slopes go directly into watercourses and will ask them to take extra precautions to protect those watercourses. That is for good environmental reasons. Many farmers I speak to agree that we have to protect the water environment and that agriculture has a role to play in that.

I am happy to send further background information to all members who have rural constituencies to ensure that they have the up-to-date information at their fingertips and that any comments that they are making to the media are based on accurate information.

Local Authorities (Pay and Conditions)

2. John Wilson (Central Scotland) (SNP): To ask the Scottish Government what recent discussions it has had with local authorities on the issue of staff pay and conditions. (S4O-00880)

The Minister for Local Government and Planning (Derek Mackay): As independent corporate bodies, local authorities are responsible for the pay and conditions of their employees. There have been no specific discussions recently on those matters, although local authorities have been fully involved in discussions on the reform of local government pensions.

John Wilson: I thank the minister for his response. As he is aware, there has been criticism of the continued use of performance-related pay for senior management at North Lanarkshire Council. Can the cabinet secretary tell me how many other local authorities in Scotland deliver that type of bonus and whether discrimination could be a factor, since other employees of North Lanarkshire Council are not in receipt of that type of special payment?

Derek Mackay: I thank John Wilson for that immediate promotion to the cabinet.

Jackie Baillie (Dumbarton) (Lab): Nicola Sturgeon should watch her back; he is clearly ambitious.

Derek Mackay: My promotion is supported by Jackie Baillie.

It is entirely a matter for North Lanarkshire Council, as an independent corporate body, to justify its decisions. However, I can inform the chamber that no other local authority uses a similar performance pay system for its senior managers. For senior managers in the public sector for whom the Scottish Government has pay responsibility, we have suspended pay progression for 2012-13. All staff access to non-consolidated performance pay is also suspended. That seems like the right thing to do in these circumstances.

Sarah Boyack (Lothian) (Lab): Has the minister any progress to report on whether he will produce positive guidance for local authorities that are tendering work to ensure that we tackle low pay and deliver a living wage across our local communities?

Derek Mackay: We continue to make progress on the living wage—we might return to the numbers later in this question time. More councils are delivering on the living wage, so progress is being made in the right direction. Political parties have also made commitments to that. In terms of procurement and public sector spend, the living wage will be a consideration in the forthcoming procurement bill, which will be introduced to the Parliament shortly.

Graduate Employment

3. Richard Lyle (Central Scotland) (SNP): To ask the Scottish Government what steps it is

taking to help new graduates acquire jobs in their chosen fields of study. (S4O-00881)

The Minister for Youth Employment (Angela Constance): The Scottish Government encourages universities to work with businesses in Scotland to ensure that their degree provision is relevant to business need. New graduates are advised to work with their university careers advisers, who offer a range of services to help graduates to find employment in their chosen field.

Richard Lyle: The underemployment of graduates has a knock-on consequence for the rest of the jobs market, particularly for youth employment. How do the Scottish Government and its agencies help to ensure that students and graduates are provided with the skills that they need to succeed?

Angela Constance: Whether a young person is a school leaver, a participant in a training programme or a further or higher education graduate, we want to get them into work that is suitable to take full advantage of their skills and qualifications. In addition to being determined to tackle unemployment, we want to tackle full on underemployment and displacement in the labour market, particularly among those who do not have a degree.

The universities sector benefits from £1 billion of investment by the Government, therefore we expect the sector to do everything that it can to ensure that young graduates have the right skills. The Scottish Further and Higher Education Funding Council has produced its "Learning to Work Two" action plan, which includes a number of recommendations to ensure that employability is embedded within all learning and teaching.

Welfare Reform (Carers)

4. Mark McDonald (North East Scotland) (SNP): To ask the Scottish Government whether it has made an assessment of the likely impact of United Kingdom Government welfare reforms on carers in Scotland. (S4O-00882)

The Minister for Public Health (Michael Matheson): The UK Government's welfare reform measures will impact on carers and those to whom they provide care in a number of different ways. Those include the personal independence payment as a gateway to receipt of the carers allowance, the earnings disregard and the cap on benefits. Some of the details will not be in the public domain until draft regulations are available. We have made our views known to the UK Government about welfare reform and the specific impacts on carers, and we are working with Carers Scotland and others to assess the impact of the reforms.

Mark McDonald: The minister will be aware that the carers allowance, although unaffected by the reforms to the benefits system, remains a pittance and that the cost of living is significantly beyond the means of many carers. Can he advise what representations have been made to the UK Government to improve the support for Scotland's carers and the vital work that they do?

Michael Matheson: My predecessor, Shona Robison, made representations to the UK Government on several occasions regarding the level of the carers allowance. At that time, the UK Government's response was that the matter would be considered in the context of welfare reform. Additionally, the Cabinet Secretary for Health, Wellbeing and Cities Strategy has made representations to the UK Government on a number of occasions regarding our concerns about welfare reform. I know that carers say that the carers allowance should be paid at a higher level and that the cost of caring can be extremely challenging. That is why, in the areas within our control, we have provided resource to health boards to focus, through the carers information strategy, on providing support around income maximisation. The UK Government intends to consider provisions around the carers allowance and will take that work forward as part of its programme for the universal credit. We are asking for further details from the UK Government on the exact nature of the changes that it intends to make.

Michael McMahon (Uddingston and Bellshill) (Lab): I welcome the minister's concern about the implications of welfare reform. He will be aware that the Welfare Reform Committee has been considering that this week.

There is concern about the level to which the Scottish Government can mitigate some of the effects, particularly in relation to council tax benefit. Will the minister confirm that the discussions between the Government and the Convention of Scottish Local Authorities are leading to a situation in which COSLA might have to pick up a sizeable chunk of the deficit in council tax benefit that is being passed to the Government? If that is as much as the mooted £17 million, a huge chunk will come out of local government funds, which could impact adversely on carers and others who depend on services.

Michael Matheson: We have had positive discussions with COSLA about its concerns in relation to council tax. We are taking forward work to ensure that we put in place the right provisions for a successor, following the changes, when the matter is handed over to the Scottish Government.

The member will be aware that the UK Government has said that it will transfer the money that is available for council tax benefit,

minus 10 per cent. That does not demonstrate much in the way of the respect agenda that we were promised from the UK Government.

We as a Government will look at what we can do. Our discussions with COSLA recognise the serious financial challenges that have been created by the UK Government's decision to cut 10 per cent from the fund when it is transferred.

Forensic Services (Relocation of Post-production Staff)

5. Lewis Macdonald (North East Scotland) (Lab): To ask the Scottish Executive when the decision was taken to relocate post-production staff in the forensic services. (S4O-00883)

The Cabinet Secretary for Justice (Kenny MacAskill): Decisions on the deployment of forensic services staff are for the Scottish Police Services Authority. I understand that the authority has relocated a number of posts as part of its ongoing modernisation programme. They include those involved in post-production—that is, printing and processing of images that are taken at crime scenes.

The Presiding Officer: It would help if Mr Macdonald put his card into his console before he spoke.

Lewis Macdonald: Thank you, Presiding Officer—my card is now in the slot.

Does the cabinet secretary understand why such imposed changes have only further demoralised staff at the forensic laboratory in Aberdeen, given the events that have affected them in the past five years? Will he give a personal assurance that he will reject any proposal that comes to him to close the Aberdeen forensic laboratory in this parliamentary session, whether as part of the creation of a single police force or in any other context?

Kenny MacAskill: The proposals that have been referred to were not imposed but discussed between management and unions. Photo processing currently takes place in eight places—at one location in each existing police service area. The original proposal was to have one site but, after discussion with staff and unions, it was agreed to have two sites. There will be two main outstanding hubs in Dundee and Gartcosh and the matter is between management and unions.

As for protecting Aberdeen, we consolidated forensic science services almost two years ago. That was criticised by a colleague of Mr Macdonald and by other Opposition members, but we have preserved the integrity of a public service. We have an outstanding facility in Dundee and will have one at Gartcosh. There are also locations in Edinburgh and Aberdeen. That contrasts with what

has played out south of the border, where the coalition Government has privatised the Forensic Science Service lock, stock and laboratory. We have retained a public service and we should receive credit for that.

NHS Lothian (Management Culture Inquiry)

6. David McLetchie (Lothian) (Con): To ask the Scottish Executive when it expects to receive a report from NHS Lothian on its inquiry into its management culture. (S4O-00884)

The Deputy First Minister and Cabinet Secretary for Health, Wellbeing and Cities Strategy (Nicola Sturgeon): I have asked the chair of NHS Lothian to review the board's organisational culture, which will include scrutinising senior management behaviour, and I expect to see the outcome of that work by the end of April.

David McLetchie: The cabinet secretary will recall that, following her statement to the Parliament on 21 March, I raised the importance of having an independent investigation into the management culture at NHS Lothian. I welcome the reappointment of PricewaterhouseCoopers, which conducted the initial investigation into waiting times management, and I welcome in particular the appointment of Mr David Bowles, who has an outstanding record of tackling bullying and target-driven cultures in national health service organisations south of the border and has proven himself to be a forceful and fearless advocate of putting patient care first. Will the cabinet secretary join me in welcoming his appointment?

Nicola Sturgeon: Yes, I welcome the fact that the investigation is now under way and I welcome the way in which the investigation is being conducted. I make it clear today—as I have made it clear on previous occasions in the chamber—that I expect the investigation to be robust, transparent and firm in any recommendations that it sees fit to make. I assure members that any recommendations will be fully implemented within NHS Lothian.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): I thank the cabinet secretary for her commitment in this area. Will she tell the Parliament what steps she took after Audit Scotland's warning—in its 2010 report—about variation in the use of social unavailability codes in relation to the new ways waiting times programme? Does she share my continuing concern that the use of the codes has trebled since 2008? The rising trend stopped only after I raised issues about Lothian in autumn last year. Does that fact give pause for thought? Will she now undertake an inquiry—similar to the Lothian inquiry—in each health board in which there is

either higher use of the codes or variation from month to month in the use of the retrospective correction mechanism, which is supposed to be for exceptional cases only?

Nicola Sturgeon: I will make a number of brief points. As we discussed during health question time before the recess, there is a relationship between the rise in social unavailability and the shortening of waiting times. The vast majority of cases of social unavailability occur when patients are unavailable for a very short period—for example, because they are going on holiday. The shorter waiting times are, the less notice people get of appointments, and that is a very important relationship.

As Richard Simpson knows, I have asked that this issue be included in the audit arrangements of all health boards. As I said in the chamber before the recess, we will consult Audit Scotland on the terms of the exercise.

As for the 2010 report, we pay close attention to and act accordingly on all Audit Scotland's comments and recommendations. Richard Simpson will know that Audit Scotland conducted and published a follow-up report in 2011, and said that there was no need for any further work. The member can take it from me that I treat this area with the utmost seriousness. I expect waiting times not only to be delivered but to be managed transparently. Anything that ever needs to be done to ensure that that happens will be done by me.

Social Impact Bonds

7. Michael McMahon (Uddingston and Bellshill) (Lab): To ask the Scottish Executive what consideration has been given to the use of social impact bonds in the delivery of public services. (S4O-00885)

The Minister for Local Government and Planning (Derek Mackay): The Scottish Government is committed to working with stakeholders to find new ways of adding value to, and improving the delivery of, public services. This includes exploring the potential of innovative approaches to social investment, including what might be learned from work around social impact bonds.

Michael McMahon: Will the minister concede that the use of social impact bonds involves the leveraging of private finance—normally through social enterprises—into the delivery of public services, and that that has been recommended for use in offender rehabilitation, alcohol and drug services? Where does that sit with the Scottish Government's commitment not to use the private sector or allow it to become involved in the delivery of health services?

Derek Mackay: There is to be an evaluation of social impact bonds, and we will consider it closely in our efforts to match our aspirations on preventative spend in this outcome-focused Government. Of course, to create a better society, we will consider using resources from wherever they may come. That does not mean the privatisation of services; it means accessing innovative funding packages to make a difference in our country. I am sure that that is something on which we can all unite.

Graduate Unemployment and Underemployment

8. Marco Biagi (Edinburgh Central) (SNP): To ask the Scottish Government what steps it is taking to tackle graduate unemployment and underemployment. (S4O-00886)

The Minister for Youth Employment (Angela Constance): We are committed to improving labour market conditions in Scotland and are continuing to liaise with representatives from the higher education sector to support the excellent work being carried out in conjunction with employers from all of Scotland's key industries, to encourage the provision of good-quality graduate-level opportunities.

We are also continuing to provide support for graduate placement programmes. For example, over the past two years, we have provided funding of almost £350,000 to the highly successful adopt-an-intern programme run by the Centre for Scottish Public Policy. The programme matches graduates with businesses offering paid, meaningful and career-enhancing internships in Scotland. Nearly 61 per cent of the centre's interns have since moved into full-time employment—almost half remaining with the original host organisation.

The Presiding Officer: Very briefly, Mr Biagi.

Marco Biagi: Does the minister consider that the time may have come to revisit the advice that is given to young people about the value, which is perhaps exaggerated, of some degrees in the arts and social sciences, which mainly promote transferable skills—

The Presiding Officer: Please get to the question.

Marco Biagi: —and do not necessarily offer the same career opportunities now that they may have done 30 or 40 years ago?

Angela Constance: No learning is ever wasted; all learning has a value. The key purpose of my appointment is to ensure the connectivity between the world of education and the world of work. We want to prepare our young graduates for work.

The Presiding Officer: Before we come to the next item of business, members will wish to join me in welcoming to the gallery a delegation of Arab ambassadors to the United Kingdom. [Applause.]

First Minister's Question Time

12:00

Engagements

1. Johann Lamont (Glasgow Pollok) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S4F-00608)

The First Minister (Alex Salmond): Later today I will discuss with Pat Watters, the president of the Convention of Scottish Local Authorities, the very important joint announcement that is being made today on the United Kingdom Government's misguided plans to abolish the existing council tax benefit and cut the successor budget by 10 per cent.

As members know, council tax benefit is being devolved to Scotland and to English local authorities, but the sting in the tail is a 10 per cent cut in the budget. More than 0.5 million low-income Scots benefit from council tax benefit. I am delighted to say that, by agreement with our local authorities, the Scottish Government and COSLA will jointly fund the £40 million shortfall, which means that there will be no cuts in council tax benefit in Scotland in 2013-14.

We will work with councils when the universal credit is announced in 2014-15 to ensure that we continue to protect some of the lowest-income Scots in the country. I am sure that all members in the chamber will welcome that joint action with Scotland's local authorities.

Johann Lamont: In March 2011, just before the Scottish Parliament election, the First Minister announced that Doosan Power Systems Ltd was going to invest £170 million in a new research facility in Renfrew and a manufacturing facility elsewhere in Scotland. In the same week, he suggested that the factory was going to Dundee. That was welcome news for the Scottish economy and the renewables industry.

Since then, the word "Doosan" has been a key part of the Scottish Government litany of supposed economic successes—indeed, John Swinney was talking about Doosan just last Sunday. However, it has now been reported that the First Minister was told in December last year that Doosan was scrapping the planned investment. The First Minister announced that Doosan was coming; when was he going to tell us that it is not?

The First Minister: I am sure that Johann Lamont really meant to welcome the important news on council tax benefit, as I am sure she would like to welcome the better news that we had yesterday on the Scottish economy.

Johann Lamont could not have listened very well to John Swinney's interview on Sunday, because it discussed Doosan's announcement that it would not proceed with its investments in offshore wind—a decision that the company made last December. That is what the interview was about; I have the text of it here. I am not certain that Johann Lamont actually listened to the interview that she is citing.

The reason why we are supportive of Doosan is that it employs 1,300 people in Scotland. The research and development in its worldwide skill centre for boilermaking is continuing that investment, and we expect it to make more important investments in Scotland in the future. John Swinney was talking last Sunday not only about the decision on offshore wind, but about the hope and belief that Doosan will continue to be an important investor in the Scottish economy, which is why he is meeting the company in South Korea today.

Johann Lamont: The fact of the matter is that the First Minister announced that project. He said that it was a “great stride forward”, but why would he not tell us of the stride backwards? It has been reported that the Scottish Government wanted that news to be suppressed until after the local council elections. A Scottish Government spokesman in the same article denies that and is reported to have said that the Scottish Government wanted the statement out earlier.

Page 84 of the First Minister's budget bill reports the planned investment, yet on 25 January and 8 February, when that document was debated in this chamber, the new information was not provided. If it is true that the First Minister wanted the statement out earlier, why did he not make it? Clearly, Doosan was not sensitive about it, because it let the story out at a trade fair in Denmark. Surely the Scottish people deserve to hear the news before the Danes do.

The First Minister: The ABCs of international investment and our relationship with companies mean that we do not make companies' announcements for them. [*Laughter.*]

The Presiding Officer (Tricia Marwick): Order.

The First Minister: If Doosan wishes to make an announcement to its supply chain, it has the right to do that; that is its decision. However, the announcement that Doosan made and the information were available. That is why John Swinney was discussing it with Douglas Fraser on the radio last Sunday. Johann Lamont clearly did not listen to the radio interview that she cited.

What has happened since Doosan made its decision last December? We have had an announcement from Samsung of 500 jobs resulting from its investment in Methil, which will

be the centre of its research and development for offshore wind. We have had an announcement from Gamesa of 700 jobs in the port of Leith. We have substantial expectations for both Nigg and Dundee as the offshore renewables industry gathers strength.

Many companies are investing in offshore wind, and many of those companies are investing in Scotland. However, one thing is absolutely sure: as that succession of announcements is being made, and as thousands of jobs are brought to the economy, Johann Lamont will not welcome a single one.

Johann Lamont: I am beginning to get how this works. If it is good news, the First Minister announces it; if it is bad news, it is not in the business of the Government to make announcements on behalf of companies and it would be highly inappropriate for us to take any responsibility because that is all the job of the companies.

The fact of the matter is that, regardless of the other investment announcements, this is a hugely significant decision for Doosan that we must all be concerned about, given the implications for jobs and our shared commitment to reaching our climate change targets.

I repeat the point that, in January and February, we debated a budget that included the positive news of the investment, but the Cabinet Secretary for Finance, Employment and Sustainable Growth did not mention the new information. Instead, we are told, he mentioned it in the bygoing in a politics debate on a television programme months later. The fact of the matter is that the First Minister, his ministers and their officials knew at the end of last year about this significant announcement. In that case, why did he, his ministers, his MSPs and his press office keep on talking as if the investment was coming?

I know that Doosan invests in much more in Scotland than just this project, but I think that we all know what impression the First Minister wanted to create. Why did he allow his colleagues and his press office to keep on giving the impression that this project was coming to Scotland when he knew that it was not?

The First Minister: I think that the rule is, actually, that if it is good news, Johann Lamont will not welcome it, and, if it is bad news, the Labour Party will revel in it.

The reason why we keep a good relationship with Doosan is that it is an important employer in Scotland. We have every expectation that Doosan will make further investment in Scotland. I repeat that the world specialism research and development centre for boiler production continues. That is an important investment in the

Scottish economy; Doosan is, therefore, an important investor.

Not every major engineering company in the world will go into the offshore wind market. Many are, however, and are combining with Scottish companies all around the coastline of Scotland. That is news that we should welcome.

I repeat that, since December, when Doosan made its decision as a result of what it described as the “liquidity crisis” in the eurozone, huge investments have been made in the Scottish economy in relation to offshore wind. The question is, are we prepared to welcome the investors combining with our companies to chart the future of engineering in Scotland? This side of the chamber says, “Yes, we should,” and, “Yes, we are.” The Labour Party seems to be mired in that streak of negativity that cost it so dear in last year’s elections.

Johann Lamont: The First Minister again wilfully misses the point. We were unable to respond to a significant decision because the First Minister chose not to tell us. This is not about talking the Scottish economy or Scotland up or down; it is about the First Minister’s integrity and the honesty of his Government.

If this were a one-off, we might give the First Minister the benefit of the doubt, but there is a pattern. Before the last election, while he was taking the credit for Doosan’s planned investment, he used taxpayers’ cash to keep the truth about his local income tax plans hidden from the public. When he was forced to come clean, he chose to do so on the day that his pal Rupert Murdoch got embroiled in the hacking scandal. When academics criticise the First Minister, his aide writes false letters in their name recanting. Good grief. The Advertising Standards Authority has even had to pull him up about the pandas.

The serious point is that we have a shared concern about the decision about Doosan. If the First Minister will suppress serious issues such as the Doosan investment announcement before the local elections, goodness knows what he will conceal before the referendum. After this, how can any of us believe a word that he says?

The First Minister: Let me quote exactly what John Swinney said on Sunday morning. He said:

“Doosan are one of the companies I plan to visit when I’m in Korea. Obviously the decisions that Doosan have made have been explained by the wider economic circumstances within the Eurozone particularly. I want to ... make clear the very great encouragement and the very real opportunities that exist within the renewable energy market”.

Where was the famed Labour press office when John Swinney was discussing Doosan last Sunday morning? Where were the statements from

Johann Lamont to say that she is very concerned about what has happened with the Doosan investment? There was also a lack of statements of encouragement on the Samsung and Gamesa investments. There was silence from the Labour Party, which was asleep on Sunday morning.

Johann Lamont says all these dreadful things to me, but I know that she does not actually mean them. How do I know that? I know that because I have been reading LabourHame.

Tavish Scott (Shetland Islands) (LD): Oh, no! You have not!

The First Minister: Yes I have. I confess it. I have been reading LabourHame. I know that it is a bad habit, and I have to get out of it. [*Laughter.*]

Dominic Dowling, who is the election agent for every Labour candidate in Glasgow—including what is left of the Labour Party in Johann Lamont’s constituency—said about the Labour Party’s attitude to me that

“to deny he has connected with the electorate, in a way that none of Labour’s post-devolution Scottish leaders has managed to do, is ridiculous.”

Out of the mouth and tweets in LabourHame of the man who is masterminding Labour’s campaign in Glasgow comes the essential word: Labour leadership—“ridiculous”.

Prime Minister (Meetings)

2. Ruth Davidson (Glasgow) (Con): To ask the First Minister when he will next meet the Prime Minister. (S4F-00605)

The First Minister (Alex Salmond): I have no plans to meet the Prime Minister in the near future, but I would really like to meet him today, when he is visiting Scotland, to find out what extra powers Scotland will receive. I am sure that he will spend an enormous amount of time spelling out exactly the additional powers that he promised us in February.

Ruth Davidson: I am sure that we will hear a great deal from the First Minister about the additional powers that will be coming to the Scottish Parliament as of yesterday and how he plans to use them.

Does the First Minister support

“the essential role nuclear weapons play in”

the NATO

“Alliance’s strategy of war prevention”?

That support is a precondition for new members in chapter 4 of the 1995 “Study on NATO Enlargement”.

The First Minister: There are two things to say. First, 25 out of the 28 NATO members are non-

nuclear countries. Secondly, the First Minister believes that investment in new nuclear weapons in Scotland would be a total and utter obscenity and that the Parliament has been absolutely right to reject any suggestion of renewing Trident, just as it has looked forward to the removal of Trident nuclear weapons from Scottish soil.

Ruth Davidson: Those 25 members are signed up to the strategy.

I am proud that the United Kingdom is a founder member of NATO. I am proud that, after the unimaginable horrors on our doorstep, we chose to stand together with other responsible nations to prevent such atrocities from ever happening again. I am proud that for more than 60 years the UK, with NATO, has acted to protect its allies in Europe. That has been the case in spite of the Scottish National Party's opposition to the missions in Bosnia, Macedonia and Kosovo—a mission to stop ethnic cleansing on Europe's shore, which the First Minister disgracefully called “unpardonable folly”.

We hear that the SNP is to debate whether to change its opposition to NATO—and not before time. The First Minister has already flip-flopped on his positions on the pound, the Queen, and the Bank of England—all have been sacrificed on the altar of political expediency. How will he now show leadership and have his party positively embrace the essential role of nuclear weapons in NATO, without flip-flopping on his party's demands for the rapid removal of a nuclear deterrent from Scotland's waters?

The First Minister: I noticed that Iraq was absent from the list of international engagements that Ruth Davidson mentioned. Unlike the Conservative Party, the Scottish National Party has tended to take a stance based on what is passed and validated by the United Nations. That means that if we support international engagements, it is because they are based on the rule of law; we do not support illegality and adventures such as Iraq, which cost thousands of lives among our soldiers and tens, if not hundreds, of thousands of lives in Iraq. The Conservative Party wants to slide over the argument about the rule of international law, but it will not be allowed to do so.

I repeat to Ruth Davidson that three of the 28 members of NATO possess nuclear weapons, which means that 25 of the 28 do not. Some 190 countries in the world are non-nuclear-weapon countries. I want Scotland to be one of the 190 countries that do not possess nuclear weapons, as opposed to being one of the few that do.

On 7 December 2010, the Canadian House of Commons unanimously supported a motion to increase the rate of nuclear disarmament. Canada

is a loyal member of NATO, as are our neighbours in Norway. Both countries have stated their fundamental opposition to nuclear weapons. That is a belief that the Scottish National Party shares and that is why we look forward to the day when we can evict nuclear weapons from Scottish soil.

The Presiding Officer: There is a brief supplementary question from Claudia Beamish.

Claudia Beamish (South Scotland) (Lab): In view of the planning permission for fracking near Canonbie in Dumfriesshire, in my region, will the First Minister say what is the Scottish Government's position on fracking? In the context of the report, “Preese Hall Shale Gas Fracturing: Review & Recommendations for Induced Seismic Mitigation”, which was published earlier this week, does the Scottish Government have concerns about the environmental implications of the fracking process and about the potential impact on our climate change targets?

The First Minister: A number of concerns about fracking have been expressed, internationally and south of the border. The Scottish Government is well aware of the on-going research into the process. Many aspects of the recovery of difficult-to-recover hydrocarbons need to be examined very thoroughly in terms of environmental implications. When, and if, it comes to a planning decision by the Scottish Government, the member can be assured that environmental indications and evidence will be taken fully into account.

Cabinet (Meetings)

3. Willie Rennie (Mid Scotland and Fife) (LD): To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S4F-00598)

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

Willie Rennie: On Tuesday, the report into the failings of NHS Ayrshire and Arran's freedom of information regime was published. The report relates to the circumstances around the critical incident reports that were produced after the deaths of 20 patients. The reports were hidden and ignored and, as a result, lessons were not learned. This week's report is very critical of NHS Ayrshire and Arran. It is clear that that board was institutionally secretive, but I suspect that it is not alone. How much has the First Minister learned about the other 13 health boards and their practices in the six weeks since I first asked about the issue?

The First Minister: First, I declare an interest, as I did when I was asked about the matter previously, in that Rab Wilson, the complainant, is

known to me; he is a friend of mine. I want that on the record.

As Willie Rennie should know, the allegations of criminal conduct are a matter for the police to investigate, and ministers cannot comment on criminal allegations. As soon as the news broke of the Scottish Information Commissioner's concerns, NHS Ayrshire and Arran was instructed to carry out an urgent review of its FOI procedures and to report back to the Cabinet Secretary for Health, Wellbeing and Cities Strategy. The outcome of that review was received in March. NHS Ayrshire and Arran is implementing the actions that were identified in the report and its chief executive will report on progress by the end of May.

In addition, the health secretary has commissioned a review of the relevant clinical governance arrangements for NHS Ayrshire and Arran, which is being carried out by Healthcare Improvement Scotland. The findings of that review and any wider learning for all health boards will be provided to the cabinet secretary by early next month.

Willie Rennie: It is four years since the problem began and it is a year since the Scottish Information Commissioner became involved. I hear what the First Minister says, but it is four months since the health secretary was officially told of what happened and now a report has been published that heavily criticises the board. Despite that, no formal Scotland-wide inquiry has been launched on health boards' freedom of information arrangements. NHS Ayrshire and Arran might not be alone—other health boards might be falling short, too. The First Minister needs to act on a Scotland-wide basis. I do not blame him for the failings of NHS Ayrshire and Arran—no one would—but the problem is that, if he fails to act and to hold a Scotland-wide inquiry into the freedom of information arrangements of every health board, he might get the blame. Today, six weeks after I first asked the question, will he agree to hold such an inquiry?

The First Minister: I am sure that Willie Rennie would be the last person to attempt to attribute blame to ministers in such circumstances.

I pointed out in my first answer that the review of NHS Ayrshire and Arran's clinical governance arrangements is being carried out by Healthcare Improvement Scotland. The objective is that the findings of that review and any wider lessons for all health boards will be provided to the cabinet secretary by early next month. In my view, given when the information came to light, that represents pretty effective action.

We expect our health boards to act properly under the terms of the freedom of information

legislation. The reviews that are taking place will ensure that that happens in Ayrshire and Arran, and the lessons will be applied across Scotland. That seems to me to be pretty reasonable and comprehensive action by ministers.

Council Tax (Abolition)

4. Mark McDonald (North East Scotland) (SNP): To ask the First Minister what representations the Scottish Government has received from charities and other organisations regarding the United Kingdom Government's planned abolition of council tax benefit. (S4F-00610)

The First Minister (Alex Salmond): Many organisations have expressed profound concern about the impact of the UK Government's intention to abolish council tax benefit from 2014. They include the Scottish Council for Voluntary Organisations, Age UK—more than half the recipients of council tax benefit are pensioners—the Child Poverty Action Group, Citizens Advice UK and, of course, the Scottish Trades Union Congress. The UK Government's 10 per cent cut in future support would potentially have increased the liability of around 558,000 people in Scotland, including pensioners, carers, the unemployed, those on tax credit and people who cannot work because of disability.

Earlier, in response to Johann Lamont, I announced that, working in conjunction with COSLA, we have acted as swiftly as possible to ensure that that cut will not take place. It is right and proper that, when we can do so, we respond to protect the most vulnerable people in Scotland.

Mark McDonald: I thank the First Minister for his response and, unlike some, I welcome his announcement that, in partnership with COSLA, the Scottish Government will protect more than half a million vulnerable Scots from the UK Government's cuts to council tax benefit.

Does the First Minister agree that, given the Con-Dem Government's cuts to that benefit and the Labour Party's repeated flip-flops on the council tax freeze, the only party that can be trusted to protect society's most vulnerable people and those who are most in need by truly being with them in tough times is the Scottish National Party?

The First Minister: I would not have time in a single answer to discuss the Labour Party's changing positions on the council tax freeze. First they were against it, then they were for it—they were for it for two years—then they were against it again, and now the answer depends on which area of the country you are in. Apparently, in Glasgow, Labour are now for it after being against it, but in Stirling they want to cut the council tax by

voting with the Tories for a princely 22p tax rate for the council tax payers of Stirling. I think that folk in Scotland know, as they approach the local elections, that a vote for the Labour Party means higher council tax and higher bills for families in Scotland, and that the SNP will have none of it.

Sarah Boyack (Lothian) (Lab): Will the First Minister confirm the details of the council tax benefit deal? Is it true that local authorities that have disproportionate numbers of people who rely on council tax benefit will have to shoulder the burden of £17 million of cuts in a year in which they have had to shoulder 89 per cent of the Scottish Government's own budget cuts? Surely that is robbing Peter to pay Paul.

The First Minister: I have heard that daft statistic a number of times from Labour in this campaign. The funding for local government in Scotland is higher now as a percentage of our budget than it was when we took office. If we exclude the health service, which I think the Labour Party would protect now—Sarah Boyack is sitting beside Jackie Baillie, who can confirm that—then the percentage is dramatically higher as a share of the non-health service budget in Scotland. The SNP has played fair with local authorities across the country, unlike the Labour Party when it was in power.

Can I just point out to Sarah Boyack that the announcement of the agreement was made jointly with the president of the Convention of Scottish Local Authorities in Scotland? Does she really believe that Pat Watters, a Labour Party councillor and president of COSLA, would have signed up to an agreement if he did not think that it was in the interests of people in Scotland? Cannot the Labour Party, when 500,000 people and more in Scotland—the poorest people in our communities—are facing cuts in their council tax benefit, welcome the joint action of local authorities and the Government of Scotland to protect our families? *[Interruption.]*

The Presiding Officer: Mr Henry, I would appreciate it if you would stop shouting across the chamber.

Women Offenders

5. Jenny Marra (North East Scotland) (Lab): To ask the First Minister what plans the Scottish Government has to deal with an increase in the number of female offenders, in the light of the recent report by the commission on women offenders. (S4F-00614)

The First Minister (Alex Salmond): I put on record the Scottish Government's gratitude and—I hope—that of the whole chamber for the fantastic work that Dame Elish Angiolini and the other members of the commission have done in offering

ideas on more effective ways of dealing with women in the criminal justice system of Scotland. The commission has made several key recommendations, which the Cabinet Secretary for Justice will consider in full before reporting back with a detailed response in the summer.

I am sure that Jenny Marra would acknowledge that the Government has already introduced a robust system of community-based sentences that will in many cases be far more appropriate for women than prison. We have also funded specific projects for women in the past two years to the tune of £1.6 million, as well as providing £8.5 million for the 218 centre in Glasgow over the past five years. I am sure that Jenny Marra will want to play a full part in the debates in the Parliament as we take forward many of the suggestions in the Angiolini report.

Jenny Marra: I thank the First Minister for his answer and his support for the excellent report.

The number of female prisoners in this country has doubled over the past 10 years and 70 per cent of female prisoners go on to offend again. As the First Minister mentioned, community justice centres—formerly known as time-out centres, which were established by Labour—significantly reduce reoffending by tackling the debilitating cycle of addiction and depression. Will the First Minister commit to expanding those centres throughout the country?

The First Minister: We will look very carefully at all the suggestions. I am told that 26 April is the date for the debate in the Parliament. I know that good ideas will come forward from all sides.

Jenny Marra is right to point out that the female prison population has increased since 1999 from 210 to 444 in April 2012. There are still far fewer women in prison as a percentage of the population than men, of course, but it is, nonetheless, a worrying trend. However, as the Angiolini report suggests, there are measures that can be considered to reverse that trend and, indeed, to find far more suitable forms of punishment and addressing re-offending behaviour than prison incarceration.

The commission's report stands. I know that many members will have read it, because it is on a subject that is very close to the hearts of many MSPs. I am sure that when the debate takes place, it will be conducted in the best traditions of this chamber so that ideas that come forward from all sides of the chamber can be properly considered and, I hope, taken forward into better action in our judicial and prison system.

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): I commend the Cabinet Secretary for Justice for taking the issue seriously by initiating the commission in the first place.

The First Minister will no doubt be aware that a high proportion of women offenders suffer from mental illness. Can the First Minister give me some indication of the action that has already been taken to address that issue? Can he further reassure me that the women will be given the highest standard of medical care?

The First Minister: Yes, I can. Details of the actions that have already been taken and suggestions on how things can be taken further are, of course, in the Angiolini report.

The report makes 37 far-reaching—in some cases radical—recommendations. I commend the report to all members. I look forward to the debate on it so that we can progress some of the good—or great—ideas in the report and act on them to try to build something of which this Parliament and Scotland can be rightfully proud.

NHS Ayrshire and Arran (Allegations)

6. John Scott (Ayr) (Con): To ask the First Minister what recent discussions the Scottish Government has had with NHS Ayrshire and Arran about allegations of criminal deception by members of its staff. (S4F-00606)

The First Minister (Alex Salmond): John Scott will have heard the answer that I gave to Willie Rennie. I repeat that the allegations of criminal behaviour are for the police to investigate. I know that he will understand that I, as First Minister, cannot comment directly on the course of a police investigation.

I will not detail the other actions, because I want to hear what John Scott's follow-up question is. I will come back to those actions and explain their relevance, depending on his question.

John Scott: The First Minister will be aware of the growing concern among my constituents—particularly those whose family members died while in the care of NHS Ayrshire and Arran—about the debacle. This week, my constituent Mr Keenan contacted me to try to find out whether his 17-year-old daughter Carly, who died of a brain haemorrhage while in the care of NHS Ayrshire and Arran, is among the 20 or so people about whom critical incident reports were, or should have been, prepared. Of equal concern is the question that must now be asked: did Carly die, and have other patients died, because critical incident reports were not prepared and disseminated timeously in the past and lessons not learned from previous mistakes?

Will the First Minister assure me that, in addition to the serious allegations of criminal deception that the police are now considering, the various inquiries will consider potential consequential deaths?

The First Minister: The criminal allegations are matters for the police.

I talked about the review of clinical governance arrangements. I assure John Scott that it will address directly the general concern that he has expressed. The Cabinet Secretary for Health, Wellbeing and Cities Strategy would be delighted to meet him to discuss any specific constituency case and concern. As he knows, there have already been a number of direct meetings with MSPs and with Rab Wilson.

I reassure John Scott that the clinical governance arrangements review has been commissioned to address exactly the general point that he made.

12:33

Meeting suspended.

14:15

On resuming—

Scottish Executive Question Time

Culture and External Affairs

Year of Creative Scotland

1. Colin Beattie (Midlothian North and Musselburgh) (SNP): To ask the Scottish Government what it is doing to promote culture and creativity abroad in the year of creative Scotland. (S4O-00889)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): With the permission of the Presiding Officer, before I reply to the member's question I will say a few words on the recent death of the Malawian President, Bingu wa Mutharika. The First Minister has written to the Government of Malawi, emphasising that the thoughts of the people of Scotland are with the Malawian people at this time. President Mutharika played an important role in formalising Malawi-Scotland relations, particularly through his signing of the co-operation agreement between our two countries in 2005. Former First Minister Lord McConnell worked closely with President Mutharika on the co-operation agreement at that time. We have, therefore, asked Lord McConnell to represent Scotland and the Scottish Government at the funeral of President Mutharika on Monday 23 April—an offer that he has kindly accepted. That is a fitting symbol of the cross-party support that exists for the Scotland-Malawi relationship and its deep roots in Scottish civic society.

I return to the member's question. VisitScotland is promoting Scotland's world-class culture and creativity to an international audience through its core marketing campaigns and is targeting North America and Germany—our two largest international markets—boosted by a £500,000 investment by the Scottish Government. VisitScotland has also produced a documentary-style video to spotlight, celebrate and promote our nation's cultural and creative strengths, which was shown during Scotland week to key trade and media representatives at events in New York and Toronto. It will also feature on the dedicated year of Scotland web pages and across a suite of social media outlets. During my recent visit to the USA and Canada for Scotland week, I announced a £350,000 investment in the international touring fund for our national performing companies to promote Scottish culture and creativity.

Colin Beattie: To what extent do existing British diplomatic and educational facilities overseas

support and promote Scottish culture, especially the events of Scotland week? Does the cabinet secretary agree that the promotion of Scottish creativity and culture abroad is best handled by the Scottish Government and that current UK Government outlets may not be the most cost-effective and efficient means of such promotion?

Fiona Hyslop: Under the current arrangements, the British diplomatic services have a responsibility and are funded to support Scottish interests. However, cultural policy rests entirely with the Scottish Government, so the majority of cultural and creative activities operate independently of that. Many independent countries have cost-effective and efficient ways of delivering international support.

Year of Creative Scotland

2. Maureen Watt (Aberdeen South and North Kincardine) (SNP): To ask the Scottish Executive whether it will provide an update on the year of creative Scotland. (S4O-00890)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): The year of creative Scotland is inspiring our people and our visitors to celebrate Scotland's world-renowned culture and creativity. There has already been significant activity throughout the country in support of the year and we are working closely with Creative Scotland, VisitScotland and other partners to ensure that we continue to build the momentum as we progress through the year. Examples of year of creative Scotland events in April and May include the port project, an exciting new multi-arts collaboration led by Aberdeen International Youth Festival, and see Scotland by train, which is run by National Museums Scotland and focuses on some hidden railway cinematic gems.

Maureen Watt: Does the cabinet secretary agree that the work that is being done by organisations such as the Robert Burns World Federation, whose national festival schools finals are being held at Cults academy in my constituency over the coming fortnight, play a vital role in illuminating not only the work of the bard, but Scotland's rich and varied literary history to young people, creating a legacy beyond the year of creative Scotland?

Fiona Hyslop: I declare an interest as a primary 7 winner in the solemn poetry category of a Robert Burns World Federation competition. It is important that we celebrate our bard not just in the year of homecoming 2009 and in the year of creative Scotland, but continuously. I wish the celebrations at Cults academy well. I agree with the member that we should celebrate our literary history every year and that the legacy is an important part of that.

The Presiding Officer (Tricia Marwick): As a fellow Robert Burns World Federation prize winner, I call Alex Johnstone.

Alex Johnstone (North East Scotland) (Con): I take the opportunity to ask the cabinet secretary whether she might be available to speak at the Burns club supper next year.

The Presiding Officer: I think that the answer is yes.

Fiona Hyslop: I am proud that a Burns club is associated with the Scottish Parliament. I was a bit concerned when it was inaugurated—I was present then—as the Burns club number 1; I had visions of a breakaway Burns club number 2 being established. I hope that the invitation will make it clear that I am being invited to the Burns club number 1.

Scotland Week

3. Gordon MacDonald (Edinburgh Pentlands) (SNP): To ask the Scottish Government how the annual Scotland week event in North America helps promote Scottish business, tourism and culture. (S4O-00891)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): During this year's event, the Minister for Energy, Enterprise and Tourism and I promoted Scotland in New York, San Francisco, Chicago and Houston in the United States and in Vancouver and Calgary in Canada with representatives from a range of sectors, including the creative industries, energy, tourism and finance.

Between us, Mr Ewing and I held 27 business-related meetings. I met enStratus, a cloud computing company that is creating 30 high-value jobs in Edinburgh, which will be its European hub. In Chicago, which will host this year's Ryder cup, I promoted the 2014 Ryder cup, which will be held at Gleneagles. In New York, we showcased some of the best of Scotland's contemporary theatre and music, as well as 12 of Scotland's top fabric and fashion designers.

Gordon MacDonald: The USA and Canada continue to be Scotland's top export destinations, with an estimated £3.5 billion of exports in 2010, which represents an increase of £900 million since 2004. Those exports cover a range of products, including those in the life sciences, financial services, energy and food and drink sectors. Will the cabinet secretary outline how the Scottish Government is assisting companies to take advantage of those expanding export markets?

Fiona Hyslop: I am pleased to say that Scottish Development International is recognised as one of the world's leading operations in encouraging global investment and has a strong role in

encouraging exports. I am also pleased that, when Fergus Ewing, our energy minister, was in Calgary, he opened an SDI office there. That will provide opportunities for investments and for globalisation of some of our companies, particularly in servicing the important oil and gas sector.

Significant Historical Artefacts (Location Policy)

4. Tavish Scott (Shetland Islands) (LD): To ask the Scottish Government what its policy is on the location of public displays of significant historical artefacts found in Scotland. (S4O-00892)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): The 2008 treasure trove code of practice contains the presumption that found items will be allocated to a local eligible museum, unless a convincing argument for allocating them elsewhere is presented. The process of claiming found items, inviting museums to apply for them and allocating them to museums is operated independently of ministers by the Queen's and Lord Treasurer's Remembrancer.

Tavish Scott: The Scottish Government, the cabinet secretary's predecessor, the local Scottish National Party MP and the First Minister have all called for the Lewis chessmen to be removed from the British museum and returned permanently to the Western Isles. As that is her Government's position, what is the difference between the Lewis chessmen and the St Ninian's Isle treasure, which sits not in the Shetland museum in Lerwick but in the national museum in Edinburgh?

Fiona Hyslop: The St Ninian's Isle treasure is of national and international significance but is also of local significance. Under the agreements that were made—independently of ministers—National Museums Scotland holds and has in its care the items. It is important that the partnership agreement between National Museums Scotland and the Shetland Amenity Trust ensured that the items were loaned to the Shetland museum for three months in 2008, to mark the 50th anniversary of their discovery. I understand that replicas can now be seen in the Shetland museum.

I understand why the member argues for the items to be relocated, but I hope that he understands the difficulty that I as a minister would have in directing National Museums Scotland. Increasingly, I am being asked not to direct our national collections to carry out requests such as the member's request.

I am delighted that the Lewis chessmen found their way home as part of the recent exhibition from the British museum.

BBC (Licence Fee Income)

5. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Government whether, in its response to the BBC trust consultation, “Delivering Quality First”, it raised the issue of the share of licence fee income that is spent on Scottish programming. (S4O-00893)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): Mr Gibson has been pressing the case for Scotland to have a fair share of network programming ever since the Scottish Broadcasting Commission first drew attention to the issue back in 2008. I am pleased to note that, since then, BBC network programming of Scottish origin has risen from 3.3 per cent in 2007 to 7.4 per cent in 2010 and is worth significantly more than £20 million annually to the economy in Scotland.

In the Scottish Government’s response to the BBC trust consultation on its change programme, “Delivering Quality First”, we welcomed that development but made clear the importance of Scotland receiving its fair share of licence-fee spend in a manner that ensures that there is quality programming, particularly in news and current affairs at a time when there is great national interest in Scotland’s future.

Kenneth Gibson: Does the cabinet secretary agree that

“A smaller and radically reshaped BBC”,

as envisaged by the consultation document, should allow for a relatively higher share of BBC licence fees raised in Scotland to stay in Scotland? Does she also agree that Scotland should therefore no longer contribute more than £200 million net to the BBC in London each year and that most of the money should, in fact, be invested in boosting programme quality, output and employment at BBC Scotland?

Fiona Hyslop: The BBC is Scotland’s national public service broadcaster. It is our window on the world. A fair share of the licence fee should be raised and spent in Scotland through the entire BBC offering, which includes its website, its rolling news channel and the World Service. A strong level of quality network programming must be made in Scotland to ensure that there is clarity and impartiality in news and current affairs reporting during this period. I will continue to remind the BBC of its obligations to Scotland.

Heritage Societies

6. Dennis Robertson (Aberdeenshire West) (SNP): To ask the Scottish Government what support it gives to heritage societies. (S4O-00894)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): Historic

Scotland offers about £1 million in support annually to national organisations that support the historic environment voluntary sector.

Dennis Robertson: The cabinet secretary will be well aware that 18 April—yesterday—was world heritage day. I am sure that she would like to join me in congratulating all the heritage societies in Scotland on the work that they do in keeping history and culture alive in their communities.

Will the cabinet secretary also join me in congratulating Jim Fiddes, from my constituency of Aberdeenshire West, on the launch on 21 April of his book, “Brodiach to Bervie”, which depicts the local history of Westhill and the surrounding area? At the launch will be one of the iconic figures of music and dance in Scotland, our own Robbie Shepherd, who is a Dunecht loon from the area. Can she assure us that support will always be given to our heritage societies to keep our local communities connected with their past?

Fiona Hyslop: The short answer to that question is yes. The member is correct to draw attention to world heritage day. The work of voluntary heritage societies is vital. I congratulate Jim Fiddes and wish him well on the launch of his book—I am sure that a great time will be had by all at the celebrations.

It is right that we continue to support heritage societies. That is why Historic Scotland provides funding to the national heritage societies. As a Parliament, we should put on the record our thanks to community heritage societies for the vital work that they do in the protection, promotion and preservation of our vital assets.

Own Art Scheme

7. Paul Wheelhouse (South Scotland) (SNP): To ask the Scottish Government what support it provides for people who wish to purchase original pieces of Scottish craft from accredited producers. (S4O-00895)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): Creative Scotland, as Scotland’s national agency for arts, screen and creative industries, champions the own art scheme as part of its wide remit. The scheme provides interest-free loans from £100 to £2,000 to help people to purchase original pieces of Scottish art and craftwork.

Members of the public can apply to purchase anything ranging from paintings, prints, drawings and sculpture to glassware, ceramics, jewellery, furniture and textiles.

Paul Wheelhouse: The cabinet secretary may recall the exhibition in the Parliament, which I sponsored, of works by members of the Scottish

Furniture Makers Association. As I understand it, original pieces of craft such as bespoke furniture are not currently eligible for the own art scheme, by virtue of the fact that furniture makers are not classified as artists. They face very similar challenges to those faced by members of our creative industries. Will the cabinet secretary explore options that may better support furniture makers and other producers of original craft?

Fiona Hyslop: I remember that exhibition. Paul Wheelhouse does well to promote the work of those craftspeople.

I would like to dispel any sense that furniture makers or other craft makers are specifically excluded from the own art scheme. Any exclusion is definitely not because they are not considered to be artists, but is due to the rules in place for galleries to join the finance scheme, regardless of what art form they exhibit. Many of our talented Scottish-based furniture and craft makers work independently or under umbrella organisations that do not have permanent gallery bases. Therefore, they might be missing out on the opportunities. I am very pleased that Creative Scotland intends to investigate the potential to widen the craft offer through own art in Scotland during 2012-13, working in conjunction with representative bodies such as the Scottish Furniture Makers Association to find a way forward. The Scottish Government fully supports that plan and I congratulate Paul Wheelhouse on raising this important issue.

Historic Built Environment (Towns and Villages)

8. Mike MacKenzie (Highlands and Islands) (SNP): To ask the Scottish Government what advice it provides to towns and villages whose historic built environment has fallen into disrepair. (S4O-00896)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): Through Historic Scotland, the Scottish Government provides a great deal of help and advice to communities and local authorities. That includes technical advice on repairs and routine maintenance, and advice on the planning system and on available sources of funding. Those sources include Historic Scotland's very successful conservation area regeneration scheme, which, since it started in 2007, has put £16.7 million into repairing and enhancing our historic towns.

Mike MacKenzie: Does the cabinet secretary share my concern at the long-term neglect of the historically important burgh of Inveraray? Will she join me in encouraging Argyll and Bute Council to apply for the generous funding that the Scottish Government has made available through the

conservation area regeneration scheme in order to tackle that long-term neglect?

Fiona Hyslop: Inveraray is one of our important and historic planned towns, and is well recognised as a very early example of urban design. I understand that there was a meeting in April that was attended by various parties, including Historic Scotland. On-going maintenance is key, and collaboration from all members is needed. I commend the conservation area regeneration scheme as a way forward, but it is for Historic Scotland to advise on the case for Inveraray.

Historical Artefacts (Location Policy)

9. Dave Thompson (Skye, Lochaber and Badenoch) (SNP): To ask the Scottish Government what its policy is on exhibiting local artefacts in the area in which they are found. (S4O-00897)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): As I indicated in my answer to Tavish Scott, and in my letter to Dave Thompson following his supplementary question during parliamentary questions on 27 October last year, we support the local allocation of historical artefacts. The code of practice for treasure trove states that items will be allocated locally to an eligible museum unless a convincing argument for allocating them elsewhere is presented. That process is operated independently of ministers by the Queen's and Lord Treasurer's Remembrancer.

Dave Thompson: I listened carefully to the question from Tavish Scott and to the answer, and I agree with him that those things should be exhibited locally.

I understand the cabinet secretary's position, but more could perhaps be done. What assistance is available to local communities that wish to exhibit local finds in their own area? Is advice available to them on how to go about that? Is there financial assistance so that they can get their premises up to standard? Would they be given help in lobbying the appropriate bodies?

Fiona Hyslop: In giving advice to the sector, one of the key issues is the capability and standard of the space in the local museum to host what can be very precious objects. I recommend that contact is made with Museums Galleries Scotland: it is the main channel for Government funding for the sector, and it can provide advice and support to local museums about the application process and the conditions that would need to be met.

Scottish Maritime Museum

10. Jackie Baillie (Dumbarton) (Lab): To ask the Scottish Executive what support it will give to

the Scottish Maritime Museum as part of the national strategy for Scotland's museums and galleries. (S4O-00898)

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): The national strategy is designed to set out the direction and vision for the whole sector, Scotland-wide, to ensure that we can maximise reach, growth and potential over the next 10 years. The Scottish Government recognises the importance of the Scottish Maritime Museum and, in response to recommendations from the ministerial think tank on museums, the museum is now in its second year of receiving direct funding from the Scottish Government.

On 18 January, I was pleased to announce £1 million of capital funding to enable the much-needed repair of the roof of the museum to allow all-year-round better use of the building.

Jackie Baillie: I thank the cabinet secretary for that direct funding and for her existing support to the Denny tank museum, which is run by the Scottish Maritime Museum.

The cabinet secretary will be aware that, later this month, the Queen will reopen the Cutty Sark, whose birthplace is, of course, Dumbarton. There is currently no memorial to the Cutty Sark at the Denny tank or anywhere in Dumbarton. I ask the cabinet secretary to accept an invitation to meet me at the Denny tank to consider how we could jointly establish a memorial to the Cutty Sark.

Fiona Hyslop: That is an interesting proposal. It is important that Scotland celebrates its maritime history. I have not visited the Denny ship model experiment tank and I would be interested to know more about it. In terms of our celebration of our engineering and shipbuilding, it is extremely important. We should take the opportunity to recognise the important work of the Scottish Maritime Museum in Denny and its other locations.

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): I am aware of the difficulties that have been experienced for many years with regard to securing an acceptable future for the ship the City of Adelaide, which is also known as the Carrick. Has the minister had assurances from the Australian national maritime museum about the ability of the heritage group, Clipper Ship "City of Adelaide", to maintain the ship in a manner befitting its importance and its listing if it is allowed to go to Australia?

Fiona Hyslop: The member will be aware that, after a great deal of time when there was little action on the matter and a real risk of the demolition of the City of Adelaide, we carried out an appraisal of various bids. Neil Cossons, who is respected in the area, assessed the applications from the point of view in particular of ensuring that

the heritage quality and support was provided. We have been reassured that the support that will be provided by the charitable organisation, the Clipper Ship "City of Adelaide", will be such as to preserve and promote the ship in a way that was not possible in Scotland.

Infrastructure and Capital Investment

Scottish Water

1. Stewart Maxwell (West Scotland) (SNP): To ask the Scottish Government when it will next meet Scottish Water. (S4O-00899)

The Cabinet Secretary for Infrastructure and Capital Investment (Alex Neil): I met the chair, chief executive and finance director of Scottish Water on 26 March 2012 to discuss Scottish Water's business plans for 2012-13. I plan to visit Scottish Water to see some of the assets that it operates and to meet its staff over the coming months.

Stewart Maxwell: The cabinet secretary may be aware of a report that was published last month by Consumer Focus Scotland entitled "Trust and Transparency". It investigated complaints of misleading letters, branded with the Scottish Water logo, being issued by the private insurance company, HomeServe, and selling insurance for water supply pipes. Consumer Focus Scotland found that many customers, including several of my constituents, mistakenly believed that the letter was a bill that had been sent directly from Scottish Water, rather than by HomeServe.

Will the cabinet secretary raise the matter with Scottish Water and ensure that appropriate action is taken to address the concerns that were raised in the Consumer Focus Scotland report?

Alex Neil: I am aware of the report and the concerns that were raised and I intend to raise the matter with Scottish Water to ensure that there is no repeat of the kind of problem that was experienced by Mr Maxwell's constituents.

Elaine Murray (Dumfriesshire) (Lab): On a slightly different topic, the cabinet secretary will recall that the United Kingdom Government allocated to the Scottish Government £50 million for sleeper services and that, with the agreement of the UK Government, that was—

The Presiding Officer (Tricia Marwick): I am sorry, but that does not relate to Scottish Water.

Elaine Murray: It does, Presiding Officer.

The Presiding Officer: You need to get to Scottish Water quickly.

Elaine Murray: With the agreement of the UK Government, that money was loaned to Scottish Water. Has the cabinet secretary had any

indication from Scottish Water of what projects have been brought forward through the loan of that £50 million?

The Presiding Officer: You got there.

Alex Neil: This is a recent transfer and will be accounted for in the normal way.

Alex Johnstone (North East Scotland) (Con): Is the issue that was raised in the previous question an indication that there is a financial shortfall in Scottish Water at the moment? If so, will the cabinet secretary take the next opportunity that he has to discuss with the management of Scottish Water the possibility of using its own asset base to release capital for that and possibly many other projects?

Alex Neil: We have considered the possibility of funding some of the investment programmes through the use of bonds, but that has been blocked by the Treasury and the UK Government, supported by Mr Johnstone.

A85 (Road Safety Improvements)

2. Liz Smith (Mid Scotland and Fife) (Con): To ask the Scottish Executive what plans it has to fund road safety improvements on the A85. (S4O-00900)

The Presiding Officer: Cabinet secretary? My apologies—I call the minister, Keith Brown.

The Minister for Housing and Transport (Keith Brown): I was hopeful there for a second, Presiding Officer. [*Laughter.*]

In the past three financial years, Transport Scotland has invested more than £482,000 on safety improvements on the A85 trunk road. As part of that, Transport Scotland has delivered a route accident reduction plan—RARP—study of a section of the A85. Following a further road accident study, measures with a total value of £210,000 have been included for delivery in the 2012-13 road safety programme.

In addition to investment in specific road safety measures, Transport Scotland spent more than £2.1 million in the previous financial year on restoring the condition of the A85 through major carriageway maintenance, carriageway patching and minor improvements. In the current financial year, Transport Scotland plans to spend a further £2 million on maintaining the route, including £500,000 of works in Oban.

Liz Smith: The minister will be aware that the A85 is defined as one of Scotland's most dangerous roads and that the report that was published on 28 February this year by the Road Safety Markings Association rated it as one of the worst roads for visible markings. It argued that poor road markings are obviously a contributing

factor to accidents. What emergency repairs will take place to repaint the markings on the A85? Will the minister agree to carry out an urgent review of road markings on Scotland's trunk roads?

Keith Brown: I am happy to look at the specific issue of road markings, but the RARP study that I mentioned represents the best way to tackle the issues that are prevalent on the A85. The study looked not only at the incidence of accidents, but at measures that might help to alleviate them, such as measures on approaches to challenging bends and potential hazards. Such measures have been proven to be successful on other routes across Scotland. As I have said, I undertake to look at the issue of road markings as well.

The Presiding Officer: In calling Annabelle Ewing to ask a supplementary question, I remind her that the question should relate to safety improvements on the A85.

Annabelle Ewing (Mid Scotland and Fife) (SNP): As a resident of Comrie, I regularly use part of the A85 and am well aware of issues that have been raised from time to time, including by Comrie community council. The minister referred to certain reports. Will he clarify whether the report that I understand Scotland TranServ was preparing to respond to the concerns of Comrie community council in particular has been produced? If not, when is it likely to be?

Keith Brown: Transport Scotland's annual accident analysis identified issues on a stretch of the A85, including at Comrie, which Annabelle Ewing mentioned. A study has been carried out, and road safety measures are being designed. When their design is finalised, we will write to Comrie community council to detail the planned works and the construction date. That is likely to be in July this year.

In addition, Comrie community council has written to Transport Scotland about the possibility of a pedestrian crossing on the A85 in the village. We have asked Scotland TranServ to investigate that matter, and we will write to the community council on that subject in due course.

Concessionary Travel (People Aged between 60 and 65)

3. Annabel Goldie (West Scotland) (Con): To ask the Scottish Executive how many people aged between 60 and 65 claim concessionary travel. (S4O-00901)

The Minister for Housing and Transport (Keith Brown): As at 28 March this year, 328,266 people aged between 60 and 65 were in receipt of a national entitlement card under the Scotland-wide free bus travel scheme for older and disabled

people. Those figures were provided by the local authority card management system.

The Presiding Officer: Minister? My apologies—I call Annabel Goldie.

Annabel Goldie: My goodness. My optimism is unbridled. *[Laughter.]*

Given the Scottish Government's 17 per cent cut to the bus service operators grant, why does it not revise its policy on concessionary travel and raise the qualifying age to 65? That would release funds to improve the level of the operators grant and potentially extend concessionary travel to community transport services and essential support individuals, such as carers.

Keith Brown: It is perfectly legitimate to ask that question; indeed, it was asked in the debate earlier. Audit Scotland has also looked at the issue.

The Government thinks that it is extremely important that people between the ages of 60 and 65 should continue to benefit from the concessionary travel scheme. Many of those people face huge and rising living costs as things stand, and we think that it is important that we retain that support for passengers and bus services more generally. I know that the issue has been raised previously, and it has been raised again by the Conservative spokesperson today, but that it is our position.

In relation to community transport, we have extended the scheme further to allow some demand-responsive transport services and services such as Dial-a-Journey that are available to the general public to include concessionary travel. That is a welcome change that perhaps goes some way to meeting Annabel Goldie's ambitions. However, we intend to retain the concessionary travel scheme for people aged 60 to 65 in the meantime.

Paul Wheelhouse (South Scotland) (SNP): When will the minister be in a position to give details on the progress being made to encourage the utilisation of travel schemes in East Lothian?

Keith Brown: The member will know that Transport Scotland recently met East Lothian Council and that the First Minister has stated that safeguarding bus routes is an absolute priority for the Government. We recognise that bus routes often provide a lifeline service in communities across Scotland. For my part, I am very hopeful that the recent meetings with East Lothian Council and Midlothian Council at officer level will lead to progress on the issue and will move us closer to a solution that serves the needs of local communities and protects as many local jobs as possible. Transport Scotland is providing support to local authorities and bus companies.

Welfare Reform (Homelessness)

4. Jim Eadie (Edinburgh Southern) (SNP): To ask the Scottish Government what assessment it has made of the impact on homelessness in Scotland of United Kingdom welfare reforms. (S4O-00902)

The Cabinet Secretary for Infrastructure and Capital Investment (Alex Neil): It is too early to assess the impact. However, the measures restrict the amount of support that is available to people to cover housing costs, which might lead to an increased risk of homelessness.

The Scottish Government remains committed to the 2012 homelessness target, whereby all people who are assessed as unintentionally homeless by local authorities will be entitled to settled accommodation by the end of 2012.

Jim Eadie: Housing benefit payments to claimants in Scotland are expected to be cut by £38 million annually. Does the cabinet secretary agree with Citizens Advice Scotland and Scottish Churches Housing Action that the cut will impact on local authorities and housing associations throughout the country, particularly in the context of rent arrears and provision of housing and temporary accommodation?

What further steps can the Scottish Government take to ensure that the progress that has been made in reducing homelessness is not wrecked as a result of the adverse impact of UK welfare changes on Scotland?

Alex Neil: As long as responsibility for housing benefit remains in London, we are limited in what we can do to make the benefits system work as well as possible for the people of Scotland. More than 150,000 households are experiencing or facing a reduction in their housing support, but not all of those cases will lead to a homelessness application. We are supporting local authorities so that the people who are at greatest risk are provided with help early.

I am sure that members of all parties welcome the joint statement to which the First Minister referred earlier and the fact that local authorities and the Scottish Government will between them fund the £40 million cut that the Liberal Democrats and the Tories are making to the council tax benefit budget in Scotland.

Transport Infrastructure (West of Scotland)

5. George Adam (Paisley) (SNP): To ask the Scottish Government what plans it has to improve transport infrastructure in the west of Scotland. (S4O-00903)

The Minister for Housing and Transport (Keith Brown): In addition to more than £1 billion of investment in recent years on the M74 and M80

motorways and the Airdrie to Bathgate railway line, the Scottish Government is committed to further improving transport infrastructure in the west of Scotland, as we set out in our infrastructure investment plan. That includes up to £246 million in capital funding for the modernisation of Glasgow's subway; up to £40 million of funding towards the fastlink scheme; £508 million to complete the M8 motorway and upgrade the M73 and M74; £169 million for the Paisley rail corridor improvements, which are nearing completion; and almost £12 million on essential strengthening works on the M8 White Cart viaduct at Glasgow airport.

George Adam: The minister is obviously aware of the on-going upgrade to the M8 at the White Cart viaduct, adjacent to Glasgow airport. The work is due to be completed in May; can he confirm that that is indeed the case? Although the investment is much appreciated, the congestion that has been created and the issues that that has caused for businesses and commuters in the area have been less than helpful.

Keith Brown: It is inevitable that on-going works on the motorway and trunk road infrastructure lead to some level of congestion. I can confirm that the temporary traffic management measures at the M8 White Cart viaduct will be removed by 6 May, and that the strengthening works will finish on 5 July.

Commonwealth Games 2014 (Regeneration)

6. Humza Yousaf (Glasgow) (SNP): To ask the Scottish Government what improvements are being made in the regeneration of Glasgow's infrastructure in preparation for the 2014 Commonwealth games. (S4O-00904)

The Cabinet Secretary for Infrastructure and Capital Investment (Alex Neil): Glasgow is being transformed through the building of infrastructure for the games, which will leave a lasting physical, economic and social legacy. The multimillion-pound athletes village will become a desirable new residential community after the games, providing 700 new, quality homes, and the state-of-the-art sports facilities will be available for the local community to enjoy before the start of the games.

Connectivity will be improved through projects that have been or will be completed, such as the M74 completion project, the refurbishment of Dalarnock station and the on-going Glasgow subway modernisation programme. In addition, the Clyde Gateway urban regeneration company is taking forward a number of games-related projects that will benefit the east end of Glasgow, including the provision of new office space and the renovation of the iconic Olympia theatre in Bridgeton.

Humza Yousaf: An average of around 100,000 spectators will come to Glasgow on each day of the Commonwealth games. Does the minister agree that the numerous areas of derelict land in close proximity to games venues are an eyesore? In a 2 to 3-mile radius in the east end of Glasgow, there are around 20 to 25 derelict land sites. What steps is the Government taking, along with local authorities, to regenerate at least some of those sites in time for the 2014 games?

Alex Neil: The member makes a very fair and relevant point. Glasgow City Council and South Lanarkshire Council have been asked to focus their full vacant and derelict land fund awards on sites that are related to the Commonwealth games, with 100 per cent being channelled in support of Clyde Gateway URC sites that contribute to the Commonwealth games. *[Interruption.]* Members can see that I am the minister who is responsible for Scottish Water. Glasgow City Council has been allocated £3 million for 2012-13 and £2.76 million for 2013-14, and South Lanarkshire Council has been allocated £1.27 million for the current year and £1.16 million for 2013-14.

Bus Travel

7. Hanzala Malik (Glasgow) (Lab): To ask the Scottish Government what support it provides to encourage bus travel. (S4O-00905)

The Minister for Housing and Transport (Keith Brown): We invest around £250 million each year in bus services across Scotland. As I mentioned earlier, we are committed to the national concessionary travel scheme and the bus service operators grant. The inclusion in those schemes of demand-responsive transport services that are available to the general public, such as dial-a-bus, will assist vulnerable and elderly people in particular.

We have provided more than £6 million for procurement of low-carbon buses, and we are investing up to £40 million in the Glasgow fastlink project and up to £10 million in the Halbeath park and ride. In addition, we are committed to innovative solutions such as hard-shoulder running on the M77 and the new £3 million bus investment fund.

Hanzala Malik: First bus services in Glasgow will suffer deep cuts and fare rises of up to 28 per cent at the end of this month. The managing director of First has said:

"Decisions taken by the Scottish Government to make substantial cuts to the funding it provides Scottish bus operators have triggered fare rises and service cuts across Scotland. Unfortunately, similar action at First Glasgow is unavoidable."

Fifty-eight per cent of Glaswegians have no access to a car.

The Presiding Officer: Could the member just ask his question? Time is running out.

Hanzala Malik: Will the minister think again, put Glasgow bus passengers first, revise his bus funding cuts and, as a Glaswegian would say, give us a break?

Keith Brown: As was mentioned during this morning's debate, we believe that one of the main drivers—excuse the pun—for the additional costs that local bus companies face is fuel duty. The price of diesel has gone up by 57 per cent over the past five years. A reform of the funding system that rewards operators on the basis of distance travelled rather than fuel consumed is well overdue and seems to me to be environmentally sensible, which is why we have introduced it.

In the final part of my first answer to Mr Malik, I mentioned that we have invested in a £3 million bus investment fund. First Glasgow will benefit from that fund if it wants to work productively with us.

The Presiding Officer: Question 8 has been withdrawn by Alex Fergusson for understandable reasons and question 9 has been withdrawn by Rhoda Grant for understandable reasons.

Economic Infrastructure (South-west Scotland)

10. Aileen McLeod (South Scotland) (SNP): To ask the Scottish Government what action it is taking to support further investment in the economic infrastructure of south-west Scotland. (S4O-00908)

The Cabinet Secretary for Infrastructure and Capital Investment (Alex Neil): The south-west of Scotland will benefit from a number of investments as set out in the infrastructure investment plan. Those include Scotland's schools for the future programme, the replacement of Dumfries and Galloway royal infirmary and community infrastructure through the south-west hub, as well as other Scotland-wide investment in transport, digital, energy, housing and water programmes.

The A75 Dunragit bypass road project, which is due to enter procurement this month, is an example of the significant further investment that is taking place in the south-west of Scotland.

Aileen McLeod: I welcome the commitment that the Scottish Government has shown thus far to the regeneration of Dumfries and Galloway. How can we as parliamentarians encourage and support local businesses that want to get involved in regeneration and community empowerment projects in the area?

Alex Neil: I suggest that members follow my example in Airdrie and Shotts, where I am involved in getting two community development trusts set up—one in Airdrie and one in Shotts—to mobilise funding that is not always available to the local authority for investment in the area and to clean up the mess left by Labour.

Criminal Cases (Punishment and Review) (Scotland) Bill: Stage 1

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-02617, in the name of Kenny MacAskill, on the Criminal Cases (Punishment and Review) (Scotland) Bill.

I will give members a few moments to change their seats. [*Interruption.*]

The Deputy Presiding Officer (John Scott): It would appear that we have a problem with Mr MacAskill's card. Can we do something about the sound? [*Interruption.*] Thank you.

I call Mr MacAskill to speak to and move the motion. You have 13 minutes, Mr MacAskill.

14:57

The Cabinet Secretary for Justice (Kenny MacAskill): Thank you for your forbearance, Presiding Officer.

I thank the Justice Committee for its careful stage 1 scrutiny of the Criminal Cases (Punishment and Review) (Scotland) Bill and I welcome the committee's support for the bill's general principles.

The bill deals with two discrete topics. Part 1 addresses an anomaly that has arisen with regard to the setting of the punishment part of non-mandatory life sentences by the courts. Part 2 provides a framework within which the Scottish Criminal Cases Review Commission can consider whether it is appropriate to disclose information that it holds relating to cases that it has referred to the appeal court, where the appeal has subsequently been abandoned. Although there is not a direct link between the two parts of the bill, we are legislating in those two general areas for essentially the same underlying reason: so that the public can continue to have full confidence in the processes of Scotland's justice system.

Whether it is ensuring that offenders convicted of serious crimes are able to be sentenced appropriately by the courts or being as open and transparent as possible about all aspects of the al-Megrahi case, the Government is committed to doing everything that we can to ensure that the public can have confidence that we have a justice system that is fair, transparent and effective.

Part 1 is a direct response to a March 2011 appeal court judgment that concerned the setting of the punishment part of non-mandatory life sentences. The punishment part of a sentence is the length of time that a prisoner must serve before becoming eligible for parole. Although that judgment, known as the Petch and Foye case,

affected only a small number of sentencing cases, with only around 75 offenders having been given non-mandatory life sentences in the past six years, the Government wanted to act quickly and appropriately to remedy the problem that the judgment raised.

As a result of the judgment, a number of offenders have successfully appealed and had the punishment part of their non-mandatory life sentence reduced. The judgment has produced what the appeal court noted was the anomalous result that some life prisoners may become eligible for parole at an earlier point in their sentence than would have been the case if they had been given a fixed or determinate sentence for the same offence.

It is important to emphasise that the Petch and Foye judgment did not and does not mean that serious offenders will be directly released early from prison. Any offender whose punishment part has been reduced will still need to satisfy the Parole Board for Scotland that they do not present a risk to public safety. If the Parole Board is not satisfied, the offender remains in prison and in custody.

Nonetheless, I am sure that we all agree that it is wrong in principle that our courts do not have sufficient discretion in law to avoid the anomalous result that some life prisoners may become eligible for parole at an earlier point in their sentence than would have been the case if they had been given a fixed sentence for the same offence. That is not what the law meant and it is, presumably, not what the sheriff who sentenced the offender meant.

Therefore, we are giving back to the courts appropriate discretion so that they can set a punishment part of a non-mandatory life sentence to satisfy the need for punishment of the offender.

We are aware that there has been some criticism of the provisions on the grounds that they are too complicated. We accept that the provisions are complex. That goes with the nature of the legislation and the terrain with which we are dealing. However, we do not think that they are unnecessarily complicated.

It is important to remember that our provisions exist within the context of European convention on human rights and domestic case law, as well as the framework of existing Scottish legislation.

Lewis Macdonald (North East Scotland) (Lab): I am interested in the cabinet secretary's view on whether a less complex approach could have been taken had the bill been a bit more ambitious in scope. In other words, had there been more fundamental changes to the sentencing structures, it might have been possible to avoid an opaque proposal in part 1 of the bill.

Kenny MacAskill: That is not the case. There are two separate matters. The Petch and Foye judgment caused considerable concern and was commented on not only by me but by justice spokespeople from all parties. There was significant public concern that must be addressed.

In the bill, we address two specific matters: the Petch and Foye judgment, and a matter that relates to the Scottish Criminal Cases Review Commission. There is a time and a place for further legislation, and I have had discussions about that with Opposition members. The bill should not be viewed as an opportunity to make significant change; that will have to come in other legislation. Part 1 of the bill is about doing what is appropriate to resolve an issue that arose as a result of a court of appeal decision.

Although the matter is complex, the proposal is not unnecessarily so. We have been open to those who complain and suggest that there is an alternative and better position but, so far, we have received nothing. By providing a clear statutory framework within which judges must calculate the punishment part of a non-mandatory life sentence, we are making the law clearer and reducing the risk that sentencing decisions will be overturned on appeal.

Part 2 provides a framework within which the Scottish Criminal Cases Review Commission can consider whether it is appropriate to disclose information that it holds relating to cases that it has referred to the appeal court if the appeal is subsequently abandoned.

Although the provisions are general, members will be well aware that we introduced them to address the situation that had arisen with the statement of reasons in the al-Megrahi case.

The chamber will be aware that, late last month, the *Sunday Herald* published the commission's statement of reasons for referring Mr al-Megrahi's case to the appeal court. Although any urgency in passing these provisions might have diminished as a result, we are pleased that the Justice Committee supports our position that there should be as much openness as possible in relation to abandoned appeals arising from a reference from the SCCRC where there is a substantial public interest.

Notwithstanding recent events, we are proposing a general framework that might have application in other cases in future. To be fair, we should remember that, in the 13 years that it has been in existence, the commission has referred to court only three cases where an appeal has been abandoned, one of which is of course the al-Megrahi case. Although it is ultimately a matter for the commission, we understand from the commission that, in the other two cases,

disclosure of information is not thought likely to be appropriate. However, we simply do not know whether other cases in future will give rise to the considerations that have occurred in the al-Megrahi case.

As our response to the stage 1 report makes clear, we consider that our framework for disclosure of information is robust and that, as it has not been narrowly designed simply for the circumstances of the al-Megrahi case, it can be applied in a range of relevant cases. We cannot speculate on such matters but at least we will have a framework to address any such case that might arise.

It is worth pausing to remind ourselves why the framework was thought necessary in the first place. In the normal course of events, the material in the commission's statement of reasons in the al-Megrahi case could have been tested in court. However, as members will be aware, Mr al-Megrahi chose to drop his appeal in February 2009. Given the exceptional level of wider public interest in the al-Megrahi case, we have consistently done all that we can within the devolved powers of the Scottish Parliament to facilitate the commission's release of the statement of reasons.

During stage 1, the question of how the commission could comply with data protection laws to help enable publication of the statement of reasons in the al-Megrahi case was discussed. Although events might have rendered the question moot in the case of Mr al-Megrahi, it would be helpful to explain how data protection will apply in the consideration of disclosure of information in future cases.

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): Does the cabinet secretary accept that it would have been helpful to have consulted the information commissioner at a much earlier stage in order to resolve some of these issues more quickly?

Kenny MacAskill: It was not up to us to consult the information commissioner, because these matters have to be dealt with by the SCCRC. We have always sought to facilitate everything necessary for the commission to deal with such issues, but the commission itself is required to instigate them. As Mr Chisholm will be well aware, neither I nor the First Minister—nor, indeed, any other member of Government—had ever seen the statement of reasons, and I can only assume that, as the SCCRC has indicated, what it said in what has been published was correct.

We have gone out of our way to facilitate and assist the commission; indeed, I believe that the Information Commissioner's Office has met the SCCRC. We have certainly sought to facilitate

such an approach. As an Administration, we should always seek to facilitate matters, which is what we have done, but ultimately these are matters for the commission. I have already paid tribute to the assistance of the Lord Chancellor south of the border and pay tribute now to the information commissioner. People have been working together to ensure that we address these issues.

Following a constructive meeting in March between officials from the SCCRC, the Information Commissioner's Office, the Scottish Government and the United Kingdom Government, the SCCRC is considering whether it would be able to comply with data protection requirements in publishing sensitive personal data contained in the statement of reasons on the basis that such processing could be said to be necessary for the administration of justice. As such, the commission could comply with a necessary data protection condition for publishing such information.

It is ultimately a matter for the commission to be satisfied that it can comply with data protection legislation. Notwithstanding recent events, it is carefully considering those matters.

We are committed to ensuring that the framework is as robust as it can be in enabling the commission to consider disclosing information. In particular, we are considering the point that was raised with the Justice Committee concerning information that is subject to legal professional privilege and whether further provision is necessary in that area.

We brought the bill forward quickly to ensure that appropriate action is taken to address concerns that have been expressed in two important areas of our justice system. If it is approved today at stage 1, we will continue to work with members and the Parliament through the rest of the parliamentary scrutiny process to ensure that it fully meets our policy aims.

I move,

That the Parliament agrees to the general principles of the Criminal Cases (Punishment and Review) (Scotland) Bill.

The Deputy Presiding Officer: I call Christine Grahame to speak to the motion on behalf of the Justice Committee.

15:11

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I welcome the opportunity to open the debate on behalf of the Justice Committee—at least, that is what it says here. I thank all those who gave evidence to the committee on what, is in football parlance—as I understand it—a bill of two halves. There could

continue to be issues about conjoining distinctly separate pieces of legislation in one bill. The practice has an established history in that other legislature and we seem to have adopted it over the past 13 years, but it is perhaps not the best practice.

As a result, the evidence-taking sessions were in two distinct categories: the Petch and Foye group and the Megrahi group—I am using shorthand. I will therefore deal with the bill in those two distinct parts. I thank all the witnesses for their time and contributions

First, I will comment on part 1. I take a deep breath, because this is tricky stuff. I commend the committee members and indeed myself for struggling week in, week out to understand the solution to the Petch and Foye problem—I stress the solution, not the problem.

First, what is the problem? I know that my learned friend Rod Campbell will do a far better job than me of describing it, although he might kill me for saying that. I will repeat to some extent what the cabinet secretary said. In 2011, the appeal court by a majority ruled that convicted sex offenders Messrs Petch and Foye, because of an anomaly in the law, could become eligible for parole earlier than someone who was serving a mandatory life sentence.

By way of explanation, class, there is the mandatory life sentence for murder, and the determinate sentence and the discretionary sentence for other serious offences short of murder. The problem lies with the discretionary sentence, which comprises a punishment element and an element for protection of the public. Eligibility for parole relates only to the punishment part, and it kicks in after 50 per cent of the punishment part has been served. If a large chunk of the discretionary sentence is for protection of the public, we could have, as in Petch and Foye, serious sex offenders applying for parole earlier than someone on a determinate sentence.

The problem is the solution on offer to the committee, which we found overly complex and which is one big headache, not just for me and members of the public but, I have to say, for some practitioners, including a Queen's counsel who gave evidence. Am I embarrassed to admit a degree of defeat? Not in the least. Although I am mindful that I speak for the committee, I think that it is fair to say that we all struggled with the bill. To be frank, some committee meetings had the flavour of a final-year law tutorial. Even the question-and-answer page on the bill on the Government's website states:

"This is a very complex area of law."

The Petch and Foye ruling was by a five to two majority and the appeal court was not able to

agree the terms of the judgment, so I am in good company.

I will take another deep breath. Sit up straight, class. Here are some working examples. For ease of consumption, I have colour coded them. Members will be tested later. The first example concerns the mandatory life sentence. John Black is convicted of murder following a fight outside a bar and, as required by law, he is given a mandatory life sentence. After taking into account the seriousness of the offence, any previous convictions and whether there has been an early guilty plea, the court says that John Black must serve at least 20 years in prison before he is eligible for parole. We know the score—it is 20 years.

Now I move to the determinate life sentence. John Brown is convicted of serious assault following a fight outside a bar. He escapes a murder charge simply because of the speed of the ambulance and the skills of the surgeon. He is therefore not charged with murder and is convicted of a serious assault to the danger of life, which does not attract a mandatory life sentence. He is given a determinate sentence of 20 years to reflect the gravity of the crime, but he will be eligible to apply for parole after 10 years, and he must be released after serving two thirds of his sentence. That is how determinate sentencing works, by the way: a 20-year sentence does not mean 20 years in prison; it means 16-ish years.

I hope that members are still with me as I move on to the non-mandatory life sentence. John Red is convicted of a similar crime of serious assault following a fight outside a bar. However, the court considers that the pattern of behaviour that he has demonstrated means that there is a likelihood that, if he is at liberty, he will be a danger to the public. He is therefore given a non-mandatory life sentence, which effectively means that, even when he is eligible to apply for parole halfway through his sentence, he will be released only if the Parole Board considers that he is no longer a risk to the public. He cannot be released automatically after he has served two thirds of his sentence.

It is when calculating the punishment part of John Green's sentence that things get tricky. Let us say that Mr Green gets 20 years, but five of those are for public protection. We do not need a calculator—perhaps we do by this stage—to calculate that eligibility to apply for parole is at half of 15 years, not half of 20 years. Mr Green would be eligible for release after seven and a half years, not 10. That is the anomaly. I think that I am understanding this.

Members should remember John Black, John Brown and John Red—I will give members a test when they are leaving the chamber. For further

working examples on the problem, I direct members to the Government's website because I have run out of codeine. I do not, however, fault the Government, because the appeal court's decision compelled legislative intervention.

To cut to the chase, why make a complex area more complex? I give the suggestion of the Law Society of Scotland and the Faculty of Advocates, on which the committee remarks in our conclusion at paragraph 94 of our report. We were attracted to the simplicity of a less prescriptive approach of enshrining in the proposed legislation a principle that a discretionary life prisoner, such as our Mr John Red, should never be able to apply for parole earlier than a non-mandatory lifer such as Mr Brown. I say gently to the cabinet secretary that if there had been a formal consultation on part 1—although I hear what he is saying about what has happened subsequently—simpler solutions would have been on offer such as those that were presented to us.

It is undeniable that, although part 2 was drafted in general terms, it was proposed to enable publication of the SCCRC's statement of reasons in the case of Abdelbaset al-Megrahi. At this point, Presiding Officer, I declare an interest as a member of the Justice for Megrahi campaign.

Having exposed the difficulties of part 1, I now have to repeat the difficulties that arise with part 2 in particular because of the marriage of disparate pieces of legislation. This is not the first time that I have had to raise such issues.

Notwithstanding the fact that all the evidence that we took was directed at the al-Megrahi case and the fact that, on 25 March, the *Sunday Herald* published most of the statement of reasons, part 2 cannot now be detached from part 1, even if someone wanted to do so. Indeed, I give notice as convener of the Justice Committee that if an attempt was made to lodge an amendment to delete part 2, I would reject it as a wrecking amendment and therefore incompetent. Of course, such an amendment could be re-presented at stage 3, but that would be a matter for the Presiding Officer. To some extent, it is a fiction to say that part 2 will have general application, but there is an issue around whether it is robust enough to do its job in general circumstances and not just in relation to such a high-profile case.

There was a fair bit of to-ing and fro-ing, which might have looked like "Blankety Blank", between the Scottish Government and the UK Government's Information Commissioner's Office with regard to the restrictions that the Data Protection Act 1998 might impose on publication of the statement of reasons. That turned out to be a bit of a red herring because, at the end of the day, the UK institutions appeared to be pretty relaxed about publication. I suggest that that

progress was made because of the pressure that the committee put on the Government. That approach might prove to be useful should such intergovernmental co-operation be required again, although this might have been a special case.

That was my executive summary. The bill has two parts: I can sum up by saying that part 1 is overcomplex and part 2 is perhaps redundant. That is not the cabinet secretary's fault but, as has been said before and will no doubt be said again, we are where we are.

Now, as the tumbleweed gathers round my ankles, I leave the floor to the other committee members. I have run out of codeine, but I have spare supplies of aspirin.

Before I forget, I point out that, in spite of all the aforesaid, the committee supports the general principles of the bill. As a caveat, I remind the cabinet secretary that I speak as convener of the committee, not as a Scottish National Party back bencher—I am not looking to build a case for a by-election in my constituency.

15:20

Jenny Marra (North East Scotland) (Lab):

Alongside other committee members who are present, I had the opportunity to scrutinise the bill closely as it passed through the Justice Committee. I want to take some time to reflect on not just the principles of the bill, but its substance. A great range of views have been expressed on what is a complex bill, as the Justice Committee convener has set out. It is important that those views are aired in the chamber from the outset.

The most important thing in the scrutiny process is that we take the time to get the bill right, which means right for the victims of crime, for the courts and their procedures and for those who are sentenced in our courts. Our justice system is built on the foundations of justice, compassion and integrity, which are the benchmarks against which we as lawmakers should measure any bill that comes before the Parliament. On justice, does the bill get it right for the victims of crime? On compassion, will the bill ensure that justice is proportionate? On integrity, will the bill work effectively in our justice system?

In analysing the reasons behind the bill, we find that its principles go hand in hand with those that underpin our system. Part 1 seeks to rectify an anomaly in the law that has led to a method of sentencing that has been seen to jeopardise the principles of integrity and justice. As we have heard, through the case of Petch and Foye, sentencing in non-mandatory life sentences, including orders for lifelong restriction, have been subject to interpretation that has resulted in sentences being reduced to a point at which

offenders will be considered by the Parole Board for Scotland earlier than they might otherwise have been. As a result, there is an element of doubt and confusion, not only among victims and the wider public, but among the legal profession, as the convener pointed out.

Put simply, the bill seeks to address the anomaly by reinstating to judges discretion to hand down sentences that are deemed appropriate in each case. In doing so, the bill seeks to restore integrity in the system as well as a sense of fairness and confidence in the eyes of victims and their families that offenders are being sentenced correctly for the crimes that they commit. Introducing legislation that ensures that courts can sentence dangerous and violent offenders appropriately and in compliance with human rights can only be a good thing. However, we can act on that principle only if the bill that is drafted to rectify the problem is clear, coherent and effective.

As the convener explained, the evidence sessions in the Justice Committee on part 1 of the bill were mired in uncertainty among committee members and witnesses. Most important, there is no consensus that the bill will build confidence in our justice system. There is still an opinion that people who come to the court to be sentenced as well as victims and their families are still confused by the sentencing rules in this country, and there is further confusion not just among committee members, but among qualified and experienced legal professionals.

I will give just one example. Back in January, when the committee first took evidence on the bill, James Wolffe QC stated:

"The approach that is taken in the amendments to existing legislation that are in the bill is to take an already complex piece of legislation and make it even more complex."

He went on to say:

"sentencing judges are expected to explain sentences in a way that will be intelligible not only to the accused who is being punished and sentenced, but to the victims of the crime, the public at large and, ultimately, the appeal court. It is open to question, at least, whether provisions of such complexity will be helpful to sentencing judges in the task that they must carry out".—[*Official Report, Justice Committee*, 31 January 2012; c 864-5.]

I share the concerns of Mr Wolffe and others who have given evidence on the bill and who have noted the wider implications for victims, the public and the appeal court, making a complex process even more so. At this stage of the parliamentary process on the bill, I urge the cabinet secretary to take evidence from other European countries on how they manage to integrate the ECHR compliance in this form of sentence. Perhaps

Scotland can learn lessons from other jurisdictions where there is more clarity.

There are similar concerns about part 2. While noting the good intention behind the bill, contributors to the Justice Committee's evidence sessions have aired very different opinions on how effective part 2 will be in addressing the issues that it seeks to rectify. Len Murray from the Justice for Megrahi group described the bill as

"a sledgehammer to crack a fairly small walnut."—[*Official Report, Justice Committee*, 7 February 2012; c 900.]

That appears to have been substantiated by the publication in a well-known Sunday newspaper of the statement of reasons a couple of weeks ago. Although the convener of the Justice Committee and indeed the First Minister himself appeared on television to welcome its publication, questions were undoubtedly raised about the competence and necessity of part 2.

It is integral to public confidence that the Government should produce legislation that is necessary and effective. Although out of the Scottish Government's hands, that process was undermined by a Sunday newspaper's publication of the statement of reasons.

John Finnie (Highlands and Islands) (SNP): Does the member accept that part 2 of the bill has a wider application than just Mr al-Megrahi's case?

Jenny Marra: John Finnie may, like me, hope that part 2 will have a wider implication in future, although it is difficult to predict when that might be. However, we will support the Government's motion because we believe in the principles of the bill and that part 2 is necessary for transparency.

In committee, we heard the assistant commissioner from the ICO assert that data protection was no impediment to the statement's release and there was correspondence from the justice minister, Ken Clarke, who asserted similarly, despite Mr MacAskill's insistence to the contrary.

Of course, now superseded by the publication of the statement of reasons in the Sunday newspaper, this Government bill and the parliamentary process seem out of step with the public thirst for clarity and transparency on the Megrahi case, which is an important case for the Scottish judicial system.

Part of the problem with part 2 of the bill lies in the scope of the consultation that the Government chose to undertake prior to its drafting. Unusually, only one body, the Scottish Criminal Cases Review Commission, was consulted before the bill was given to the committee. Given the significant data protection issues that we explored, it might have been wiser for the Government to consult

more widely to gain a fuller picture of the issues that subsequently arose in relation to part 2.

While we on the Labour benches are happy to support the Government's motion, we do so with caution and a keen interest in the bill's progress. The Government must ensure that both parts of the bill will work effectively when they are put into practice and that, in the eyes of the public, victims of crime and those within the legal system, the legislation meets the benchmarks of integrity, justice and compassion that underpin our legal system.

15:29

David McLetchie (Lothian) (Con): As other members have done, I speak as a member of the Justice Committee, which has had responsibility for scrutinising the bill, the first part of which was described to us as creating

"a tortuous system which is barely intelligible to lawyers, let alone to the general public",

and the second part of which is now largely redundant due to the actions of a leading Scottish newspaper.

As we have heard, part 1 seeks to address a complex anomaly in sentencing law that was identified in the Petch and Foye case. As a result of that judgment, prisoners who are given a discretionary life sentence or order for lifelong restriction can apply to become eligible for parole at an earlier stage in their sentence than prisoners who are serving sentences that are of fixed length. That is clearly inappropriate.

In the case of Petch and Foye v Her Majesty's Advocate, the High Court ruled that a sentencing court should adopt a three-step approach to calculating the punishment part for a non-mandatory life sentence—that is, the period after which a prisoner who is serving a life sentence can become eligible for parole. The court concluded that the result of that complex staged calculation was that an individual who has been given an indeterminate life sentence may become eligible for consideration for parole at an earlier stage in their sentence than if they had been given an equivalent determinate sentence. That is not as crystal clear as Christine Grahame's exposition of the matter, but it is my poor and humble best shot.

I add two caveats to the support that we give to part 1. First, it became clear that this area of the law is complex. A number of witnesses raised concern that the Government's solution to the Petch and Foye anomaly risked making an already complex set of rules even more complex. Joanna Cherry QC, who appeared as an advocate depute in the Petch and Foye case, said that analysis of the current rules

“gave rise to the most difficult piece of statutory interpretation”—[*Official Report, Justice Committee*, 31 January 2012; c 865.]

of her career, and there was clear concern among some witnesses that the bill could make matters less rather than more intelligible.

Secondly, much of this could have been avoided if the Scottish National Party was better at implementing its own manifesto commitments. The Petch and Foye case is yet further evidence of the need to end automatic early release from prison. The Parliament legislated, via the Custodial Sentences and Weapons (Scotland) Act 2007, to end automatic early release, but the act has yet to be implemented.

We and others have repeatedly called for the ending of automatic early release, and have for many years argued that the custodial sentence that is handed down should be the sentence that is served. In fairness, the SNP also claims to be in favour of abolishing automatic early release—indeed, it pledged to do so in both its 2007 and 2011 manifestos, but it has manifestly failed to take any meaningful action towards doing so. It appears that the Government’s fondness for delay in the implementation of its manifesto pledges is not restricted to the independence referendum.

John Finnie: Does the member accept that the Government’s position remains that the manifesto commitment will be implemented once the terms of the McLeish commission are met?

David McLetchie: Yes—I accept that that is the position, but that is a cover-up for not implementing anything, as Mr Finnie will realise, the longer he serves in this Parliament.

As members have said, part 2 has largely been superseded by events. Shortly before the publication of the committee’s stage 1 report, the statement of reasons was published in a leading Scottish newspaper. The newspaper said that it had published the statement because it had received al-Megrahi’s permission to do so and because it was in the public interest. That followed a letter from the Lord Advocate to the chief executive of the Scottish Criminal Cases Review Commission on 23 March confirming that no employee of the commission would be prosecuted if the statement were to be formally published. The Lord Advocate has since confirmed in a letter to me that there is no specific criminal offence applying to unauthorised publication of the statement of reasons by anyone.

It is now clear that al-Megrahi and his legal team could have published the statement of reasons at any time after the abandonment of his appeal in 2009—after he was safely tucked up in Libya courtesy of Mr MacAskill. The question is, why did he not do so? Why has it taken him and his

advisers nearly three years to do something that was entirely within his power and for which he needed permission from no one?

Those developments raise an important point about the Scottish Government’s approach to the al-Megrahi case. The Government’s initial position was that publication of the statement of reasons would be impeded by data protection restrictions, which are a reserved matter. The cabinet secretary told us as recently as 29 February that he had written four times to Kenneth Clarke, the Secretary of State for Justice, demanding the removal of “data protection obstacles”. However, we now know that data protection did not represent an obstacle at all.

Written and oral evidence that the committee received from the Information Commissioner’s Office maintained that the bill would allow disclosure of the statement of reasons and that no data protection restrictions would prevent that. Once Scottish Government officials belatedly joined discussions on the matter with the Scottish Criminal Cases Review Commission and the UK Ministry of Justice, the Scottish Government was forced to acknowledge that what had been said was the case. For confirmation of that, I refer members to Mr MacAskill’s letter of 16 March to the committee, in which he meekly advised us that no Westminster legislation was needed.

It is fortunate for Mr MacAskill that part 2 is largely a dead letter because, as with his impetuous behaviour over the Supreme Court last year, he was far too quick to use the bill as an excuse to grandstand and demand from the UK Government something that ultimately turned out to be totally unnecessary. I am afraid that that tells us everything that we need to know about him and the SNP.

15:36

John Finnie (Highlands and Islands) (SNP): I will concentrate on part 1 of the bill—the easy bit. We know that part 1 resulted from the much-talked-about Petch and Foye case. As we have heard, part 1 relates to the time that prisoners who are given a discretionary life sentence or an order for lifelong restriction must serve before becoming eligible for parole.

We have heard from various sources that the bill is complex but not unintelligible. We need to bear in mind the practitioners who will use the act. The people who will impose discretionary life sentences and orders for lifelong restriction are perhaps better placed than I am to understand the complexities. We know that the subject is complex and that the appeal court did not reach agreement on the terms of the judgment in the Petch and

Foye case, which was decided by a majority of five to two.

Part 1 will introduce a clear framework for judges to calculate sentences and make the process easier to understand. Petch and Foye are two particularly unpleasant individuals. Petch was found guilty of two charges of rape and was given a discretionary life sentence. Foye pled guilty to a charge of rape and was given an order for lifelong restriction. Both appealed the punishment elements of the sentences. As we have heard on a number of occasions, the punishment part is the period that must be served before a prisoner is eligible for parole. In 2011, the appeal court ruled on the periods that Petch and Foye had to serve before being eligible for parole.

We have heard the situation being described as “an anomaly”. I do not know whether it is a simple or a complex anomaly, but it has certainly required a complex solution.

We heard from the Cabinet Secretary for Justice that approximately 75 people have been given discretionary life sentences in the past six years. The important point to note is that such people could become eligible for parole earlier than prisoners who have been given determinate sentences for like crimes. That comparison is important. However, as the cabinet secretary confirmed, that has posed no risk to the public, because the requirement to satisfy the Parole Board for Scotland about safety has remained.

Given that, people might say, “So what?” and ask whether the issue is important. It is extremely important. We have heard about the sort of crimes that draw a life sentence—they include murder and a few others. Courts must have the discretion to impose significant penalties. Non-mandatory life sentences and orders for lifelong restriction are given to the most dangerous offenders, who will be subject to varying degrees of monitoring and supervisory regimes for the remainder of their lives.

A recipient is given a non-mandatory life sentence not as a more severe punishment for their crime or offence but because the judge believes that they are likely to pose a high risk to public safety in the future. Persons who do not pose a high risk would receive a fixed determinate sentence. Given that, the fact that someone who is deemed to pose a risk to the public and who has been sentenced accordingly can be eligible for release ahead of someone who has received a fixed sentence for a similar crime is clearly wrong. The committee heard no evidence to the contrary on that.

We have heard that the Petch and Foye ruling removed judicial discretion. Part 1 will return that

discretion and reduce the risk that decisions will be overturned on appeal.

Perhaps predictably, Mr McLetchie brought up sentencing law. A rewrite is not required. The bill is a specific response to a specific problem. As we have heard, it draws on ECHR, domestic law and the framework of existing legislation. The committee supported the aims of part 1.

I will try to outline a very simple version of the solution; it will not be as complex as the convener's explanation. ECHR laws decree that non-mandatory life sentences are different from other types of sentences because, as we have heard, they are imposed by courts based on the assessed risk to public safety. The bill addresses the problem through providing a framework for the court to set the punishment part of non-mandatory life sentences.

The court must first assess the period of imprisonment that it considers would have been appropriate for the offence had the prisoner not been sentenced to life imprisonment or been the subject of an order for lifelong restriction. That period of imprisonment must ignore any period of confinement that may be necessary for the protection of the public. The court must then assess the part of that period of imprisonment that would represent an appropriate period to satisfy the requirements of retribution and deterrence—I do not think that we have heard those terms in the debate, but they are a component part of the sentencing regime in Scotland. The bill requires that that part of the period of imprisonment, which will be the punishment part, is to be either one half or a greater portion of that period specified, up to the entire period of imprisonment.

That is where judicial discretion kicks in, because between 50 and 100 per cent can be levied, provided that certain criteria are satisfied. The criteria, which exist already, relate to the seriousness of the offence or the offence being combined with other offences of which the prisoner is convicted on the same indictment, the offence being committed when the prisoner was serving a period of imprisonment for another offence and, understandably, any previous convictions.

The situation arises out of an anomaly—no one is to blame for it. Part 1 of the bill will remedy the problem and should enjoy full support.

I do not think that victims need to understand the minutiae of sentencing law. They receive support from the Crown Office and Procurator Fiscal Service and from the victim information and advice service. We can all look forward to the implications of the bill and, more important, to the victims and witnesses bill that will be introduced in the future.

15:42

Graeme Pearson (South Scotland) (Lab): I note John Finnie's light touch in describing part 1 as "the easy bit". On that basis, I look forward to his forthcoming book, "A Treatise on Scots Law", because there is no doubt that if he found part 1 easy to understand, it would be a fascinating book to read.

The Criminal Cases (Punishment and Review) (Scotland) Bill is one piece of legislation with a title that trips off the tongue. Members who have followed the committee's deliberations will know the torrid time that we faced together in trying to understand the complexities that are involved in simplifying the process at solemn procedure when judges calculate the punishment part of a non-mandatory life sentence, which is dealt with in part 1.

It is satisfying to note that, nonetheless, the committee came to support the aims of part 1 in seeking to address the anomaly that was identified through *Petch and Foye v HM Advocate* in 2011, whereby a life prisoner is likely to have a parole hearing earlier than a non-life prisoner who has been sentenced for a similar crime.

During our committee meetings, witnesses said much that evidenced the unsatisfactory nature of current sentencing guidelines; indeed, the cabinet secretary himself acknowledged that the bill was meant to be an immediate fix to the *Petch and Foye* challenge and did not seek to address the structure of custodial sentencing more broadly. To that extent, the bill is disappointing in its ambitions. I hope that, as was alluded to by the cabinet secretary, the Government will consider further work in a reasonable timescale to address the wider issues affecting sentencing in order to ensure not only that judges can understand the procedures that are involved but—more important—that victims, witnesses and the general public can understand the system. I hope that the cabinet secretary will be able to address that outstanding matter.

I would like to see in the future the delivery of sentences that not only leave no doubt in the mind of the public about how a sentence is arrived at, but which announce the earliest date of release for a prisoner. That will give clarity and some comfort to people who are affected because they will be safe in the knowledge that an offender will not be on the streets in a free capacity before the said date.

Joanna Cherry QC said in her evidence to the committee that

"it is not just lay people who find the legislation extremely difficult to understand ... I am sure that it is an issue for the Parliament that legislation should be readily understandable to the public, particularly legislation to do with ... sentencing ... That is a strong factor in our concern

about the bill's complexity."—[*Official Report, Justice Committee*, 31 January 2012; c 865.]

Sir Gerald Gordon QC echoed those sentiments when he acknowledged that even legal experts and members of the judiciary would struggle to understand all the provisions. Michael Meehan added that

"The bill complicates matters by requiring judges not only to consider the sentence that they will impose but to conduct a parallel notional sentence exercise."—[*Official Report, Justice Committee*, 31 January 2012; c 866.]

Despite those reservations, I accept the authorities' need to take steps to respond to the identified problem. In connection with that, I suggest that the cabinet secretary encourage the authorities to draw up an aide mémoire, written in everyday language, that is designed to explain to members of the public who are attending court exactly what the sentencing procedure is and how judges decide sentences. Such documentation would—alongside Victim Support and other agencies—assist people to understand the processes.

With regard to part 2, events in respect of Megrabi have overtaken the import of our discussions on the matter. Part 2 seeks to establish a framework for the Scottish Criminal Cases Review Commission and, as other members have outlined, we have a greater understanding of some of the perceived hurdles and the real pathways forward. Nevertheless, it is troubling to acknowledge that a reporter who is based at *The Herald* newspaper in Glasgow has greater latitude to manoeuvre to allow publication of a report from the Scottish Criminal Cases Review Commission than is available to the First Minister and his Government.

A subsequent update to legal advice has indicated that previous reservations with regard to data protection and other issues were ill-founded. Although it is difficult to identify a purpose for that part of the bill now, the Government continues to press for its enactment. I well understand, with regard to Christine Grahame's contribution, the wrecking impact of our committee seeking to interfere with that process.

Nevertheless, it is useful to acknowledge that, during conversations in committee and in taking evidence, Len Murray, who is a highly respected lawyer, said that in his view the bill could create as many difficulties as it might solve, and Ian McKie commented that the current legislation and the bill as drafted would inhibit rather than assist the release of information. Both appeared before the committee as members of the justice for Megrabi campaign. Whatever their view, and the outcome, the SCCRC raised one practical issue regarding its ability to deal with financial costs. I hope that

the Government will take account of that observation and respond to it in due course.

15:48

Roderick Campbell (North East Fife) (SNP): I refer members to my entry in the register of interests as a member of the Faculty of Advocates. One of the advantages of the recess is that it enables one to catch up with reading: I mean not light reading like Ian Rankin, but heavy reading of the decision in Petch and Foye.

It might help if we remind ourselves how we got here. A 1990 decision of the European Court of Human Rights held that discretionary life sentences that were imposed by English courts were composed of a punitive element and a security element. The ECHR concluded in that case that, once the punishment part had passed, an individual was entitled to regular reviews of his continued detention.

English legislation was passed in 1991 to deal with the situation, and contained in its provisions for the release of discretionary life prisoners a specific cross-reference to the provisions for release of long-term prisoners who had been sentenced to determinate terms. That is important in ECHR terms, but the 1993 legislation for Scotland did not—for whatever reason—contain that cross-reference.

However, in a 1999 High Court case—*O'Neill v HM Advocate*—the appeal court embarked on a clarification of the position by the exercise of constructing a notional determinate sentence that would be arrived at by deciding on the period of imprisonment that would have been appropriate purely for the purpose of punishment if a determinate sentence had been imposed, and then specifying a period of one half of that—or two thirds in exceptional circumstances—as the notional sentence that a prisoner would be required to serve before he could be released, if a determinate sentence had been imposed. That is in keeping with the statutory provisions for release on licence in the 1993 act. It is clear from the decision in the *O'Neill* case and, in particular, from the comments of the late Lord Rodger, that the court was aware of the potential difficulty that that posed, but the approach was arrived at with the overwhelming purpose of achieving comparative justice.

The Convention Rights (Compliance) (Scotland) Act 2001 was passed to give statutory force to the approach in the *O'Neill* case and makes it clear that no part of the punishment part should include any element that is necessary for protection of the public. The then Minister for Justice, Jim Wallace, indicated when moving an amendment to that bill that

“the court is required to take into account the period that a prisoner sentenced to a determinate sentence of that duration would have served before becoming eligible for release under the early release provisions that are set out in ... section 1 of the Prisoners and Criminal Proceedings (Scotland) Act 1993.”—[*Official Report*, 30 May 2001; c 1091.]

However, by definition, one half of the sentence for a determinate sentence may in some cases include an element for protection of the public. That was the problem that was brought to a head in Petch and Foye; Christine Grahame talked about the majority decision in that regard.

In relation to the 2001 act, Lord Clarke stated, in a typically robust manner:

“It cannot, in my opinion, be seriously argued that the legislature had not appreciated this possible anomaly in passing the legislation in the terms it did, when the Lord Justice General had spelt it out so clearly in the judgment which the legislature was seeking to enshrine in the provisions in question.”

Whatever the deficiencies of the 2001 act, the Scottish Government is today seeking to rectify the problem.

Are the provisions in the bill too complex? Insofar as the bill provides for the court to set a minimum period of imprisonment for the non-mandatory life sentence at between half and all of the notional stripped-down punitive period, the anomaly will be removed. The bill will give discretion to judges in sentencing, but will also require judges to engage in a difficult exercise. As Michael Meehan of the Law Society of Scotland said, judges will have to consider, in relation to what is a relatively rare form of disposal, not only the discretionary life sentence but what they might have done had they gone down a different route, and compare the two. He went on to say that

“the exercises are different because, of course, the paramount consideration in cases with a discretionary life sentence is protection of the public.”—[*Official Report*, 31 January 2012; c 866.]

The Law Society made the important point that, except in a situation in which an extended sentence is imposed, the issue of protection of the public is not generally considered discretely by a sentencing judge when passing a determinate sentence.

The Scottish Government's response is to accept that the provisions are complex but not unnecessarily complex in an undoubtedly complex area of law.

I note the Government's comments on the value of a framework setting out the details of the rules that are to be applied by the sentencer, but I am also pleased to note that it would be happy to consider the precise terms of any specified alternative. Given that we are in what the Law Society implies is an artificial situation, if the aim is

to give judges flexibility in sentencing in order to avoid the Petch and Foye anomaly, it seems paradoxical to do so in what has been described as a rigid, step-by-step way.

On double counting, the grounds on which the court may set a punishment part of a non-mandatory life sentence at more than one half of the notional equivalent determinate sentence, such as the seriousness of the offence and any previous convictions, are similar to the criteria that are used to determine the length of the overall notional determinate sentence. Is this double counting? Will it give rise to ECHR challenges? The Scottish Human Rights Commission sits on the fence. Although the Scottish Government's position is that the criteria are to be applied for separate purposes—which I accept—there are two separate purposes within the overall sentencing framework.

The committee's view was that the Government might have benefited from consulting more widely before introducing the proposals. Understandably, the Government has indicated that because this was not a new policy, and there was a need for swiftness in resolving the anomaly, it has got the balance right, particularly given the low response to the committee's call for evidence. Again, it is hard to disagree, but I think that we have to accept that the scheme that is proposed has not generated much enthusiasm. Therefore, although I welcome this element of the bill, there remains scope for further consideration of its detail and for seeking help from stakeholders on consideration of whether there is any realistic alternative. Certainly, it is not helpful to criticize without alternatives.

Having perhaps been overly hasty in 2001, Parliament should endeavour to learn from that experience.

15:55

Humza Yousaf (Glasgow) (SNP): As a member of the Justice Committee, I, too, thank everybody who came forward and gave evidence on the bill.

There is a constant underlying theme in the debate. To say that members were at times bamboozled by part 1 would be an understatement. It was quite amusing to observe witnesses' faces as members placed their hands in front of their faces and used their fingers to try to understand by way of practical example how sentencing was worked out. I am not looking at anyone in particular in the chamber, of course.

I am in the minority of Justice Committee members who do not have a legal or law-enforcement background.

John Mason (Glasgow Shettleston) (SNP): Hear, hear.

Humza Yousaf: Thank you. However, luckily, my wife studied law, which was very helpful to me. I have sympathy for Alison McInnes and for Colin Keir—who has disappeared from the chamber—who do not have such backgrounds either, but displayed a good grasp of the issues at hand. Perhaps they, too, chose their respective partners very well. I notice that there is no intervention, so I will assume that that is correct.

As we have heard, the bill has two main parts, each of which covers a different aspect of criminal case law. I will speak mainly about part 2, but will briefly touch on part 1, if I may.

People want and need confidence in our justice system. If that confidence is to be maintained, people—the victims of crime in particular—must understand at least the rationale behind offenders' sentences. There is a much wider issue to be discussed to do with automatic early release, which the Scottish Government is committed to ending—alas, Mr McLetchie has had his moment.

It has been mentioned that it is extremely important that there is consistency in sentencing and that it is understood not only by the legal profession, but by the victims of crime. Part 1 was introduced to fix the anomaly that was highlighted by the Petch and Foye case. The majority of those who gave evidence commented on how complicated the legislation is, but it was also acknowledged that sentencing as a whole is a pretty complex business. The difficulty of understanding the task should not be a big enough factor alone to deter us from fixing an inconsistency in the system; after all, that is part of the job that we are mandated to do.

I accept that there is a difficult balance to strike. We must ensure that people understand sentencing procedure, but sentencing is inherently difficult. It is not a matter of simply having a prescriptive list of sentences to match specific crimes. As the Justice Committee report acknowledges, we must also look at putting in place measures to ensure that victims and witnesses fully understand the sentences that are handed down by the courts and how they apply in practice. Mr Pearson's idea of an aide-mémoire is worthy of further consideration.

I turn to part 2. Although the bill was introduced specifically in response to the case of al-Megrahi and his abandoned appeal, it can be applied to similar cases that might arise, as John Finnie said. Therefore, it is not completely without purpose, but to pretend that it was not fundamentally driven by the unusual circumstances surrounding that particular case would, of course, be foolish. Many members are much better versed in the intricacies

and complexities of that case, but it is abundantly clear to all that serious questions remain over that tragedy. Primarily, we owe answers to the families of the victims who were killed in the Lockerbie tragedy, but the reputation of the Scottish legal system has a question mark—some may even say a stain—on it that will not be washed away until some serious questions are answered.

It seems to me that the Scottish Government is doing what it can to be as transparent as possible and to move the process forward. Now that the statement of reasons is in the public domain—I cannot confess to having read all 821 pages of it—we must ask: what now? Many of us wonder whether the truth will ever fully be revealed. Surely the only way to bring further clarity would be through an appeal. It was reassuring to hear the cabinet secretary say recently that the appropriate measures are in place for the family of al-Megrahi to pursue an appeal posthumously. It will, of course, be for them to determine whether to do so, but I hope that that opportunity is taken for the sake of the victims' families if nothing else.

The whole tragic event has been mired in controversy and secrets, deals in the desert, and kissing dictators in Bedouin tents. The talk of oil contracts and secret documents all make for a conspiracy theorist's goldmine. The bill may not be the complete answer to the many outstanding questions that exist; the only thing that will put to bed such questions is the truth.

I am not accustomed to quoting Winston Churchill, and I do not intend to do so ever again, but he was undoubtedly right when he said:

"The truth is incontrovertible; malice may attack it, ignorance may deride it, but in the end, there it is."

I hope that the bill will help us to take at least a small step towards discovering the whole truth of the deeply tragic al-Megrahi affair.

16:00

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): Presiding Officer, I think that I deserve full marks for bravery as the first non-member of the Justice Committee to venture into these choppy waters without the benefit of the committee tutorials. However, I have read the committee's excellent report. I note the committee's view, which was expressed near the beginning of the report, that the bill might have benefited from more consultation, and I agree with the emphasis that Jenny Marra put on the need for more consultation on data protection, in particular.

From my reading of the report, I agree that, in relation to part 1, there was a genuine problem that needed to be dealt with and that the judiciary should be given appropriate discretion. However, I noticed several quotations about the complexity of

the proposed solution. As Jenny Marra said, James Wolffe QC told the committee that the Government had taken an extremely complex piece of legislation and made it more complex—and I award full marks to Christine Grahame for trying to unpick some of the complexities.

According to the Scottish Government, the bill is not unnecessarily complex but, as I listened to the cabinet secretary, the words went through my mind: "Explaining legal matters to the nation—I wish he would explain his explanation." The committee was attracted by the relative simplicity of alternative approaches. Perhaps some of those could be investigated during stage 2.

It is not surprising that—like, I suspect, the general public—I am more interested in part 2. I have a general interest in the Megrahi case and I found several of the issues that the committee raised in its report interesting. For example, a former member of the Scottish Criminal Cases Review Commission suggested that the Government, rather than the commission, should make the decision to publish the statement of reasons. I note that the committee did not agree with the suggestion and I am happy to go along with the committee in that regard. However, I also noted a discussion about whether the factors to be taken into account by the commission should be spelled out in the bill. That certainly seems worthy of discussion at stages 2 and 3.

The report made clear that data protection was the main issue that was raised during discussions about part 2. I have been puzzled by the cabinet secretary's insistence—until very recently—that data protection was an obstacle to publication of the statement of reasons and I hope that he will talk more about that when he winds up the debate, if he is doing so.

The Information Commissioner's Office said in written evidence, which is quoted in the report:

"the Bill contains a robust legislative framework which will ensure that such disclosure is fair and lawful."

I am sure that many members read Lucy Adams in the *Sunday Herald* on 1 April. She said:

"The Information Commissioner's Office ... wrote to The Herald to deny claims that the report was held back by data-protection laws."

She went on to say that the ICO had told the minister that, too. If that is not the case, the minister will no doubt want to say so. I am genuinely puzzled. David McLetchie has a particular political explanation for the Government's approach. I do not particularly want to go down that route, but it is puzzling that data protection was for so long held to be the main obstacle to publication.

Having said that, I think that there are genuine data protection issues with regard to other aspects of the legal system. That is not the main subject for today's debate, but perhaps the Presiding Officer will forgive me if I briefly refer to a constituent who came to see me during the past couple of weeks. She was most concerned that a full 20-page transcript of a protracted divorce proceeding that she had been involved in was published on the Scottish courts website. The document gave intimate personal details, as well as—believe it or not—details of specific bank accounts. I do not know whether that happened by accident or whether it is routine practice, although I believe that such reports are routinely put on the Scottish courts website at the discretion of sheriffs. I contacted the Scottish Information Commissioner and he told me that reports of court proceedings must comply with all eight data protection principles, so I think that there is a genuine data protection issue, which the Government, the Lord President and whoever else has an interest in the matter should address.

However, I do not think that that issue is relevant to the publication of the statement of reasons in the Megrahi case. That being the case, I hope that the SCCRC will officially publish the statement of reasons very soon, although many people will have already read it thanks to the *Sunday Herald*.

16:06

Mark McDonald (North East Scotland) (SNP): Where Malcolm Chisholm leads, I will boldly follow, as another non-member of the Justice Committee entering bravely into the fray. Never has the old quotation, "Laws are like sausages—it is better not to see them being made", which is often attributed to Otto von Bismarck, been more apt.

The bill is a complex one that deals with complex issues. Christine Grahame, David McLetchie and Rod Campbell, who, unlike me, are all qualified legal professionals, have identified how difficult a bill it is. As a mere layman, I must be perfectly frank and admit that I have found a deal of the process and the technical content of part 1 extremely difficult to comprehend, and I am sure that many people on the street would do so, too.

The litmus test of any bill of this Parliament is not whether it makes for easy bedtime reading but whether it will deliver outcomes that are of benefit to wider Scottish society. That is the test that we must apply to any bill that is introduced. I do not think that it is unreasonable that the bill includes extremely complex and technical elements, given that it seeks to resolve a complex legal technicality. The question is whether, in passing

the bill, we would deliver benefits. It is through that prism that I will view the bill. I want to assess whether it will have a beneficial impact for society as a whole.

Graeme Pearson rightly identified that, in that regard, a key consideration must be ensuring that victims, families of victims and witnesses understand the bill and benefit from it. In its response to paragraph 95 of the committee's report, the Scottish Government states:

"We are keen to explore with stakeholders, in the context of developing a Victims and Witnesses Bill, whether further steps could be taken ... to enhance the ability of victims and witnesses to better understand the practical effect of decisions made."

That is very much a live issue for the Government. It is clear that it is keen to ensure that victims, witnesses and, where appropriate, relatives of victims have an understanding of the process and how it affects them, and what the outcomes of it are likely to be. We should not expect such people to be legal experts, although many of them acquire a good understanding of the legal process as they go through the system. As someone who has spoken to a number of relatives of victims and witnesses, I know that they develop quite a strong understanding of the legal system as a result of their experiences and their exposure to it. As well as accepting the need for such people to understand the legal system, we should not dismiss the fact that many of them develop an acute understanding of how it works.

We should not lose sight of the fact that, although the two sections in part 1 of the bill have, in effect, been christened with the names of the cases that gave rise to their being necessary, those cases are not the only ones to which those two sections do or could apply. The cabinet secretary has identified that only a small number of cases that are in the system at the moment would fall into that category, but it is worth remembering that the cases in question are very serious criminal cases that give rise to significant public safety concerns. It is therefore important that any anomalies in the judicial process and the sentencing system are dealt with to ensure that cases like Petch and Foye do not arise in future.

It has been suggested that there should be a wider review of sentencing. The obvious drawback in that is that a quick fix might be required for a situation like that in the Petch and Foye cases. By definition, a wider review of sentencing would take a longer time and the length of time taken could mean that further anomalies would not be prevented. It was therefore perfectly appropriate for the Government to introduce the bill, particularly part 1, as a fix that is required for very serious criminal cases.

Part 2 was clearly driven by the al-Megrahi case, but we cannot rule out the possibility—however remote—that a similar case or another case with similar connotations will arise in future. It is entirely appropriate for the Government to put in place provisions that will allow some of the difficulties that were faced during the process of the al-Megrahi case to be ironed out so that they will not be an issue in future cases.

I support the bill's general principles. I merely observe that, although I do not possess my colleague Mr Finnie's understanding of part 1, which he referred to as "the easy bit", we will take up Mr Pearson's suggestion—I have offered to draw the pictures for Mr Finnie's book.

16:11

Mary Fee (West Scotland) (Lab): The Criminal Cases (Punishment and Review) (Scotland) Bill is needed to remedy the judgment handed down in *Petch and Foye v Her Majesty's Advocate*. The bill seeks to deal successfully with an anomaly by which prisoners who are given a mandatory life sentence could apply to become eligible for parole earlier than those serving sentences of a fixed length. It is disappointing that we could have a loophole in our justice system today that would allow prisoners who have committed a crime so serious that it merits a life sentence to be eligible for parole earlier than those serving sentences of a fixed length.

I take this opportunity to thank Christine Grahame, who is not here just now, for her succinct examples earlier of sentencing and parole. Like some other speakers, I am not a member of the Justice Committee, so I found what she said quite helpful. However, I read diligently all the briefings for the debate and I am satisfied that the bill will successfully close the loophole, although I have some reservations about how it will do that.

I understand that part 1 is necessary because of the *Petch and Foye* judgment, but it only adds complexity to an already complicated area of the law. The current legislation has caused much debate and it has been subject to various interpretations by the courts. Although the bill remedies a loophole in the sentencing structure, it will not give a clear legislative solution, because what is being proposed is too similar to what has gone before.

In general, approaches to sentencing need to be less prescriptive and sentencing requirements need to be clearer and more appropriate. That would make it easier for the public and the victims of crime to understand how and why a sentence was given. I understand that the Justice Committee has asked the Scottish Government to

ensure that victims and witnesses fully understand the sentences that are handed down by courts and how they are put into practice. I welcome that proposal, but the sentencing should also be made clearer to the families of the offenders and it should be put in such a way that they will be able to understand the sentence during what is a traumatic time.

The Law Society of Scotland made a valid point that proposed new section 2B(5) of the Prisoners and Criminal Proceedings (Scotland) Act 1993 will give the sentencing judge discretion as to the length of the punishment part of a sentence. The Law Society is concerned that there is provision in the sentence calculation exercise for the sentencing judge to increase the punishment part period, having regard to the same features that could have been considered when that period was first identified. The Law Society feels that someone sentenced in that way might appeal on the basis that it leads to double counting. I feel that the Scottish Government should look into the potential for double counting in the bill.

I agree with the Justice Committee and the Law Society that the bill is acceptable as an interim measure that addresses the immediate concerns arising from the *Petch and Foye* judgment. However, the opportunity to simplify a complex part of our law has been missed. Indeed, our sentencing legislative framework should be reviewed in its entirety to make it clearer and easier to understand.

Part 2 was intended to allow the publication of the reasoning behind the decision to refer the case of Mr Abdelbaset al-Megrahi to the High Court as a possible miscarriage of justice. The reasons were originally not published because the Megrahi appeal was abandoned.

Arguably, part 2 is now redundant because, as members heard earlier, the reasons for the appeal being dropped were leaked and published in the press. I agree with the Justice Committee that the publication of the statement of reasons in the Megrahi case might serve a relatively limited purpose. However, there needs to be as much openness as possible about why Megrahi was allowed to make his appeal.

The main reason why part 2 was introduced was to facilitate disclosure in the Megrahi case. However, it is general in scope and can apply, in future, to cases other than that of Megrahi. That gives the Scottish Government an opportunity to consider whether the provisions are strong enough to apply in other cases.

If part 2 can apply to future cases, there will have to be a strong public interest in the case for publishing the reasons for appeal. There needs to be as much transparency as possible so that the

public can have a greater understanding of the appeals process.

The general principles of the bill are decent. They set out to solve a couple of issues in our justice system. However, an opportunity has been missed to make the sentencing procedure more transparent and easier to understand. I also hope that part 2 is robust enough to apply to future cases.

16:16

Colin Keir (Edinburgh Western) (SNP): Over the past year, members of the Justice Committee have been faced with some complex material to digest in the course of their deliberations.

As we have heard from previous speakers, some of whom are legally trained, part 1—which deals with the consequences of sentencing post the Petch and Foye judgment—has been one of the most difficult pieces of legislation to deal with in terms of explaining clearly what has happened and what is required to happen to end the anomaly whereby life prisoners may have parole hearings earlier than non-life prisoners who were convicted of similar offences.

There are, of course, differences of opinion. The Scottish Government believes that the bill shows a clear way forward in calculating the punishment part for non-life sentences, while some witnesses believe that we are faced with an overly complicated system. However, I am sure that no one disagrees with the cabinet secretary that the public must have full confidence in the process of law.

We must have a system that is understandable to everyone who is involved in proceedings in a court of law, and it is vital that those who are involved but not legally trained—such as the accused—are able to understand the sentence that is handed down. Therefore, I am delighted that, in his initial response to the committee report, the cabinet secretary gives a clear indication of routes that accused persons can take to get help with the process.

Of course, the court must also be able to hand down a sentence that is appropriate to the crime that was committed. Judges must take into consideration comparative justice—or, indeed, comparative injustice—when handing down a sentence. That, on top of ECHR legislation, complicates matters.

I am sure that members will be delighted to know that I do not intend to go through the arithmetical permutations that are described in the committee report. Christine Grahame's tutorial on sentencing was probably enough for all members.

However, the committee had some reservations about the provisions. As has been mentioned, perhaps a less prescriptive approach is required. I welcome the cabinet secretary's earlier comments on that. Any effort to simplify the process appears to be worth while—a view that the Law Society and others share.

In his written ruling on cutting the punishment part of Morris Petch's sentence, Lord Osborne said that it might be "some comfort" to those concerned to note that Petch would not necessarily be released after completing eight years. However, the public are rightly outraged by any cut in a convicted sex offender's sentence. That is even more the case when it is perceived—rightly or wrongly—that the decision is made on a technicality. Of course, if we can end early release, these issues will be so much easier to deal with in and out of court. I therefore commend the cabinet secretary on his efforts to find a speedy solution to this problem, although I believe that some work still needs to be done.

I do not think that there will be anyone in the chamber who does not know that part 2, which deals with the disclosure of information obtained by the SCCRC, is based on the case of Abdelbaset al-Megrahi. One might argue that, now that events have overtaken us, there is no point in proceeding with this part of the bill but, like the cabinet secretary and Mark McDonald, I have to wonder what would happen if a similar atrocity were to occur on Scottish territory. I certainly support the principle behind part 2, because the bill has cast light on areas hidden in the darkness of secrecy, personal interest and the national interest of various nations. Just in case another case similar to Megrahi's arises in future, we need to look at the possible data protection issues that Malcolm Chisholm highlighted, which are reserved, and permission to allow the publication of information from individuals, outside agencies and nation states.

Like my colleagues on the Justice Committee, I support the principle of openness whenever possible; indeed, in my opinion, the Megrahi case itself would have benefited from more of it. Of course, that leads us to ask, "What is the public interest?" but that is another question. I believe—and suspect that most people think—that the SCCRC should have been allowed to release the statement of reasons on this case years ago. I also agree with my Justice Committee colleagues that the SCCRC is the appropriate body to deal with the release of such information. It is ludicrous that a version of it was released by a Sunday newspaper and not through official channels; as far as the case of Megrahi is concerned, such a move cannot serve the public interest. However, we are where we are and I believe that, in an effort

to discover a clear direction for the process, the bill should proceed.

I suspect that the bill has caused every member of the Justice Committee much frustration, but I agree with the principles behind both parts of it. I have to say that I found witnesses' written and oral evidence fascinating and, as we have gone through stage 1, it has been amazing to hear the different sides of the argument from both the legal profession and groups such as Justice for Megrahi.

I fully support the principles of the bill and the Justice Committee's report.

16:22

Alison McInnes (North East Scotland) (LD):

Like other committee members, I am grateful to everyone who submitted evidence on the bill, because they certainly helped us to get to grips with an extremely technical piece of legislation. First of all, I should say to Humza Yousaf that my husband does not have a legal background—he is, in fact, a documentary filmmaker—but what he offers me is endless patience. He certainly needed that patience when I tried over and over to explain to him what the bill was about; on this occasion, I might even have stretched it a bit.

During the evidence sessions, there was a great deal of to-ing and fro-ing, particularly with regard to part 2, as arguments about the interaction of data protection legislation and the proposals in front of us played out. Much of that could have been avoided had the Government carried out the usual formal consultation prior to the bill's introduction.

Like other Justice Committee members, I support the bill's general principles. As we have heard, it contains two very disparate pieces of legislation. Although not unprecedented, it is not a particularly sensible way to legislate as it ties Parliament's hands. Although part 2 is couched in general terms, we all know that its overriding purpose was to facilitate the publication of the statement of reasons in the al-Megrahi case. Indeed, some might say that it is no longer required, given that a national newspaper published that very document a few weeks ago. Such a development simply highlights how events can overtake us and exposes the dangers that are inherent in linking together two totally separate items in a bill. The fact that part 2 is tied to part 1 means that it cannot be dropped unless we are prepared to allow the whole bill to fall. Of course, that would not be sensible, so we must press on with part 2, however unnecessary it might be. Although it is highly unlikely, I accept that another abandoned appeal in the future might raise significant public interest. However, as the

committee convener said, we had little time to take evidence on the general applicability of the provisions as, understandably, most of our evidence related to the Megrahi case.

I support the view that a full and detailed account of the events surrounding Lockerbie should be available to us all. For too long, there has been speculation about the case. As Humza Yousaf rightly pointed out, publication of the statement of reasons would never have resolved all the outstanding issues, but it is an important, if limited, step. Without a doubt, it is in the public interest to know why Mr Megrahi was allowed to appeal. It is vital for Scotland that our justice system is open and transparent and, if mistakes have been made, we must learn the lessons so that justice can be served.

I will focus the rest of my comments on part 1, which relates to the punishment part of non-mandatory life sentences, as we have heard. As the cabinet secretary outlined—the committee convener developed the point in her detailed seminar—it sets out to correct a situation that arose following the appeal court judgment in March 2011 in the case of Petch and Foye v Her Majesty's Advocate, which meant that prisoners who are given a discretionary life sentence or an order for lifelong restriction can apply to become eligible for parole earlier than those who are serving sentences of a fixed length. The bill is intended to restore to the courts the discretion to set a punishment part of sentences when it considers that appropriate in the circumstances.

Yet again, the Scottish Government finds itself having to play catch-up in relation to ECHR compliance. It has had to get out the sticking plasters again. The fact that this is the latest in a string of such cases highlights the need to ECHR proof all our legislation rather than only responding after the fact. Indeed, the committee's report draws attention to the interim nature of what is proposed. It is surely time that we looked closely at our body of law and reviewed exactly how it sits in relation to our ECHR responsibilities.

I support what the Government is trying to achieve with part 1, but I question whether it is going about it in the right way. Our committee report highlights concerns about the unnecessary complexity of the proposals. Public confidence in the law and ease of understanding ought to be central to our justice system. Sentencing is a crucial part of that, and it should be readily understood by all those who are involved as well as the wider public. The bill is intended to simplify the situation, yet the Law Society maintains that

“the Bill will not give rise to a clear legislative solution”,

because what is proposed by way of calculation and comparison exercises is similar to what has

gone before and may itself bring further confusion and uncertainty, which would give rise to its own complexities.

We heard in evidence from the Faculty of Advocates that this is complicating the issue significantly and interfering with judicial independence, and that there are questions about the extent to which it is appropriate to seek to restrict, control and direct the exercise of judgments. There is a danger that sentencing is becoming too formulaic and we are tying the hands of judges and interfering with their discretion.

I draw members' attention to the paragraphs on pages 16 to 18 of our report on public confidence and clarity in sentencing. As Jenny Marra pointed out, James Wolffe QC characterised the approach of the bill as being

"to take an already complex piece of legislation and make it even more complex."—[*Official Report, Justice Committee*, 31 January 2012; c 864.]

James Chalmers of the University of Edinburgh considered that the bill

"seeks to create a tortuous system which is barely intelligible to lawyers, let alone the general public".

He went on to state that he had not spoken to anyone who had felt comfortable in reading it and working out what judges are required to do under it.

The committee is of the view that the Government should consider whether a less prescriptive approach would be clearer and more appropriate. I have considered the cabinet secretary's response that the matter is necessarily complex, but I remain of the view that we ought to be doing everything possible to simplify it, and I ask the cabinet secretary to give further thought to that during stage 2.

I have some sympathy with the view that the sentencing legislative framework has become unduly complex and should be reviewed in its entirety to provide greater clarity. I urge the Government to give serious consideration to that in the longer term.

16:28

Dennis Robertson (Aberdeenshire West) (SNP): When I was given the task of being a member of the Rural Affairs, Climate Change and Environment Committee, I never thought that I would be grateful for that, but I am absolutely so. From what we have heard from the members of the Justice Committee this afternoon, it is not somewhere that I would have wished to be.

There is little point in my going over the statements that we have already heard from

various members. Part 1 of the bill is indeed complex. However, the complexity is perhaps not in the sentencing itself, but in explaining it to members of the public. In my previous role as a social worker, people often asked me to explain the sentencing that was being done in the courts. As an MSP, I am being asked the same questions. I have found it very difficult to explain to former clients and my constituents in Aberdeenshire West the complexities of sentencing.

I am grateful to Christine Grahame for her explanation, but it had me slightly perplexed initially when she said that she was going to introduce colours to explain it. I thought, "I am finding it difficult enough to understand the legislation without having to understand colours as well." However, I am grateful to Christine Grahame for introducing John Brown, John Black, John Red and, eventually, John Green into her explanation; I was confused at the end, because I think that she was trying to refer to John Red.

Christine Grahame: I have to say that I confused myself. John Green is an intruder.

Dennis Robertson: I thought that it was males who had the problem with reds and greens.

The matter that we are debating is very serious, and it needs to be resolved. I congratulate the Justice Committee on its efforts to scrutinise the bill and to tease out and highlight the anomaly in a very complex bill. At the end of the day, members would do well to remember that we are at stage 1 of the bill process and many things can happen at stages 2 and 3. I am sure that many of the questions that have been put to the cabinet secretary will be answered.

Let us ensure that, at the heart of where we end up in our deliberations on the bill, members of the public who are victims, witnesses, families and carers of victims, and those who are sentenced, all understand what has happened, why it has happened, and what the outcomes will be. We owe it to everyone who becomes involved in that procedure. People who come to our courts deserve a full and comprehensive understanding. I commend Graeme Pearson's suggestion that we might need to do something to help people who are going through the court system to understand the complexities of sentencing.

There is much more work to be done and I hope that the Justice Committee and the cabinet secretary can work together to ensure that a very complex matter is explained so that people like me can go back to my constituents and explain it.

The Deputy Presiding Officer (Elaine Smith): That brings us to closing speeches. I remind members who were in the chamber for the debate that they should be here for closing speeches.

I have a little bit of time in hand for interventions. I call David McLetchie—I can give you up to seven minutes, Mr McLetchie.

16:33

David McLetchie: Thank you, Presiding Officer. Once again, you show your generous nature. I am most gratified. This has happened a couple of weeks in a row.

As I indicated in my opening remarks, the Scottish Conservatives will support the bill at stage 1. We welcome this afternoon's debate, which has provided us with an opportunity to question and examine the Government's handling of the legislation, and to hold the Government to account on a number of matters that go beyond the strict boundaries of the bill itself. We always welcome the opportunity to do so.

I welcome the sentencing provisions, however complex they might be, because they seek to address the Petch and Foye anomaly. It is clearly undesirable that prisoners who are given an indeterminate sentence can be eligible for release at an earlier date than if they had been sentenced to an equivalent fixed time in prison.

All parties and all commentators have recognised that point, as has Lord Justice General Hamilton in his opinion on the Petch and Foye case. He recognised that the outcome or conclusion that the court had come to was anomalous. He said:

"I have accordingly come, with regret, to the view that, however unsatisfactory it may appear as a matter of comparative justice, Parliament has given statutory effect to an arrangement under which an indeterminate prisoner will, or at least may, become first eligible for consideration for parole at an earlier stage in his sentence than an equivalent determinate prisoner."

He went on to say:

"If this situation is to be remedied, it is for Parliament to remedy it."

He was too charitable to say that, since we made a mess of it the first time, we should sort it out the second time, but there is an element of that in his comments. To the extent that the bill is a remedy and corrects the anomaly that the courts have identified, of course it should be welcomed.

We have created a tortuous system, as is apparent from the many comments to that effect. That is an important point, because a complex sentencing regime that is incomprehensible to the general public will serve only to further reduce the already low level of public confidence in sentencing policy. As members have said, Graeme Pearson made good points about trying to explain the mysteries of sentencing to people who are, however inadvertently, engaged in our court

system. Of course, that is only part of the solution—simplification is the substantial answer.

That leads me back to the point that I made in my opening speech that the Petch and Foye case further highlights the need to abolish the system of automatic early release of prisoners. I make no apologies for returning to that proposition because, without the existence of such a scheme, the issue would have been avoided, as the custodial sentence that is handed down to convicted criminals would in all cases be the sentence that is served.

Dennis Robertson: Does Mr McLetchie acknowledge that our prisons are overcrowded and that we cannot just abolish the system that he is talking about? At the end of the day, we are trying to have robust community sentencing, as recommended by the McLeish report, which was mentioned earlier. Does Mr McLetchie agree that we should wait until we have the infrastructure in place to support that?

David McLetchie: I agree that our prisons are full. However, I think that that is a good thing and it is one reason why crime rates are at their lowest for 35 years. I am astonished that members of the Scottish National Party, who like to brag about that weekly, fail to see the fairly obvious and elementary connection between the two things. I say to Mr Robertson that people who are in prison are there because they have been convicted of a crime and our judges—whose judgment I respect and in whom I have confidence—have decided that they deserve to be there. That is down to the judgment of judges, not my judgment. Our function as legislators and the Government is to provide a framework to ensure that the crime and punishment system that we have put in place actually works.

Kenny MacAskill: I note Mr McLetchie's great support for prisons as an institution. Can he remind me how many prisons were constructed in Scotland in the 18 years of Conservative Government? Was it zero?

David McLetchie: I do not know whether it was zero.

Kenny MacAskill: I believe that it was.

David McLetchie: Hang on. I am sorry, but I honestly do not know the answer to that question. I will look up the answer and I will write to the minister after the debate. [*Laughter.*] Right. I have kind of lost my thread.

The Deputy Presiding Officer: You have one minute left in which to find it.

David McLetchie: I shall have to stop debating that point and move on to part 2.

I continue to question whether part 2 is necessary in the changed circumstances in which we find ourselves. No one would dispute that the bill was drafted and scrutinised with the Megrahi case at the forefront of our minds. Now that the statement of reasons has been published, the primary purpose for part 2 no longer exists.

I take the point that other members have made that the bill is drafted in general terms, and therefore in theory is capable of applying to other cases in future. That is undoubtedly the case. However, I have serious doubts about whether part 2, drafted quite clearly with one specific case in mind, is robust enough to apply to other circumstances. Does the cabinet secretary have any intention of implementing part 2 immediately? I accept that for technical reasons, because of the structure of the bill, he cannot withdraw it without prejudicing part 1, but there seems to be no obvious reason why it should be commenced immediately. I suggest to the cabinet secretary that we might look at the commencement provisions at stage 2 or stage 3 and perhaps build in a bit of time to consider whether the measure is a sustainable one that we want on our statute book for the longer term.

16:41

Lewis Macdonald (North East Scotland) (Lab): The bill is not one of those pieces of legislation that attract outright opposition, but it is one of those that beg the question how else they might have been structured or what might have been done instead. There are few instances in the 13 years of this Parliament in which a stage 1 report has begun by noting that the purpose of the legislation has been overtaken by events even before the committee has met to agree its report. Those few instances have arisen where the legislation has been introduced on an emergency basis, typically because a court of law has interpreted statute in a new way that renders change in the law urgent and unavoidable.

This is not such a case. Part 1 responds to a specific judgment, in Petch and Foye, that invites statutory clarification, but that is not the same as those previous pieces of legislation that were introduced on an emergency basis, in which haste was really required. As we have heard, part 2 responds to one specific case in which the legal position has not changed in any fundamental way since the release of the convicted offender, on compassionate grounds, in August 2009, but in which the inadequate statutory provision has been exposed over time.

As the convener of the Justice Committee noted, parts 1 and 2 deal with quite different matters. That is reflected in the bill's cumbersome title, to which Graeme Pearson referred. Given

that one part responds to a High Court judgment from March 2011 and the other part follows the decision in the Megrahi case in August 2009, it is hard to identify any compelling reason why the two matters have had to be addressed in the same piece of legislation.

Although the bill is not emergency legislation, as Jenny Marra and Malcolm Chisholm noted there has been no pre-legislative consultation other than with the Scottish Criminal Cases Review Commission on part 2. Perhaps if some of those who gave evidence to the Justice Committee had been formally consulted first, some of their criticisms might have been pre-empted. Mr MacAskill has said today that he would welcome an alternative approach. Perhaps such an approach might have been easier to develop if consultation had happened before the bill was introduced.

The verdict of most expert witnesses on part 1 seems to be, at best, "not proven". The Government's intentions are laudable, but its solutions are not. Graeme Pearson argued that the measure should not provide just a short-term fix to a new interpretation that was reached by a majority of judges in one particular case. More needs to be done to make the whole sentencing process less opaque and more transparent and accessible for those affected. As Mary Fee said, that opportunity appears to have been missed. If so, that is a matter of regret.

Nonetheless, there may still be opportunities at future stages of the bill to address that challenge. Perhaps the cabinet secretary will indicate in closing whether there will be Government amendments at later stages to begin to provide a more rational structure to sentencing policy as a whole, or whether he will seek to discuss alternative schemes and approaches over coming weeks and months.

Given that part 1 is all about sentencing and touches on determinate and indeterminate sentences and other matters of that kind, ministers might have seen fit to do something more decisive about the whole area of early release from prison even if they did not go to the extent of seeking to meet their manifesto commitment, as David McLetchie suggested they could have done. A wider bill to address sentencing in general might have had more value than a short-term fix to Petch and Foye alone, and it would have made more sense than the current uneasy combination of two quite separate measures. I look forward to hearing more about the Government's future intentions in those areas.

It was perhaps predictable that the statement of reasons on Megrahi's grounds for appeal would be published, and it was published online a few days before the stage 1 report was agreed by the

Justice Committee. When the *Sunday Herald* made the decision to publish the statement in full, it simply stepped into the vacuum that had been left by ministers. The Justice Committee's report describes publication as a hugely significant development given the policy intentions behind part 2 of the bill, and it certainly is. In effect, the newspaper's decision to publish and the Crown's intimation that it would not prosecute rendered part 2 redundant in relation to its main objective, as Christine Grahame said.

We have heard that part 2 is drafted in general terms and may still be relied on in future cases. That is true at least in theory, although Christine Grahame and other members have raised doubts about whether it would be robust enough for that. Because of that theoretical position, we will support the general principles of part 2 today. However, devising provision for a past case and then making it available for possible future cases is surely not how good law is made. I would be interested to know whether the minister intends to lodge any amendments affecting the substance of part 2 to reflect the changes in circumstances.

Megrahi's is not an obscure case that has been hauled into the limelight by its implications for human rights or for judicial procedures. It relates to the gravest crime that has ever been tried by a Scottish court, for which one man has been convicted, and part 2 would not be before us today if Megrahi had pursued his appeal. It appears that he did not pursue his appeal, in part, because Mr MacAskill repeatedly reminded him that he would not qualify for release under a prisoner transfer agreement as long as he had an appeal pending. However, Mr MacAskill does not appear to have explained to him that the same requirement did not apply to the option of release on compassionate grounds. That is unfortunate, as the abandoned appeal allows the inference to be drawn that the conviction was unsafe in the first place.

Kenny MacAskill: Is the member not aware that Mr al-Megrahi received significant legal advice? Some of that will be known to Mr Macdonald, given the nature of whom the advice came from. I cannot understand why Mr al-Megrahi would be in any doubt about the difference between a prisoner transfer agreement and compassionate release.

Lewis Macdonald: I am sure that the legal distinction was drawn to his attention. However, I am also sure that anyone facing a lengthy prison sentence who meets a Government minister who explains that one circumstance requires him to drop his appeal but does not address the other circumstance might draw his own inference from that.

Perhaps ministers will also reflect on why they decided that the bill was necessary but left it to the current parliamentary session to introduce the measure instead of acting more quickly. We have heard, for example, that the data protection grounds claim for caution on the part of ministers did not impede publication when the disclosure of information was in the interests of justice. It is clear that ministers could have laid an order at any time after the previous order was found wanting at the end of 2009. Had they done so, the commission might have been able to publish its statement of reasons at its own hand many months ago. A change in the law ahead of publication would have avoided the Parliament being reduced to the status of a rubber-stamp for decisions that have already been made in the offices of editors and publishers here and elsewhere.

We, on this side of the chamber, have always favoured openness and transparency in relation to the decisions that were taken in the Megrahi case. That is why we support the general principles of both part 1 and part 2—not in the belief that the Government has got it right, but recognising that it has tried. We invite ministers to try a bit harder when the bill gets to stage 2.

16:49

Kenny MacAskill: The debate has been quite good and wide ranging, given its complexity. A variety of significant speeches that were of great merit have been made. Some were more of a legal treatise, such as that from the Justice Committee's convener, who narrated the position by referring to Messrs Black, Brown and Red. As would be expected given his background and ability, Rod Campbell gave an eloquent contribution of a legal nature. We have also heard from members who are neither part of the Justice Committee nor legally qualified. Mary Fee made a significant contribution that shows that the matter is being dealt with appropriately and adequately, as would be expected with Government legislation.

Some counter-arguments have been made. It has been argued that the bill is not large enough and that we should address sentencing as a whole. If we did that, we would still be in a consultation process. Calls have been made to separate the parts of the bill. It is accepted that there are two particular parts, but we must bear it in mind that legislative time is at a premium. If we had introduced two separate bills, we might not have had the same amount of time to deal with them and might have had to extend the time for that, which might have meant that other equally desirable legislation fell.

Important but perhaps tangential matters have been raised. We are having the debate on the day

after we saw Lord Bracadale speak on television in the case of *HMA v David Gilroy*, so we recognise the willingness of the Scottish Court Service under the Lord President to be as open as possible. That move was welcomed as a way of making the process more understandable to the public, but we recognise that there must be limitations.

Malcolm Chisholm and Graeme Pearson raised matters that are not necessarily particular to the bill, although it was appropriate to raise them. We are happy to look at Graeme Pearson's point, on which Dennis Robertson commented. The point is more one for the Scottish Court Service, but we would be happy to discuss it with Graeme Pearson. As we move towards producing a victims and witnesses bill, we must consider how we can build on developments such as that which involved Lord Bracadale.

Such matters involve a balance, and we have heard about a counterbalance. Malcolm Chisholm talked about the difficulties that a constituent of his has faced. I am happy to engage with him on that. As he said, the question is ultimately for the Lord President and the Scottish Court Service, but we can work together on it.

There is no doubt that stage 2 amendments will have to be lodged. We are happy to look at that. We have always said that, if people think that a better and simpler way exists, we will be happy to use it. Some members of the legal profession have criticised our proposals as inadequate. I have no doubt that, when a fee note is rendered and they consider matters, they might be prepared to put forward alternatives. As I say, the door is open and we are happy to take comments on board. However, as I said in my opening speech, no alternative proposals have been made so far.

That takes us on to why we are where we are with part 1. We must deal with victims and recognise the judiciary's important role. In relation to victims, I must assure the public that, although sentences have been reduced, prisoners will not be released early and will be subject to parole requirements for public safety.

The situation was of deep concern. As members—including, in particular, Colin Keir, Dennis Robertson and John Finnie—said, we are talking about horrendous crimes. Petch and Foye perpetrated appalling crimes, and there has been great public concern. The issue might be viewed as more theoretical than practical, because I expect that the Parole Board would not have released them, but it was of significant concern and was commented on by politicians from all political parties, so it was appropriate that we took steps to address it.

We must support the judiciary, as has been said. The court referred the issue to us and the Lord Justice General made it clear that a legislative fix would be required. The matter divided the Scottish courts. As we heard from Christine Grahame and others, the Petch and Foye case was decided by a majority of five to two. The judiciary were split on what was correct and what should be done, but something must be done.

As David McLetchie and John Finnie said, orders for lifelong restriction and non-mandatory life sentences are not given out routinely. There have been only about 75 since the powers were introduced. However, I have made it clear that when a judge feels that an order for lifelong restriction is necessary or a life sentence appropriate—even for a crime that would not usually carry such a tariff—they will have the full support of this Government, because we are dealing with people who can be extremely dangerous and destructive to our communities.

As Jenny Marra said, when the intention behind the giving of an order for lifelong restriction or a non-mandatory life sentence is undermined, we must act to protect the integrity of the system. The measures in part 1 are being introduced to protect victims, to allay their understandable concerns and to support the judiciary by giving them the right to invoke orders for lifelong restriction and give non-mandatory life sentences. We hope that those will not be used routinely—that does not happen at present—but they will require to be used. Given that it takes a great deal of courage and, no doubt, thought, wisdom and reflection on the part of members of the judiciary to make such decisions, we must ensure that, when they choose to invoke their right, we enable them to do so.

I make it clear to Mr McLetchie and Mr Robertson that part 2 of the bill was drafted on a very general basis. Although it is clear that we are specifically talking about Mr al-Megrahi, because he is the only name in the frame—if I can put it that way—the legislation has been drafted in such a way as to allow it to be used in any circumstance that may arise in future. This is the third such situation that has arisen since the creation of the SCCRC, but the disclosure of information does not appear to be a relevant issue in the other two. I cannot specify the circumstances that might result in similar situations having to be addressed, but I can give members an absolute assurance that the bill is robust enough to deal with such situations in future.

If there is a requirement for stage 2 amendments, we will be happy to look at the issues and address them. I think that we will address some issues related to data protection in that way.

On the broader data protection issues, I make it clear that we obviously had to act appropriately. The Megrahi case was a matter of great public concern, but we ensured that we drafted the bill broadly to deal with general matters. Given that neither the First Minister nor, more important, I have ever seen the statement of reasons, we could not say what would be subject to data protection requirements or what would or would not require to be redacted. It is fair to say that the SCCRC still has to consider specific issues and that some material will have to be redacted. Indeed, irrespective of data protection issues, owing to public safety considerations there will have to be confidentiality measures to protect witnesses.

We have acted appropriately and the provisions in part 2 will be robust enough to deal with any unforeseen circumstances that may arise.

Yet again, Mr Macdonald took the opportunity to criticise the Government and, in particular, my stance on Mr al-Megrahi. I am prepared to answer for that decision. Mr Macdonald might care to reflect on the fact that it is neither myself nor the First Minister who is currently being pursued in a court action for having rendered somebody back to Libya. I stand responsible for having released Mr al-Megrahi under the compassionate release process. I saw him board a plane in Glasgow. However, I am certainly not responsible for having rendered anybody through any security services, on my say-so or that of anybody else.

To be fair to Mr McLetchie, I know that he will write to me about the number of prisons built by the Conservatives in 18 years. I look forward to getting confirmation that, during 18 years of Tory rule, despite the fact that the Conservatives seem to think that prison works—rather than the record number of police officers that we delivered—they built no prisons.

Mr McLetchie chose to disparage Henry McLeish and Dame Elish Angiolini. All I can say is that one is a former First Minister and the other is a former Lord Advocate: both have served their country and their offices well, and the record of the work that they contributed is much appreciated. Thankfully, we will not have to deal with any Tories in either of those offices.

I am happy to move the bill, as it will serve Scotland well. [*Laughter.*]

The Presiding Officer (Tricia Marwick): That concludes the debate on the Criminal Cases (Punishment and Review) (Scotland) Bill. I see that Mr MacAskill recognises that he has made a mistake.

Decision Time

17:00

The Presiding Officer (Tricia Marwick): There are five questions to be put as a result of today's business. I remind members that, in relation to the debate on transport, if the amendment in the name of Keith Brown is agreed to, the amendments in the names of Jim Hume and Patrick Harvie fall.

The first question is, that amendment S4M-02639.3, in the name of Keith Brown, which seeks to amend motion S4M-02639, in the name of Elaine Murray, on transport, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen Donside) (SNP)
 Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (North East Scotland) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)

McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (SNP)
 Walker, Bill (Dunfermline) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Lothian) (Con)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)

Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

The Presiding Officer: The result of the division is: For 65, Against 49, Abstentions 0.

Amendment agreed to.

The Presiding Officer: As a result of that vote, the amendments in the names of Jim Hume and Patrick Harvie fall.

The next question is, that motion S4M-02639, in the name of Elaine Murray, on transport, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen Donside) (SNP)
 Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (North East Scotland) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)

Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (SNP)
 Walker, Bill (Dunfermline) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McLetchie, David (Lothian) (Con)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland Islands) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

The Presiding Officer: The result of the division is: For 65, Against 49, Abstentions 0.

Motion, as amended, agreed to,

That the Parliament notes the total funding of nearly £250 million per year provided to Scotland's buses as part of total Scottish Government support for public transport of £1.181 billion; welcomes the Scottish Government's continuing commitment to the national concessionary travel scheme and Bus Service Operators Grant; welcomes the inclusion in these schemes of demand-responsive transport services available to the general public, such as dial-a-bus; welcomes the Scottish Government's additional funding of up to £40 million for Glasgow Fastlink, £6 million for low-carbon buses and up to £10 million for Halbeath Park and Ride; welcomes the Scottish Government's commitment to innovative solutions such as hard-shoulder running on the M77 and the new £3 million Bus Investment Fund; welcomes its ongoing financial support for passenger-focussed organisations such as Bus Users UK, the Community Transport Association and Traveline Scotland; notes the role of local government in supporting local bus services, previously through the Bus Route Development Grant, which is now incorporated in the general funding of local government; recognises that the per capita subsidy for bus services in Scotland is significantly higher than in England; welcomes the constructive dialogue initiated in the Bus Stakeholder Group and in the Lothians over the future of bus services; notes that First Bus states that fuel prices and economic conditions over a number of years are contributing to its increased costs; notes that the price of diesel has increased by 57% over the last five years and the price of petrol by 55%; further notes that fuel duty in the UK is the highest in the EU, and therefore calls on the UK Government to ease the pressure on all forms of transport by introducing a fuel duty regulator to stabilise fuel costs for all forms of transport and to scrap plans to increase fuel duty in August.

The Presiding Officer: The next question is, that motion S4M-02617, in the name of Kenny MacAskill, on the Criminal Cases (Punishment and Review) (Scotland) Bill, be agreed to.

Motion agreed to,

That the Parliament agrees to the general principles of the Criminal Cases (Punishment and Review) (Scotland) Bill.

Community Radio

The Deputy Presiding Officer (John Scott):

The final item of business is a members' business debate on motion S4M-02194, in the name of Christine Grahame, on community radio. The debate will be concluded without any question being put.

Motion debated,

That the Parliament considers that community radio does excellent voluntary work in the Borders and across Scotland; notes the contribution that it makes to communities and the work that it does on training, education and developing individual skills; believes that it makes a singular contribution to the democratic process, and acknowledges calls for the Scottish Government to work constructively with the network.

17:04

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): Thank you, Presiding Officer—I apologise to you for having to listen to me twice today. I thank not only those members who have stayed to take part in the debate, but those who signed the motion and, indeed, the many MSPs who attended the recent presentation and reception by community radio stations from across Scotland. I also want to thank the Scottish Parliament information centre for providing a thorough briefing on community radio.

I have come late to knowing about community radio, but that is not entirely my fault—it has been hiding its wee light under a bit of a bushel. However, now that I know of it—in particular, in my constituency, Black Diamond in Newtongrange and the embryonic TD1 in Galashiels—I am quite sold on it.

I inform those not yet in the know that community radio stations typically cover a small geographic area, with a coverage of in or around 5km, and are run on a not-for-profit basis. TD1 and Black Diamond cover urban geographic areas, but community radio can cater for areas of specific interest. For example, Awaz FM serves the Asian and African community in Glasgow. Community radio can also serve age groups and groups such as the armed forces, as 98.5 Garrison FM does.

In a recent research study on public attitudes to broadcasting that was done on behalf of the Government, 49 per cent of respondents indicated that

“it was either fairly or very important to have a community radio station in their area”.

Interestingly, the report also stated that community radio

“provides over 12,500 volunteering opportunities and 15,000 hours of original radio per week across the UK”.

Despite my earlier ignorance, community radio is not a new phenomenon, and a campaign for community radio goes back to the early 1960s, although it was not until 1989 that the United Kingdom broadcasting regulator—which at the time was the Independent Broadcasting Authority—took steps to introduce full-time community radio services.

The station has to have a licence, which can be issued by the Office of Communications only to a company or other organisation, not an individual, so MSPs need not bother to put in their own bids. Currently, there are 18 Ofcom-licensed community stations in Scotland—they have a voluntary secretariat in the Scottish Community Broadcasting Network—and there are 18 applications for licences in the current round. SCBN stations are also collaborating this year to provide live coverage of the Edinburgh book festival and, indeed, for their sins, already carry “The Week in Holyrood”.

Most community radio stations can carry advertising and sponsorship, although at least half their income must come from other areas. A few stations may not carry advertising as they overlap with existing commercial radio services. That is currently the position that TD1 in Galashiels finds itself in because of the coverage of Radio Borders.

As always, funding is the nitty-gritty, and the overview of community radio that the Government commissioned—to which I have already referred—which was intended to assist policy development in support of these services, homes in on the issue of the lack of finance. One of its findings on funding says:

“Both station managers and volunteers drew attention to how lack of finance affects their ability to service and purchase equipment, pay licence fee charges, recruit paid staff, pay volunteer expenses”

and so on.

The findings also highlighted difficulties with accessing arts funding and securing advertising revenue, a lack of awareness about funding opportunities and a need for assistance with accessing wider funding pools.

That brings me to the community radio fund, under the Ofcom umbrella, which has £500,000 a year to allocate. Applications for funding must be in by 12 May. The fund provides support for equipment, management, training and so on.

Community radio is good for the communities it serves. Is it good for Parliamentarians? Think hustings. For example, during the last election, Black Diamond recorded one hustings that I took part in and, continuing the voluntary work that is done by community radio, Sunny Govan Radio is holding a local elections hustings programme next week—council candidates should pin their ears

back and get on the air. Dedicated broadcasters are doing the same thing across Scotland, playing a vital role in extending democracy and delivering social gain.

Really, what is the ultimate ego trip for a politician? Is it getting our picture in the paper—for the best of reasons? Is it making the lead story on the 6 o'clock news, the 9 o'clock news and all the other news slots—again, for the best of reasons? Is it being a regular pundit on “Newsnight”? No. It must be having the air waves to ourselves for an hour or so in order to talk about ourselves and our politics, to dally with being indiscreet and to have an uninhibited choice of our own desert island discs—which is probably where some of our constituents would like us to go.

Members know that I am the shy type, but I thank both Black Diamond and TD1 for letting me loose with “Blue Suede Shoes” and other old rocker stuff. Indeed, I have just received a message—although not during my time in the chamber—with a return invitation to Black Diamond, so I am being spoiled for my record choice. I say to Mr Kidd, who is beside me, that if that is not a bribe for members to become involved with their community radio, I do not know what is.

For the avoidance of doubt and for community radio listeners who are listening on AM/FM or online, I am indeed wearing blue suede shoes but, as they are pointy toed with kitten heels and are size four and a half, they are, unfortunately, but an homage to Elvis.

The Deputy Presiding Officer: Thank you for an irrepressible contribution once again.

17:11

Fiona McLeod (Strathkelvin and Bearsden) (SNP): I will quote what Ofcom said in answer to the question, “What is community radio?”. It stated:

“Community radio stations are radio services which provide community benefits and run on a not-for-profit basis. Generally stations are focused on broadcasting to and involving their own particular community ... Stations involve local volunteers in providing the service, and bring community benefits such as training and community news and discussion. They generally have a small coverage area (usually up to a 5km radius).”

I wanted to quote that because it is a great introduction to East Dunbartonshire Radio in my constituency. East Dunbartonshire Radio is taking its first, tentative steps from the Bishopbriggs media centre, which is the home of Cue and Review—“Print Speaking to the Blind” and is where national newspapers and magazines are recorded. In October this year, it will celebrate its 30th anniversary. What better way of celebrating an anniversary than taking to the airwaves, rather

than just with discs and tapes? At this point, we should pay tribute to the founding chairman of Cue and Review, Alastair McPhee.

In July, East Dunbartonshire Radio will begin broadcasting from 8 am until midnight every day of the week. There will be a trial in mid-May. I hope that many folk will listen to it, join in over the internet and send in their comments.

East Dunbartonshire Radio really is working hard to fulfil all the criteria in Ofcom’s description. It already has nearly 30 volunteers, who are working to get the station up and running in July. Audio, video and media graduates have volunteered and are using the skills that they have learned at university to pay back their community. The station also hopes to involve the pupils of Bishopbriggs academy.

One thing that delights me about East Dunbartonshire Radio’s work in my community is that it has worked with the East Dunbartonshire community volunteer service, which I worked for a few years ago. That has given it access to more than 400 voluntary organisations throughout my constituency. Like Ms Grahame, people in those 400 voluntary organisations will be able to put on their blue suede shoes and broadcast across my constituency to let folk know the good work that they do and the services that they offer to my constituents.

An exciting thing that East Dunbartonshire Radio proposes is the setting up of a Scottish radio training school in which there will be courses offered for complete beginners all the way through to advanced-level courses. The courses will be highly practical and will feature a mix of lectures, workshops and one-to-one coaching. East Dunbartonshire Radio is holding its hands out to the community and offering something back to it.

I wish East Dunbartonshire Radio well in its trial in mid-May. I hope that when it begins to broadcast in July, the people of my constituency and people throughout Scotland will enjoy the benefits of that radio station.

17:14

Elaine Murray (Dumfriesshire) (Lab): I, too, congratulate Christine Grahame on securing a debate on a topic that I cannot remember ever having been raised in the Parliament.

Unfortunately, I was unable to attend the reception that Ms Grahame referred to. Like her, I was not particularly familiar with community radio until a few years ago. Most people are of course familiar with local radio and the role that it plays in providing local news, information, and, in some cases, advertising to listeners in a particular region or locality. Most local radio is commercial,

although in some instances it is provided by public service broadcasting.

Community radio, as Christine Grahame described, is smaller and a bit different. I also thought that it was newer, but community radio does not seem to be quite as new as I understood it to be. In 2002, the Radio Authority—the regulator—piloted 15 stations, initially for a year, to test what was, at the time, called access radio. The licences were extended in 2003 and 2004 and Ofcom issued a consultation on creating community radio. As Christine Grahame said, the service remains not for profit.

In Dumfries, Alive Christian Radio was formed in 2004. It was the brainchild of pastor Mark Smith, of the Church of Life, and fellow Christian David Currie. Their aim, as the name suggests, was to have a Christian radio station broadcasting on the FM bandwidth in the Dumfries area. The group initially had restricted service licences, but in May 2007 it applied for a community radio licence. I supported the application and I was pleased to say that it was confirmed by Ofcom.

Broadcasting on the new frequency of 107.3 FM began on 1 September 2009 and Alive's focus changed from serving Christians in the Dumfries area to serving the community as a whole. Alive Radio still relies on volunteers, and young people who might want to work in radio can volunteer and get experience, which they can include on their CVs should they want to go on to study or apply for jobs. The station's website says:

"We're run by a bunch of enthusiastic people from in and around Dumfries, seeking to build community spirit and help people feel good about living here."

What an excellent sentiment.

Alive Radio normally broadcasts from 7 am until 9 pm. In addition to the FM broadcast in Dumfries, it is available in Dumfries and Galloway royal infirmary on hospital radio and online on its website to anyone who wants to listen.

The station's content is mostly music, but it also transmits local news, views and information. I have been on "Alive Drivetime", but I must say that no one invited any indiscretions—perhaps that is because the station still has a Christian ethos. In addition to live broadcasting, the station's website has a lot of local information about what is going on. For example, this week there is a warning from the police about the high incidence of bogus callers. There is all sorts of useful information for residents.

When I stay over in Edinburgh I stay in Leith, whose community radio station used to be called Leith FM. The station was renamed, apparently because it had a bad reputation—I do not know whether Ms Grahame was ever on it, saying something—

Christine Grahame: I hope so.

Elaine Murray: Perhaps she was.

I will end with an anecdote that illustrates the value of community radio. On Monday night, my daughter found a lost dog outside the flat—I know that Christine Grahame has had a similar experience. The story about how we eventually reunited the dog with its anxious owners is beyond the scope of this debate, but the owners told us that among other things that they had done to try to locate the dog, they had gone to Leith FM and asked the station to broadcast the fact that the dog was missing. In addition to all the other good things that community radio does, it can provide an individual service to help to reunite lost dogs with their owners. What a heartwarming tale.

The Deputy Presiding Officer: Miraculous. Thank you.

17:19

Dennis Robertson (Aberdeenshire West) (SNP): How do I follow that?

I am grateful to Christine Grahame for bringing the debate to Parliament. In response to her question about how MSPs can use community radio, I can tell her that during the Westminster election in 2010 I was invited to appear on Mearns FM, which covers part of the constituency that I was seeking to be elected to represent. I attended a hustings along with a certain Alex Johnstone MSP, Sir Robert Hill Smith and—I hope that I will be forgiven for this, but I cannot remember the name of the Labour candidate. I dare say that many people in the constituency of West Aberdeenshire and Kincardine cannot remember his name either.

Did my appearance on community radio do me any good? That is what Christine Grahame wants to know. It did: I was not elected to the House of Commons. It increased the vote of the Scottish National Party, but I was probably fortunate not to have been elected to serve as an MP at Westminster, because if I had been I would not be here in the Scottish Parliament. I am delighted to be here and still feel privileged to serve my constituency as an MSP.

I hold community radio very dear. I thank Fiona McLeod for taking me down memory lane. Many years ago—a good 30 years ago now—I was one of the first recipients of Cue and Review Recording Services in my days in Strathclyde. One of my darling daughters once said to me, when I was going to be on the radio, "Dad, you have a face for radio." I am sure that it was a compliment and not a derogatory remark.

What impresses me about community radio is the opportunity that it gives communities to

engage. It is also for young people a first stepping stone to the world of radio, which is about bringing sound to people, and it gives them an introduction to its technical aspects. I have met many young people who are enthusiastic about community radio and who will probably become the DJs of tomorrow.

Many retired people engage with community radio. They use it as a forum for talking about issues that relate to their age group and topics that are of interest to them, which are often historical or cultural, or involve people going down memory lane. Community radio has a perfect role to play in our communities, and I would certainly support any community that wanted to introduce it in its community.

I conclude by again thanking Christine Grahame, although I will not give her a rendition of the Elvis song, "Blue Suede Shoes".

17:22

Annabel Goldie (West Scotland) (Con): I thank Christine Grahame for bringing the issue of community radio to the chamber. Today, she has almost become a chamber community broadcaster in her own right, so it is entirely fitting that she has spoken to a motion on the issue.

Community radio stations provide an important voice for communities across the UK. I must confess that I was not particularly knowledgeable about them, but I made it my business to find out more about them. I am hugely impressed, because they not only serve geographic communities but reflect the diverse character of communities and their cultures. They are manned by committed and enthusiastic individuals, and they provide a wealth of local information to their listeners. It is important that much of the content of their broadcasts is popular with, and relevant to, a specific local audience and may not be covered by commercial or mass-media broadcasters. Because community radio is run on a not-for-profit basis, all the profits are invested back into delivery of future local radio services. Benefit to the community is at the heart of its activities.

Interestingly, community radio aims not to talk at the local community, but to engage with it, which is an attractive aspect. I was struck by the passion of Christine Grahame and Dennis Robertson for politicians getting involved in it, but I sound a note of caution, in that listeners might not have the same enthusiasm for such participation as they would have for pet owners being reunited with their long-lost pets, which Elaine Murray mentioned.

Another virtue of community radio stations is their diversity. Some concentrate on a particular area or a particular genre of music or culture,

while others aim to attract younger audiences, religious communities or the Armed Forces and their families. Interestingly, according to Ofcom, to date 228 community radio licences have been issued in the UK and around 11 million people can now tune in to community stations across the UK. That shows just what a popular medium community radio is.

The Scottish community broadcasting network, which was established in 2007, supports community radio projects in Scotland. As Christine Grahame said, there are currently 18 community radio stations across Scotland. I think that I featured on Glasgow's Sunny Govan Community Radio; I certainly recollect that it was a great experience.

In my regional constituency area, 3TFM Community Radio for Health broadcasts to the people of Stevenston, Saltcoats and Ardrossan. With a primary focus on promoting health, 3TFM takes volunteers from the three towns and surrounding areas who are interested in different aspects of broadcasting and it provides training in presentation, radio production and administration. 3TFM has a wide and varied schedule and regular shows include "Manic Mondays", "Musical Spirit," "Community Sounds" and "3TFM Jukebox". It all seems to me to be a great example of broadcasting innovation and community commitment.

Pulse 98.4 is another community radio station in my area. It is a not-for-profit community radio station that is based in Barrhead, in East Renfrewshire. It broadcasts 24 hours a day, seven days a week. The original emphasis was on youth participation, but that has broadened out and it has a full-time community radio licence. It has a huge contribution to make, including in training. In my opinion, it is not just a medium for communication but a training provider and a presence that helps to knit the community together. Fiona McLeod comprehensively covered East Dunbartonshire Radio.

I applaud all efforts to empower local communities, and community radio is an example of that as it provides local communities with a platform to discuss local issues and communicate with others in their areas. I both recognise and congratulate all the volunteers across Scotland who work hard to run the radio shows and to provide training to those who are interested in progressing in broadcasting.

17:26

Nigel Don (Angus North and Mearns) (SNP): I give Mearns FM its second mention and I congratulate Christine Grahame on lodging an important motion. I thank her for the reception on

community radio a few weeks back, which she was good enough to start on.

I want to talk about Mearns FM because its history teaches us an important lesson or two. Stonehaven Community Radio first transmitted in July 1994 from the old primary school toilet block in the community centre playground. At that time community stations could operate only for 28 days at a time and the licence cost a substantial £1,000. The station proved to be a very popular activity for the young and the participants were in their teens. In 1996 and 1998 the operation was repeated, with the highlight being 17-year-old presenter Ross Gilligan interviewing Billy Connolly in the community centre.

After 1998, community radio fell silent as a result of high costs, but when five-year community radio licences were introduced in 2004, Stonehaven started again. At that stage, volunteers decided to apply for an ambitious three transmitters in order that they could cover the wide geographical area that the station now covers. Volunteers play a crucial role in community radio, which would not operate without them. Not only does volunteering make community radio work, it provides opportunities for volunteers to learn, which is a huge part of what goes on. I take this opportunity to welcome to the public gallery Steve Holt, who is one of the volunteers and fixed parts at Mearns FM. Good evening, Steve.

Stonehaven Community Radio was reborn as Mearns FM on 6 June 2009, which coincided with the annual Stonehaven feen market, which is an old tradition that involves potential agricultural workers coming down to the middle of the town to be fee'd, or hired, by local landowners.

Community radio can assist in a vast number of areas, but particularly in providing training opportunities. Time does not allow me to say all that can be done in that regard. However, I point out that Mearns FM constructed a studio in the sixth-year common room at Mackie academy, which is the local Stonehaven secondary school. Every school day during lunchtime the youngsters broadcast live from there, picking up on their own interests and music and what is happening in their area.

I understand that Mearns FM is also beginning to broadcast to the local Polish community, which seems to me to be an apt use of such a radio station. If the Polish-speaking community knows that there is a particular time in the week when it will have input, one can see that they will very quickly gel and, indeed, find the right volunteers to do that. That seems to be enormously important.

To pick up on the issue of politics, I too have been interviewed on Mearns FM in the context of hustings. They are hugely valuable opportunities

for listeners to work out what their politicians are about.

I am not sure that I really understand the benefit of shoes on the radio, because it seems to me that unless they are squeaky shoes they are not actually going to make a contribution. I have a pair of special shoes that are organ-playing shoes. They are not squeaky because I would rather people heard what was coming out of the pedals rather than my feet hitting them.

The ability for the four candidates for Angus North and Mearns to be in the Mearns FM studio, to be interviewed by the redoubtable Ken Venters, to make our pitch and to be recorded where necessary by other folk seems to me to be bringing politics to the people and that is an important part of what community radio can contribute.

17:31

Jim Hume (South Scotland) (LD): I congratulate Christine Grahame on securing the debate and am grateful for the opportunity to contribute to this discussion on the undoubted benefits of the significant expansion of community radio in Scotland.

Radio has been a lifelong interest of mine and, as my entry in the register of members' interests states, I am a holder of an advanced amateur radio licence. Therefore, the technical issues behind providing radio within a community are well known to me. I know well not only the technical issues but the benefits of community radio. Amateur radio is referred to as the global village, as friendships are made all over the short waves. I have been to a wedding in Italy and hosted friends from Japan, Colorado and Sweden, all of whom I have met through the radio waves.

Like amateur radio, community radio must be licensed—and for good reasons. With amateur radio, there are restrictions on power outputs, the frequencies that one can use and the purposes for which one can use the radio: no playing of music, no political purposes and, like community radio, no commercial purposes. Hence the name amateur radio. The last restriction causes an issue for community radio stations. They cannot advertise to gain financial support for expensive equipment and nor can the disc jockeys and presenters take a wage to cover their time. They have to fundraise to cover all the costs that are associated with setting up a radio station: computers, mixers, radios, recording equipment and licence fees, to name but a few.

Generate Radio in Duns went to great lengths to raise £1,500 when Kyle Wilson and Oscar McAndrew of the station both jumped out of an aeroplane at 10,000 feet earlier this month. I

would not recommend that too many members do that—well, maybe some members. At least Kyle and Oscar were both kitted out with parachutes and landed safely.

TD1 Radio in Galashiels, which Christine Grahame mentioned, is one of the many fledgling community radio stations that have faced such problems well. It has gained lottery funding and funding from local donors. I have worked with the station for many years. At the moment, it is available only online, but it has lodged a request for an aerial site and a frequency that it can use with an Ofcom licence. I hope that Ofcom makes a speedy positive response to allow Galashiels to have its much-awaited community radio on the airwaves. The station also hopes to share a mast on Meikle Hill, and I hope that it is successful in that pursuit.

It may surprise some members to learn that the first community radio licence was launched only in November 2005. There has been some confusion about that. That was when Ofcom gave the first licence, but community radio has been on the go for many years, but not always licensed. I will leave it at that. There are now about 200 licensed stations throughout the UK, which highlights just how successful the format has become, and the numbers are on the increase.

East Coast FM is seen all over East Lothian at community events, as is East Lothian FM. Alive Radio from Dumfries, which Elaine Murray mentioned, covers all the local issues, including difficult ones. If members are in that area tomorrow, they can tune in to 107.3MHz at 9 am to hear from the Doonhamers' director.

Christine Grahame: I am impressed with Jim Hume's command of the technical information. He has hidden that light under another bushel.

Jim Hume: There are many things about me that the member does not know.

Christine Grahame also mentioned Black Diamond FM, which broadcasts out of Midlothian and is, like the other stations, always looking for interesting stories from locals that they themselves can present. Indeed, for some, community radio can act as a springboard into a professional career.

Coming from no licences at all to around 2,000 and increasing, community radio is clearly growing. Like Christine Grahame, I look forward to a positive response from the cabinet secretary and a sign from the Government that it will happily work to support community radio networks as much as possible.

17:35

Sandra White (Glasgow Kelvin) (SNP): I congratulate Christine Grahame on securing this debate. I attended her excellent reception and certainly learned a lot about community radio. Having lived in Govan in Glasgow, I thought that I knew a wee bit about the issue, but certainly did not realise how vast its expanse is in Scotland.

Jim Hume with his knowledge might correct me but, casting my mind back, I seem to remember that many years ago community radio was known as pirate radio. I remember listening to Radio Luxembourg, Radio Caroline and one that was quite close to my heart and possibly the hearts of others in my party: Radio Free Scotland, which was broadcast from under a pull-down bed in a single end somewhere in Glasgow. I will not tell the chamber whose house it was broadcast from. Those pioneers were very popular in their day, and I am so glad that we got round to giving such stations a licence and calling them community radio instead.

A number of stations have already been mentioned, but I would like to mention two in my Glasgow Kelvin constituency. Radio Awaz is absolutely fantastic; in fact, I should give it a plug and say that I have just sent a letter of support for its licence to be continued for the next five years. It does an excellent job not only on cultural diversity but in tackling other serious topics. For example, only a couple of weeks ago, it tackled forced marriage and got Nicola Sturgeon on to discuss the issue.

The other station in the Kelvin constituency that I want to mention is the fantastic Celtic Music Radio—[*Interruption.*] That was a slip of the tongue—I meant to say “Keltic”, not “Seltic”. They might well get some calls about that. The station broadcasts aspects of our culture as well as other serious issues, including politics. In fact, during the 2010 general election, it broadcast a programme on political protest songs with the suggestion that, instead of singing a protest song, people should just get out and vote. These two fantastic radio stations work very closely with the community.

I cannot finish without mentioning Sunny Govan Community Radio. As Annabel Goldie will know, having appeared on it herself, most of us from the area affectionately call it “Sunny Go-Van”. It is very close to the hearts of the people of Govan and does fantastic work not only in broadcasting to and serving the community, but in creating opportunities for people by training them and steering them perhaps towards a career in radio. Indeed, Elaine Murray, Nigel Don and Jim Hume made the same point about the community radio stations in their areas. I am not sure, though, whether the people of Sunny Govan get to chase after lost dogs and reunite them with their owners.

Finally, on opportunities, our Liberal Democrat colleague said that he knows a lot about radio—indeed, he does. If we can have an MSP who has such excellent knowledge of working in community radio, perhaps we can have people working in community radio becoming MSPs.

17:39

The Cabinet Secretary for Culture and External Affairs (Fiona Hyslop): I, too, congratulate Christine Grahame on securing the debate. She has a long record of promoting local radio and television interests, not least in her work with other members in pressing for improvements in Scottish programming for the part of the south of Scotland that is served by ITV rather than STV. Indeed, she led a previous members' business debate on that issue, and it is good to see her returning to media issues. I know that she has long taken a personal interest in community radio and that, just last month, she hosted a reception in the Scottish Parliament for community radio, as was mentioned.

As the debate has made clear, many other members also have a close personal interest in community radio. Speakers from across Scotland—particularly Jim Hume—talked with real knowledge and enthusiasm about community radio in their regions and constituencies. I hope to pick up on some of the points that they made. I believe that the respect that members have for community radio mirrors the respect that people throughout the country have for it, and the value that they place on it.

It was only in 2005 that licensing of community radio began in the UK. It is a relatively short time since then, but we now have just under 20 community radio stations broadcasting across Scotland, and we hope to have more soon following Ofcom's current round of issuing new licences. In many respects, that is a tribute to the continuing passion and commitment that have been demonstrated by community radio supporters for many years. In the light of that, I take this opportunity to commend the work that the Scottish community broadcasting network does in advocating for the sector.

Community radio in Scotland matters. That is one reason why we published research last month entitled "We are Community Builders, Part of The Fabric": A Review of Community Radio", which documents this remarkable sector. Experience overseas and in Scotland is that community radio is proving its worth every day in a variety of ways. It is mandated to serve the underserved and give a voice to local communities. It can be an agent of change, a supporter of young people and the disenfranchised, a training ground for broadcasters—I was interested to hear what Fiona

McLeod said about that with reference to her local radio station—and a source of opportunities for diverse communities of interest.

In our public attitudes to broadcasting research in 2009, just under half of the respondents regarded community radio as important, and we should bear it in mind that we are still in the early days of community radio. Although support in areas where community radio does not yet have a presence was fairly soft, it was noticeably higher in areas such as the Highlands and Islands and the north of Scotland, which have strong local identities and are perhaps occasionally less fully served by media that are based in larger cities.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): My colleague Nigel Don mentioned Steve Holt from Mearns FM. I understand from speaking to him earlier today that the Government pays for some broadcasting on local radio stations in the central belt but not for broadcasting on stations outwith it. Will the cabinet secretary look into that?

Fiona McLeod's local radio station might want to contact shmu FM in Aberdeen, which has been training disadvantaged youngsters for many years. I have often been to its graduation ceremonies in the town house, which are excellent. Its work gives young people confidence that they did not have before.

Fiona Hyslop: I appreciate both those points. I am happy to look into the former, and I will come on to mention some of the things that the Government has done to help financially.

In relation to my previous comments, I congratulate stations such as Bute FM, Mearns FM, Speysound Radio and the Super Station in Orkney.

Community radio is also of huge value in our towns and cities. It provides a unique service that goes beyond what is broadcast by larger media interests. Stations such as shmu FM in Aberdeen, which Maureen Watt mentioned, and Sunny Govan Radio—I am not sure about the pronunciation, but if Sandra White says that that is how you say it, that is how you say it—show what can be done to maintain a sense of local community in large urban areas, as do 3TFM in Saltcoats, Black Diamond FM in Midlothian, Dunoon Community Radio and Pulse Community Radio in Barrhead, which Annabel Goldie mentioned. They show how stations can serve both local towns and their rural hinterlands.

Of course, communities are not just location based, as there are communities of common interest, faith or origin. Edinburgh Garrison FM serves military families in the Edinburgh area and, at a time of increasing postings and reducing expenditure, we can imagine what a positive

impact it must have on family morale. Celtic Music Radio in Glasgow serves those who are interested in traditional music; Insight Radio in Glasgow provides support and advice to people with disabilities; Alive Radio in Dumfries, as we heard from Elaine Murray, and Revival Radio in Glasgow specialise in religious broadcasting; and, as Sandra White set out, Awaz FM in Glasgow was in 2010 the first community radio station to win the Queen's award for voluntary service for its work with the Asian community.

With such good work happening, there is rich potential for the sector to grow and become a vital part of communities across Scotland. It is interesting to note that the early days of community radio happened at about the same time as the current Administration was formed. I am not claiming that community radio was the Scottish Parliament's achievement; that could not be because we know that the regulation of broadcasting is still reserved to Westminster. However, if we had greater responsibility, imagine what we could do to support the community radio sector.

My ministerial colleagues and I took a strong interest in community radio, so one of the first things that we did was to increase the amount of advertising on community radio—perhaps that was what Maureen Watt referred to—to help to increase resource and to get our message out to people. Most notably, we increased advertising in community radio by 48 per cent in 2009-10 to £129,000, and in the following year we increased that to £134,000.

We are generally interested in community radio and we must remark on the energy and achievements of the sector to date. However, we know that there are challenges ahead. Last month's research study set out possibilities for further progress. Money is tight and, in what I thought was an impressive speech, Jim Hume set out some of the challenges. There are, however, opportunities for mutual support across stations and between larger broadcasters and community stations, like the BBC's support for Sunny Govan Radio. I have met representatives from community radio and I want to maintain that dialogue. I look forward to working with the sector and developing greater mutual support to see community radio advance.

The debate has been extremely useful. It has celebrated community radio, but it has also given us some direction. More important, we have seen a cross-party commitment to community radio. Community radio has a positive future in Scotland.

Meeting closed at 17:46.

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