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Official Report

MEETING OF THE PARLIAMENT

Thursday 21 May 2015

Session 4

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Scottish Parliament

Thursday 21 May 2015

[The Presiding Officer opened the meeting at 11:40]

General Question Time

The Presiding Officer (Tricia Marwick): Good morning. The first item of business is general questions.

Opencast Coal Sites (East Ayrshire)

1. Adam Ingram (Carrick, Cumnock and Doon Valley) (SNP): To ask the Scottish Government what progress has been made with the restoration of abandoned opencast coal sites in East Ayrshire. (S4O-04354)

The Minister for Business, Energy and Tourism (Fergus Ewing): Progressive restoration of active sites in East Ayrshire is under way, and an industry-led carbon price support restoration proposal designed to provide funding for the restoration of legacy surface mining sites is with the United Kingdom Government for consideration. The proposal has the potential to provide a funding stream for restoration projects, to preserve industry jobs and to retain restoration capacity. I wrote to Treasury ministers on 18 May, urging the UK Government to act swiftly in its consideration of the proposal and to engage promptly with Scottish Government officials.

Adam Ingram: The minister will be aware from recent announcements by Hargreaves Services that it has had no feedback from the UK Government regarding its case for carbon price support exemption. One consequence of that is the closing down of operations at a site in East Ayrshire, at a cost of 57 jobs. Could the minister engage with Her Majesty's Government on the issue as a matter of urgency?

Fergus Ewing: I am aware of the decision and have spoken to Iain Cockburn of Hargreaves. As I mentioned, I have taken up the matter, post election, with the UK Treasury minister Damian Hinds. As Mr Ingram rightly highlights, the matter is made more urgent because of the commercial pressures facing the sector because of the falling world coal price. The UK Government undertook, in the course of its most recent budget in March, to work with the Scottish Government to find a solution. I welcome that, and I welcome the cross-party working on the coal task force, including contributions from Sandra Osborne and Cathy Jamieson, which was appreciated.

I believe that there is to be a budget statement on 8 July. The proposals put forward by CoalPro—the Confederation of UK Coal Producers—based on the Cockburn proposal must have action from HM Treasury, and we are urging Treasury ministers to include that in the budget statement. I know that David Mundell, the Secretary of State for Scotland, was active before the election in giving his own personal support to the CPS exemption. I trust that he will now use his position as Secretary of State for Scotland to ensure that that solution is contained in the budget statement in July. Otherwise, we are seriously concerned for the future of the opencast sector in Scotland and the several thousand jobs that it supports.

Forth Road Bridge (Safety Checks)

2. Colin Keir (Edinburgh Western) (SNP): To ask the Scottish Government what assessment has been made of the recent safety checks on the Forth road bridge. (S4O-04355)

The Minister for Transport and Islands (Derek Mackay): The responsibility for the Forth road bridge lies with the Forth Estuary Transport Authority. On 1 June 2015, responsibility passes to the Scottish ministers. Transport Scotland has a close working relationship with FETA and has been consulted on, and is content with, the actions taken and proposed regarding the recently announced further wire breaks to the main cable of the bridge.

Colin Keir: Given the scare stories that have surfaced in the past relating to the integrity of the cables on the Forth road bridge, can the minister assure me that the safety checks system for cables is robust and that, for those using or living beside the bridge, the structure is safe and has many years of life ahead?

Derek Mackay: I can absolutely give that reassurance. Indeed, I have done so in Parliament previously and FETA has done so through its press release. We have been transparent around the wire breaks, which have to be put into context. They are limited and localised, and the action that has been taken by way of remedy, using the dehumidification process, seems to be effective. There are sophisticated measures in place to assess corrosion, including the acoustic mechanism, and there are also more in-depth assessments and inspections under way. When the bridge transfers to the responsibility of the Scottish ministers, that level of inspection will continue.

There are no immediate safety concerns: the cables are certainly strong enough to continue to do their job. The bridge's condition, however, vindicates the Government's decision to build the replacement crossing while guaranteeing a future for the road bridge. I am sure that members can

be satisfied with the arrangements that are in place to continue with the assessment of the bridge and on-going works.

General Practice (Numbers of Doctors in Training)

3. Richard Lyle (Central Scotland) (SNP): To ask the Scottish Government what steps it is taking to increase the number of doctors in training for general practice. (S4O-04356)

The Cabinet Secretary for Health, Wellbeing and Sport (Shona Robison): The Scottish Government is committed to supporting and sustaining Scottish general practice, and under this Government the number of general practitioners has increased by 7 per cent. We recognise that attracting trainee doctors to careers in general practice is becoming more challenging, and we are pursuing a wide range of initiatives to improve the situation.

The GP out of hours review will address issues such as the recruitment and retention of GPs as part of its wide remit, but we are also developing proposals to enhance the skills of GPs and exploring ways to better manage gaps in training programmes. We have expanded the number of foundation training posts with GP experience and revised the GP returners programme.

Richard Lyle: The training of doctors for general practice is incredibly important; I am sure that we all agree. What further support can be given to help those who are in training to become doctors to reach their full potential?

Shona Robison: As outlined in my earlier answer, the Scottish Government is already contributing to a number of new approaches for trainee doctors. It is important that we have the opportunity to fully assess the success of those initiatives. However, I am always open to new ideas and initiatives that will help individuals to reach their full career potential, which is why we continue to work with the Royal College of General Practitioners, the British Medical Association and others to review curricula and find innovative solutions to recruitment and retention challenges.

The Government is also fully involved in taking forward the implementation of policy proposals from the shape of training review, offering the potential for a new approach to how we train doctors in the future.

Dr Richard Simpson (Mid Scotland and Fife) (Lab): The cabinet secretary will be aware of the BMA review that showed that we could be between 550 and 950 GPs short by the end of the next parliamentary session. A few months ago, I made a freedom of information inquiry, which found that 50 Scottish practices already have restricted patient registration to their lists. That

was three months ago and there are many more now.

In Forth Valley, there are now no partners in Drymen or Bannockburn, which cover 10,000 patients, and there are only two partners in Grangemouth from a previous figure of five. There are multiple vacancies for partners. What is the Government doing now—and I do not mean a new negotiated contract—to arrest this deterioration, which is the worst for general practice since the 1960s?

Shona Robison: I am more than aware of the situation in Forth Valley. NHS Forth Valley has taken action by developing a plan to recruit a team of salaried GPs to provide support to local practices. I support the action taken to ensure that patients are supported. The member will, of course, be aware that some recent issues, such as the changes to pensions, have significantly accelerated the early retirement of GPs.

I am very clear that we need to make general practice more attractive to young doctors and medical undergraduates who are making their decision about the area of medicine they want to go into. General practice struggles to recruit enough doctors, which is why our discussions with the RCGP, the BMA and others are so important in making general practice a more attractive proposition for the future.

In the meantime, I will make sure that the action that we take to sustain general practice is robust and delivers for patients.

Alcohol Licensing Regime (Public Houses and Clubs)

4. Annabel Goldie (West Scotland) (Con): To ask the Scottish Government whether it considers that the alcohol licensing regime for public houses and clubs is operating satisfactorily. (S4O-04357)

The Cabinet Secretary for Justice (Michael Matheson): Yes, I believe that the alcohol licensing regime is operating satisfactorily. However, there are aspects of it that could work better. That is why we are taking forward improvements within the Air Weapons and Licensing (Scotland) Bill, which is currently before the Parliament. The Scottish Government is committed to working with the public and stakeholders to ensure that the alcohol licensing regime is as effective as possible.

Annabel Goldie: There has been a widely publicised decision by the city of Glasgow licensing board to curtail the activities of a nightclub. That decision is properly the responsibility of the licensing board following concerns about the premises being raised by Police Scotland. However, lawyers on behalf of the nightclub maintain that almost all the

complaints on which Police Scotland founded its objections arose from incidents to which Police Scotland had been alerted by the nightclub itself. If that is so, does the cabinet secretary agree that such an approach by Police Scotland calls into question the spirit of community partnership and co-operation that is essential to effective policing and the control of crime?

Michael Matheson: As the member will recognise, the issue around the particular nightclub is a matter for the city of Glasgow licensing board and Police Scotland. It would not be appropriate for the Scottish Government to get drawn into commenting on an individual case in that way.

John Scott (Ayr) (Con): The cabinet secretary is aware of the problems with the current legislation on personal licence holders regarding the disproportionate penalties that are incurred by failure to reapply timeously for a personal licence. How does he intend to address that problem in forthcoming legislation, and what are the timings around that remedial action?

Michael Matheson: The member has pursued the issue on behalf of his constituents over a period. As I outlined to the Local Government and Regeneration Committee just yesterday, we intend to make sure that the provisions in the Air Weapons and Licensing (Scotland) Bill will address the issue. Those who have lost their personal licences as a result of not submitting their refresher training certificate to licensing boards will then be in a position to reapply for a personal licence.

The member will recognise that, once a bill receives royal assent, several months often pass before any of its provisions come into force. However, I have made a specific amendment to the bill to allow this provision to come into force with immediate effect as soon as the bill receives royal assent. That will mean that those who have lost their personal licences will be able to reapply to their local licensing board for a personal licence immediately.

Voting (16 and 17-year-olds)

5. George Adam (Paisley) (SNP): To ask the Scottish Government whether all 16 and 17-year-olds will be eligible to vote at the 2016 Scottish Parliament election. (S4O-04358)

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): The Scottish Elections (Reduction of Voting Age) Bill was introduced on 2 April. The bill lowers the voting age to 16 at Scottish Parliament and local government elections and any other elections using the local government franchise. All 16 and

17-year-olds who are otherwise eligible to be included on the local government register will be eligible to vote in those elections from the 2016 Scottish Parliament election onwards.

George Adam: Does the cabinet secretary agree that young people engaging with the democratic process early adds to a nation's politics? Is Paisley's own Mhairi Black, who was recently elected to the Westminster seat of Paisley and Renfrewshire South, not proof that age is but a number and that what really matters is a person's ability and drive to deliver a better future for our nation?

John Swinney: As Mr Adam asked his question, Christine Grahame heartily endorsed the idea that age is but a number. I suspect that that remark speaks for itself, and Mr Adam may wish to choose where he sits later in the parliamentary session.

The participation of 16 and 17-year-olds in the referendum has been remarked on as one of the great strengths of the democratic process and a successful initiative of the referendum. In the recent Westminster election, we saw young people exercising their votes and participating significantly in the democratic process. I think that that will be welcomed across the board. I also endorse Mr Adam's remarks that Mhairi Black represents the achievements of young people who can participate effectively in the democratic process.

Single Application Forms (Rural Payments and Services)

6. John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): To ask the Scottish Government how many single application forms for rural payments and services have been fully processed under the new information technology system. (S4O-04359)

The Cabinet Secretary for Rural Affairs, Food and Environment (Richard Lochhead): As of 7 am this morning, a total of 9,084 single application forms had been submitted—5,232 online and 3,852 by paper. With four weeks to go to the close of the extended application window, the rate of submission of applications is ahead of the comparable point in 2014 and, if applications continue to be submitted at the current rate, we are on track to receive around the estimated 22,000 application forms by the closing date of 15 June. However, we continue to monitor the situation closely.

John Lamont: I thank the cabinet secretary for his response, but there remains a serious risk that farmers will miss out. With just over three weeks left, 60 per cent of businesses have still to complete the process. I accept that the complexity

of the process is causing difficulties throughout Europe, but the Scottish Government's response has been complacent to put it mildly.

Looking forward, what will the Scottish Government do to ensure that the delays, which are not the fault of farmers, will not affect the schedule of 2015 payments, which are due this December?

Richard Lochhead: I just said that we are ahead of the comparable position last year with four weeks to go before the close of the window. We are taking every step to ensure that all farmers can submit their application forms.

On Tuesday this week, I had the pleasure of attending the Border Union Agricultural Society's schools day in Kelso, where I bumped into Councillor Jim Fullarton—one of John Lamont's Conservative colleagues—who shook my hand and thanked me for all the hard work that the Scottish Government officials have put into ensuring that farmers can complete their forms on time, given that it is one of the most complex farming policies ever. He said that he had completed and submitted his form in less than one hour.

Councillor Fullarton's generous spirit and understanding of the hard work contrast well with John Lamont's grumpy spirit, given that, once again, he was defeated in his attempts to leave the Parliament at the general election.

College Students (Support)

7. James Kelly (Rutherglen) (Lab): To ask the Scottish Government what action it is taking to support college students. (S4O-04360)

The Minister for Learning, Science and Scotland's Languages (Dr Alasdair Allan): The further education student support budget is at a record level of over £104 million this academic year. That means that college students can now receive bursaries of up to £93 per week, which is the best level anywhere in the United Kingdom. In addition, we made inflationary increases to college bursary and childcare support in 2014-15 and will do so again in 2015-16.

In higher education, we are increasing the level of bursary support available in 2015-16 so that the poorest students are entitled to a minimum income of £7,625 through a combination of loans and bursaries. From 2016-17, we will increase the eligibility threshold for the maximum bursary so that students with a household income of less than £19,000 will be eligible for the maximum bursary.

For 16 to 19-year-olds, we—unlike the UK Government—committed to maintain the education maintenance allowance scheme, investing £29.6 million in the current financial year.

In line with the First Minister's commitment to help more young people access and stay on in education, we are currently considering how we will extend the scheme.

James Kelly: I draw the minister's attention to the case of Abbie Johnstone and Hannah Lennox, two constituents of mine, who were unable to progress to degree level in their course of dancing and acting at Glasgow Kelvin College because the college discontinued it. Does he agree that such instability in the college sector results from there being 140,000 fewer college places and a 9.3 per cent reduction in staffing, and that it shows a shocking lack of leadership from the Scottish National Party Government?

Dr Allan: I am sure that James Kelly will rightly pursue individual constituency cases, but he has to accept that the figures prove that we are investing more in colleges than Labour ever did; that, most important of all, we have delivered on our commitment to maintain 116,000 full-time educational college places; and that we are concentrating our efforts—rightly, I believe—on providing college courses that will lead to qualifications and into work, which is what our young people deserve.

Dalry Bypass

8. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Government what the current status is of the proposed Dalry bypass. (S4O-04361)

The Minister for Transport and Islands (Derek Mackay): The directorate for planning and environmental appeals held a public local inquiry on the A737 Dalry bypass in December 2014. The Scottish ministers are awaiting the reporter's findings and recommendations before deciding how to proceed with that much-needed infrastructure improvement.

Kenneth Gibson: When the Cabinet Secretary for Finance, Constitution and Economy announced funding for the Dalry bypass, it was warmly welcomed by constituents, but construction has been delayed by the public local inquiry, which ended on 31 January.

Surely it is completely unacceptable that a reporter can take months to come to a conclusion, inevitably delaying a decision by ministers and the hoped-for progress in building that much-needed, much-anticipated road.

Derek Mackay: The reporter requires sufficient time to consider all aspects of that complex scheme, but I assure Kenneth Gibson that, as soon as we receive the recommendations, I will look at the next steps as quickly as I possibly can.

The Presiding Officer: Before we move to the next item of business, members will wish to join me in welcoming to the gallery His Excellency Mr Sunghnam Lim, the ambassador of the Republic of Korea to the United Kingdom. [*Applause.*]

First Minister's Question Time

12:00

Engagements

1. Kezia Dugdale (Lothian) (Lab): To ask the First Minister what engagements she has planned for the rest of the day. (S4F-02803)

The First Minister (Nicola Sturgeon): Engagements to take forward the Government's programme for Scotland.

Kezia Dugdale: Earlier this week, the Cabinet Secretary for Education and Lifelong Learning put her hands up and admitted that, after eight years of Scottish National Party Government, the attainment gap between children from deprived areas and those from wealthy areas shows no sign of closing. Perhaps there is a new willingness from the SNP to come clean about its education failures; let us put that theory to the test. In the chamber on 13 May, Angela Constance said:

"For the record, it is important to recognise that there has been no reduction in bursaries."—[*Official Report*, 13 May 2015; c 12.]

For the record, will the First Minister confirm whether the amount of money that is spent on bursaries and grants in Scotland has gone up or down since the SNP took office in 2007?

The First Minister: I say first to Kezia Dugdale that no issue is more important to me or to the Government than our education system. I will not hold back from being open about where improvements are needed, but equally I will not hold back from challenging those who seek to paint an inaccurate picture of Scottish education, because that does a disservice to the achievements of young people and teachers across the country.

Kezia Dugdale says that the gap between those in the most deprived communities and those in the least deprived communities is growing, but that is not true. If we look at qualifications, for example, we see that fewer pupils are leaving school with no qualifications now than was the case in 2007, and more pupils are leaving school with not just one, two or three highers, but four, five, six or more highers. That is not just true overall—it is also true for those in the most deprived parts of the country.

There is work to do in our education system, and I make no bones about that, but I will not allow any politician in any party to traduce the achievements of our pupils.

To come to the specific question about bursaries, I think that it was—[*Interruption.*]

The Presiding Officer (Tricia Marwick): Order.

The First Minister: I think that it was the National Union of Students that some time ago described the support package for students in Scotland as the best in the United Kingdom. That support package is a mixture of loans and bursaries, but it stands comparison with the packages in other parts of the UK.

In this area, as in all other areas of education policy, I will stand on this Government's achievements, but I will openly and honestly say that, where more work is needed, the Government will not shy away from doing it.

Kezia Dugdale: I asked the First Minister specifically about bursaries and grants. The reality is that, since the SNP took office in 2007, bursaries and grants for students have been slashed by £40 million. That is £40 million less for students who have the talent to get on in life but who do not have the financial resources of their better-off peers. There are thousands of working-class kids who have the grades to be nurses, engineers and doctors but who cannot get the extra support that they need unless they borrow more.

How does that compare with the situation elsewhere? Can the First Minister tell members which country in the United Kingdom provides the lowest level of bursaries for low-income students?

The First Minister: At last week's First Minister's question time, Kezia Dugdale inadvertently—I assume—misrepresented the position that she was trying to put forward on qualifications. I fear that she is doing the same today, because what matters to students is the support package that is provided.

The reality is that the Government has exceeded the manifesto commitment that we made to support the poorest students by ensuring a minimum income of £7,500 in maintenance support for students, because there was a 24 per cent increase in the value of the average support package between 2012-13 and 2013-14, up from £4,320 in 2012-13. In addition, the average student loan debt for Scottish students is lower than the average debt of students in England, in Wales and in Northern Ireland.

On all those measures, we are delivering on the commitments that we made to the poorest students in our society. Perhaps that is why we can stand here and say that, as I said last week, we have not just met but exceeded our commitment to maintaining full-time equivalent numbers in our colleges and are starting to see an increase in the number of students from the most deprived communities in Scotland going to university. That number is not good enough,

though, which is why we have set up our widening access commission.

This Government will unashamedly defend the achievements not just of the Government but of students, pupils and teachers across our country, but we will also be open to where we need to do better. *[Interruption.]*

The Presiding Officer: Order.

The First Minister: One of the issues that I am sure the widening access commission will look at is how we further and better support students—particularly those from our most deprived areas—so that they can take full advantage of the excellent education services that we provide.

Kezia Dugdale: That might have been a speech but it certainly was not an answer. *[Applause.]*

The Presiding Officer: Order.

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): Oh, they are all back together again.

The Presiding Officer: Order, Mr Swinney.

Kezia Dugdale: I have never heard the First Minister be so reluctant to say the word "Scotland". That is the answer: under the SNP, it is Scotland that has the lowest level of bursaries and grants in the whole United Kingdom. The SNP knows that because it was embarrassed into making an announcement about it last week, but the Government announced only an extra £2.40 a week. The idea that that will transform things is laughable; it is not enough money to get from here to Heriot-Watt University and back—it is a disgrace.

In 2007, the SNP campaigned on a manifesto to wipe out student debt. I have the leaflet here, which says on the back:

"Student debt. It'll lurk around your home like a bad smell on the landing."

Well, it is clearly lurking around the SNP Government. Can the First Minister confirm whether student debt has gone up or down under the SNP?

The First Minister: I appreciate that Kezia Dugdale did not like the detailed answer that I gave her. *[Interruption.]*

The Presiding Officer: Order. *[Interruption.]* Wheesht!

The First Minister: However, that is no reason for me not to continue to fulfil the duty that I have in the chamber to give detailed answers, even if they do not suit the political purposes of the Scottish Labour Party. In my previous answer, I addressed specifically the issue of student loan

debt. In 2014, the average student loan debt for Scottish students was £7,600, compared with an average in England of £20,100.

Members: Oh!

The First Minister: In Northern Ireland, the debt was £16,820 and, perhaps most significant of all, in Wales, where there is a Labour Government, average student loan debt was £17,310.

Members: Oh!

The First Minister: Of course, I look to the Government that I lead to continue to make improvements and do better—I expect nothing less—but, if I was a student in Scotland, I think that I would prefer to be in Scotland, with average student loan debt so much lower than it is anywhere else in the United Kingdom.

I say this to Kezia Dugdale: for the party that introduced tuition fees in Scotland, broke a manifesto commitment by introducing tuition fees in England and broke a manifesto commitment not to introduce top-up tuition fees—it did precisely that—to come to the chamber and talk about student debt is sheer and utter hypocrisy. *[Applause.]*

The Presiding Officer: Order.

The First Minister: It is interesting that the only people who were clapping at the end of Kezia Dugdale's last contribution were the Tories. I am reminded of the comments that Michael Dugher, the senior UK Labour figure, made last week about Labour:

"We shouldn't have been in bed with the Tories. It was a complete ... disaster. It killed us."

It is about time that Kezia Dugdale and Labour learned a few lessons.

Kezia Dugdale: It was the Labour Party that abolished tuition fees in 2001. *[Interruption.]*

The Presiding Officer: Order.

Kezia Dugdale: Members should wait for the answer. *[Interruption.]*

The Presiding Officer: Order.

Kezia Dugdale: It was the Labour Party that abolished tuition fees in 2001, and I say that to the First Minister in the most sincere way, because I was—*[Interruption.]* I know that SNP members do not like it, but the reality is that I was at university when this Labour Party abolished fees in 2001.

I have the figures here. Far from being dumped, the debt has doubled under the SNP. According to the First Minister's Government figures, the average debt per student has doubled under the SNP, and a leading education expert says that a student from a low-income background in Scotland now faces debts of up to £27,000. That is the

SNP's record on student loan debt. That figure is more than the average annual salary in Scotland.

In truth, the SNP's time in office has been a mixture of ups and downs. Student debt is up and student bursaries are down. In the light of the SNP's new transparent approach on education, when will the First Minister admit that she is letting Scotland's students down?

The First Minister: I say to Kezia Dugdale that just because she says something in a sincere way, that does not make it true. Labour removed tuition fees from the front end of education and put them on the back end of education. That is not abolishing tuition fees. I know that Labour lives in a parallel universe these days—and given that the real universe for Scottish Labour is a pretty miserable place to be, who can blame it? However, pretending that it abolished tuition fees really takes the biscuit. Perhaps it is insulting the Scottish people's intelligence in that way that has resulted in Labour being in the dire position that it is in today.

I will continue to do the job that I have got to do in making improvements where we need to do that. That is precisely why we have established the widening access commission to look at how we make it possible for more students from our most deprived areas to go to university.

We will reflect on and implement that commission's recommendations so that we can build on our achievements and ensure that we serve the students and potential students of this country even better in the future. I make that commitment most sincerely.

Kezia Dugdale might want to describe the SNP's term in office as being one of ups and downs. If only she could describe Labour's term in opposition in that way, because it has not been one of ups and downs. It has been one of downs and, if Labour keeps up the performance that we are seeing week after week, it will be going down even further.

Prime Minister (Meetings)

2. Ruth Davidson (Glasgow) (Con): To ask the First Minister when she will next meet the Prime Minister. (S4F-02800)

The First Minister (Nicola Sturgeon): No current plans.

Ruth Davidson: It seems that we all now agree—including, this week, the Cabinet Secretary for Education and Lifelong Learning—that our school system is failing too many of our children. We have declining standards in literacy and numeracy and a persistent gap between better-off and worse-off children. Those are simply facts. We know that the education secretary wants to tackle

that, but the truth is that we have no idea what she wants to do.

I would like to ask a specific question. In her speech earlier this week, the education secretary said that she was studying Denmark and Ontario to see what lessons could be learned from their education systems. Both have a rigorous system of testing primary school children and younger secondary school children. Does the Scottish Government now support the reintroduction of standardised testing?

The First Minister: Let me deal with the question in a serious way, because it is a serious question. First, I want to correct Ruth Davidson on one point. Although I agree that improvements require to be made in our education system—I have said that consistently every time that the issue has been raised—it is simply not true to say that standards in our education system are falling.

On qualifications gained, for example, I have details of exam passes going back to 2007, covering every decile of the Scottish population. Today, fewer pupils are leaving school with no qualifications than was the case in 2007. As I said to Kezia Dugdale, more people are leaving school with not just one, two or three highers, but four, five, six or more highers. In 2007, 20 per cent of pupils in our most deprived decile left school with at least one higher; the figure is now 33 per cent. That is nowhere near good enough, but it is not true to say that things are not going in the right direction.

There are improvements that require to be made. That is why we have a serious and substantive programme of work under way, which I am personally overseeing along with the Cabinet Secretary for Education and Lifelong Learning. We have established the attainment challenge, through the £100 million attainment fund, which will initially work with primary schools in seven local authorities, focusing on literacy, numeracy, health and wellbeing. The Scottish Government is currently working with those local authorities to finalise their improvement plans and the detail of how those plans will be monitored and measured. We are in the process of appointing attainment advisers in every local authority area, and we are investing in the read, write, count campaign.

We are also working on a new national performance framework, which brings me substantially to the point that Ruth Davidson made. I do not mind admitting a frustration: I can stand here and give detail on the performance of secondary school pupils in terms of exam passes, but that is much more difficult to do in terms of the performance of primary school pupils because of a lack of data. I want to address that, and I want to do so in a serious, proportionate and well-thought-out way. That is the work that is under way in the

Scottish Government, and the Parliament will, of course, be kept fully updated.

Ruth Davidson: Among that litany of exam results, we did not get an acknowledgement that the biannual literacy testing this year shows that standards in literacy are down, and that the biannual numeracy testing last year shows that standards are down.

Since the First Minister came into post, we have heard a lot about how much she is listening, how nothing is off the table and how people can bring forward ideas and she will look at things. That is wearing a bit thin, because we need some decisions and we need a plan.

Last year, Audit Scotland told us that there is no rigorous method in Scotland of assessing children's standards because some councils do it and some councils do not. Its report states:

"At a council level, there is no consistent approach to tracking and monitoring the progress of pupils from P1 to S3."

That means that after eight years of this Government, until someone's child is 14 years old, they have no clear idea how good their child's education is in comparison with education in the rest of the country. It is no wonder that the Scottish Government does not know what to do, because it does not know what is going on.

We need a new system of primary testing, exactly like Denmark and Ontario, so that we can all see which schools need help and which schools are leading the way. Frameworks are fine, but enough is enough: will the Scottish Government get on and introduce primary testing?

The First Minister: In much of that question, Ruth Davidson simply repeated what I had already said in answer to her first question. I openly acknowledge that, although we have, through exam passes, a wealth of data about the performance of secondary school pupils, we do not have that same data on primary school pupils. She then went on to overstate the case by saying that parents have no idea how their children are doing in primary schools.

Ruth Davidson is also wrong to say that there has been no acknowledgement of the fact that in the recent Scottish survey of literacy and numeracy, standards in literacy and numeracy show a decline. I have openly acknowledged that and said very clearly that it is not acceptable. That is what we are now working to improve: a serious and substantial programme of work is under way.

I am not, though, simply going to give Ruth Davidson a yes or no answer or jump to making decisions before we have properly considered what the right thing to do is. We need a new national performance framework, but we must

ensure that the data that we are collecting and the way in which we are collecting it are right, proportionate and sensible. We are considering those issues at the moment, and I and the education secretary look forward to updating Parliament very soon on the direction in which we want to go.

I have said repeatedly in the chamber—and I am going to say it again today—that I appreciate that the Opposition parties will want to be political about the issue. I accept that, but I am determined to make the improvements in our education system that require to be made. I, Angela Constance and the entire Government are going to roll up our sleeves and do the hard work that needs to be done to do right by the young people of Scotland. I make no apology to anyone for that.

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-02799)

The First Minister (Nicola Sturgeon): Matters of importance to the people of Scotland, no doubt including some of the issues that we have just been discussing.

Willie Rennie: I am pleased that the First Minister accepts that attainment in literacy and numeracy is falling in Scotland on her watch, but it is the responsibility of everyone in the chamber to bring forward ideas for change. When we argued for an expansion in early learning and childcare, the Government opposed our proposals, but we eventually won it round. However, our proposals for a pupil premium have been repeatedly dismissed as unnecessary by successive education ministers, who have been happy to argue that everything is fine. Now that it is clear that everything is not fine, will the First Minister finally agree to introduce the pupil premium in Scotland?

The First Minister: If Willie Rennie or any other member in this chamber puts forward ideas for improving our education system, we will of course consider them. However, I say to Mr Rennie that per-pupil spending in Scotland in our primary and secondary schools is already higher than it is in England, where the pupil premium has been introduced, and that it has increased under this Scottish National Party Government.

We need to do a number of things and—as I said to Kezia Dugdale and Ruth Davidson—it really is incumbent on Opposition politicians that they do not, in the process of seeking rightly to hold the Government to account, deny the achievements of our education system. It is simply not true to paint a picture of a system that is

universally failing. As I have demonstrated with reference to exam statistics, the opposite is the case. On literacy and numeracy, however, we acknowledge that improvements are required.

Willie Rennie mentioned the pupil premium, which means increased funding. I have already announced an additional £100 million that is focused on seven local authority areas and, within those areas, on the pupils who live in our most deprived communities. That is us putting our money where our mouth is; we are not only making the investment available, but are ensuring that it is used to deliver the things that will make a difference in our schools. Finally, we are ensuring that we can measure and monitor the difference that is being made so that we know what does and does not work. That is the kind of systematic, robust and rigorous way in which we will go about this. I hope that we can persuade others to come on side with us. We will, of course, continue to listen to any ideas that are put forward.

Willie Rennie: I am disappointed that the First Minister will not accept the idea, because in England the pupil premium has closed the gap in attainment for primary school children. It allows for the one-to-one tuition, books, equipment and targeted support that children from disadvantaged backgrounds need. The First Minister talks about the Scottish Government attainment fund, but it is limited to seven out of 32 council areas, while the pupil premium is for the whole country. Will she accept the case that the pupil premium closes the attainment gap and agree that it should be introduced in Scotland?

The First Minister: I am talking about a £100 million attainment fund that is focused on the local authority areas that have, as I think everyone will accept, the biggest concentrations of people living in our most deprived communities. It might well be—we are actively considering this—that some of the money will go to other local authorities that have clusters of deprivation in particular areas, but surely we are right, having set aside that substantial financial investment, to focus it exactly where it is needed most so that we can drill down to where the problems are and ensure that we take a rigorous approach to making and monitoring improvements. I am absolutely determined that we will focus on that.

We will not close our minds to ideas that are brought forward—of course we will consider them—but we have put in place a serious and substantial programme of work and we are determined to get on with implementing it. That is what parents and teachers across the country expect and that is what they will get from this Government.

Trident Nuclear Submarines (Safety)

4. Kenneth Gibson (Cunninghame North) (SNP): To ask the First Minister what discussions the Scottish Government has had with the United Kingdom Government regarding the safety of Trident nuclear submarines. (S4F-02802)

The First Minister (Nicola Sturgeon): The Scottish Government has made clear its opposition to Trident nuclear weapons, and our concern about the risks that they pose. However, the Ministry of Defence does not discuss the operation of its Vanguard-class submarines with the Scottish Government.

Recent allegations from a whistleblower that highlight a catalogue of safety breaches and security lapses are of grave concern. The UK Government must fully investigate those allegations without delay, explain any failings that have been highlighted and set out, as far as it can, precisely what has been done to address each one. People across Scotland, and indeed across the UK—not least those who live and work at or around the naval base on the Clyde—must be given answers to the very serious allegations that have been raised.

Kenneth Gibson: Many people are indeed concerned, following revelations in nuclear engineer William McNeilly's 18 page report "The Nuclear Secrets", which came to light last Sunday. Does the First Minister agree that, while the Royal Navy is denying a host of allegations, ranging from fire risks to near sinking and collision with another submarine, a full and comprehensive safety review is merited and should take place with immediate effect? Do such concerns not make it clear that ensuring public safety is yet another reason why it would be folly to squander billions of pounds on renewing Trident?

The First Minister: Public safety must always be the top priority. As I have said, we need a top-level inquiry into the allegations that have been made; any potential safety or security failings of the Trident nuclear weapons system are an extremely grave matter. The Scottish Government has long opposed the existence of those weapons, but we have also in the past raised operational and safety concerns.

The allegations that have been made over the past few days are all the more troubling because they have been made by a member of defence personnel and must therefore be treated with all the seriousness that they deserve. Only the fullest possible assurance from the UK Government about the safety of its arrangements is now acceptable.

However, we should also be very clear that the only certain way to remove the risk of an incident involving Trident nuclear weapons is through the

withdrawal of Trident nuclear weapons. In my view, the UK Government should cancel its irresponsible plans to spend £100 billion on renewing those weapons of mass destruction and begin now to plan for their removal.

Living Wage

5. Neil Findlay (Lothian) (Lab): To ask the First Minister what progress the Scottish Government is making on increasing the number of companies and organisations paying the living wage. (S4F-02804)

The First Minister (Nicola Sturgeon): The Scottish Government has provided funding to the Poverty Alliance to promote the living wage and increase the number of accredited employers in Scotland. The Poverty Alliance's work resulted in the achievement of the original target of 150 wage accredited employers eight months early and it is now working towards a new target of 500 accredited employers by the end of March next year.

Neil Findlay: This week's "BBC Scotland Investigates" documentary showed the heartbreaking impact of low pay on people's lives. The responsibility for setting the national minimum wage is of course reserved to the UK Government, but this Government can do much, much more now to address low pay. With only 10 out of 50 of Scotland's largest employers paying the living wage, will the First Minister publish an action plan to set out how her Government intends to use the powers that it has to raise the incomes and living standards of Scottish workers?

The First Minister: I am not going to set out an action plan; I am going to continue to ensure that we take the actions that we have already agreed need to be taken. We need less talk and more action on things such as this.

We have funded the Poverty Alliance. That campaign has already delivered 200 living wage accredited employers; on Monday, BrewDog was confirmed as the 200th. That is a significant increase since this time last year and it shows that employers from every sector of the economy recognise the importance of ensuring that working people are receiving a fair level of pay. We will now support the Poverty Alliance to reach that new target of 500 accredited employers. We will also continue to lead by example as a living wage employer. We will take that action with our subcontractors, too, and encourage other public authorities to do the same.

I agree with Neil Findlay about how upsetting it was to watch the documentary that he refers to. I passionately believe that people deserve to earn a living wage when they do a decent day's work. We

in this Government will continue to do everything that we can to ensure that that is the case.

Modern Apprenticeships (Disabled People)

6. Kevin Stewart (Aberdeen Central) (SNP): To ask the First Minister what action the Scottish Government is taking to allow more disabled people to access modern apprenticeships. (S4F-02801)

The First Minister (Nicola Sturgeon): That is an important issue. The number of disabled people accessing modern apprenticeships is disproportionately low, so addressing an underrepresentation is a key Government priority.

Through the funding that we provided last year, Skills Development Scotland is working with Barnardo's and Remploy on specific early-targeted pathway projects to help disabled young people into a modern apprenticeship. We are also undertaking research to better understand the issues that prevent disabled people from participating in the programme. That work will be used to develop an equalities action plan by autumn 2015. It will be supported by £500,000, which was announced last week, to address equality issues in the modern apprenticeship programme.

Kevin Stewart: Many public bodies and companies benefit greatly from employing disabled people. What can the Government do to persuade more employers that taking on young people with learning and physical difficulties as apprentices could be not only positive for the employees but highly advantageous for their companies?

The First Minister: First, we should encourage employers to see—as many do—the enormous contribution that people with disabilities can make to the workplace, to society and to our wider economy. More particularly, we are developing a new employer recruitment incentive, which will support vulnerable young people, including those with a disability. The incentive is aimed at supporting young people into sustainable employment, and encouraging and equipping small businesses to recruit young modern apprentices into their workforce.

We are also going to identify a lead body to support recruitment of young disabled people, to develop a new work experience model and to introduce an improved approach to career services. All that is detailed in the developing our young workforce implementation plan.

Kevin Stewart raises a serious issue, and it is one that we are determined to address.

James Kelly (Rutherglen) (Lab): On a point of order, Presiding Officer. The party leaders'

exchanges in this First Minister's question time took 25 minutes. Therefore, there was not an appropriate opportunity for back benchers to participate in FMQs and hold the Government properly to account. I ask you to use your offices to ensure that the party leaders' exchanges take up an appropriate length of time. I encourage the First Minister to restrict—*[Interruption.]*

The Presiding Officer: Order. Let us hear Mr Kelly.

James Kelly: I encourage the First Minister to restrict her contributions to answers rather than speeches.

The Presiding Officer: Thank you for that point of order. Mr Kelly. I always have the interests of back benchers at heart. I will look very carefully at the party leaders' exchanges today. It certainly seemed as though they were quite long. Once I review that, I will do what I normally do, Mr Kelly. I will speak to you and all the other business managers about how we can better manage next week's First Minister's questions.

Fire Sprinklers

The Deputy Presiding Officer (John Scott):

The next item of business is a members' business debate on motion S4M-12535, in the name of Clare Adamson, on the Scottish fire sprinkler co-ordination group. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the Scottish Fire Sprinkler Coordination Group to the Parliament for its awareness-raising event on 21 May 2015; notes the success of the Fire Sprinklers in Residential Premises (Scotland) Bill in securing a commitment from the administration in relation to the fitting of automatic fire sprinklers to all new care homes and sheltered housing developments following the tragic deaths at Rosepark Care Home in Uddingston; welcomes all developments that improve fire safety, and recognises that several countries, such as Finland, Norway, Sweden and New Zealand, have begun retrofitting automatic sprinklers to buildings.

12:34

Clare Adamson (Central Scotland) (SNP):

I begin by thanking colleagues from across the Parliament, including those who will take part in the debate, for their support for the motion. I welcome to the gallery members of the Scottish fire sprinkler co-ordination group, whose membership includes members of the European fire sprinkler network, the national fire sprinkler network and the Chief Fire Officers Association, as well as members of the insurance industry and representatives of care organisations. The British Automatic Fire Sprinkler Association is a founding member of the group, which is hosting a lunch-time event in the Parliament, and I hope that members will be able to attend it. It is somewhat ironic that the event is being held in the Burns room—given the topic of the debate, the less said about that, the better.

No one can forget the tragic deaths at the Rosepark care home in Uddingston in January 2004, which resulted in the death of 14 residents. After the fatal accident inquiry into the fire, which looked, in particular, at the cause of the deaths, Sheriff Principal Lockhart found that some or all of the deaths could have been prevented if the home had had a suitable and sufficient fire safety plan. I trust that, following the publication of "Practical Fire Safety Guidance for Care Homes" by the Scottish Government in March 2014, no care home is in that position today.

There is no doubt that Scotland has made significant progress in fire safety and prevention and in the use of fire sprinkler systems, which is one of the best protection mechanisms. I pay tribute to Michael Matheson, whose member's bill, the Fire Sprinklers in Residential Premises (Scotland) Bill, paved the way for that progress.

In 2009, the Scottish Government commissioned the report "Scotland Together: a Study Examining Fire Deaths and Injuries in Scotland", which concluded that the installation of sprinklers in all Scottish homes was not cost effective. More recent evidence, including a new United Kingdom cost benefit analysis of residential sprinklers by the Building Research Establishment, does not challenge that underlying conclusion, but the BRE says that residential sprinklers as an additional safety measure are cost effective for all residential care homes, including those for elderly and disabled people and children; most blocks of purpose-built flats and larger blocks of converted flats; and traditional bedsit-type houses in multiple occupation in which there are at least six bedsit units per building. It considers that residential sprinklers in two-storey houses that are shared would not be cost effective.

In the Scottish Parliament, we recognise that we cannot make decisions without taking cognisance of cost, but we should always ask, "Of what cost is a human life?", whether that be the life of a resident, a staff member or a firefighter. Firefighters face considerably fewer dangers when they attend a fire in a property that is fitted with a sprinkler system.

In May 2005, the Scottish Government led the rest of the UK when it introduced new mandatory building standards that required the installation of sprinklers in all new-build enclosed shopping centres; residential care buildings, including care homes and boarding schools; sheltered housing complexes; and high-rise domestic buildings. At the time, the installation of sprinkler systems in all new-build dwellings, such as houses, could not be justified on cost grounds, but we know that the Welsh Government has taken the decision to have sprinklers installed in all new-build domestic properties.

In October 2010, the revised building regulations introduced in the domestic handbook, which gives technical guidance, sprinklers as an option to protect common escape routes in low-rise domestic buildings. Sprinklers were introduced in new primary and secondary schools to support sustainable development by providing enhanced property protection against fire. I am sure that the minister will touch on some of those areas.

As far as affordable housing is concerned, "Scotland Together" found a link between social deprivation and an increased risk of fire fatality, with 40 per cent of accidental dwelling fire deaths occurring in social rented housing and 31 per cent in the Scottish index of multiple deprivation 15 per cent most deprived areas. As a result, a targeted approach to sprinkler installation in social rented

homes, council houses or housing association-owned dwellings was rolled out across Scotland, but I know that councils such as Fife Council and Angus Council are installing sprinklers in all new-build council properties. To them, it is a no-brainer to protect not just their residents, but their financial investment in the new properties.

As the convener of the cross-party group on accident prevention and safety awareness, I know that one of the biggest challenges that we have to overcome in fire sprinkler use is the normalisation of their use in our communities. The very fact that both the Scottish Fire and Rescue Service and the British Automatic Fire Sprinkler Association have myth-busting sections on their websites tells us that the safety advantages and the protection of property, life and our fire officers in attending fires should be at the forefront of our discussions, but we are still talking about the myths that surround fire sprinklers.

On its website, BAFSA says that one of the biggest myths

“about sprinklers is that they are expensive and difficult to fit into existing buildings and thus it is rarely practical to fit them after initial construction. In order to determine the truth”

of that,

“BAFSA funded a pilot project to install sprinklers in a Sheffield tower block. This project proved conclusively that it is possible and cost-effective to retrofit sprinklers into an existing high-rise block without first having to relocate the tenants”

or causing major disruption.

There is also a myth that installations cannot be done on a fast-track basis, which has been proven not to be true. On myths around the costs, at around £1,150, the installation cost per flat is reasonable, given sprinklers’ effectiveness in protecting the investment in the property and in the protection of life, which, as I said, should always be at the forefront of our discussions. Tenants, residents and their families feel safer knowing that they are better protected when they live in a building that has a sprinkler system in place.

We also know that sprinklers greatly reduce the potential trauma and disruption to individuals following a fire, as they very much restrict fire damage.

As I said, retrofitting sprinklers as part of a major refurbishment project to meet current building standards can be done reasonably and without major disruption.

I know of many care homes and residential properties that were built, or were in operation, before the new building standards came in. I hope that the message of retrofitting is fully understood

and that raising awareness of retrofitting may prompt action to ensure that the use of sprinklers, as the very best form of preventative fire protection, can be extended to the whole community in Scotland.

12:42

David Stewart (Highlands and Islands) (Lab):

I congratulate Clare Adamson on securing the debate and on her work as convener of the cross-party group on accident prevention and safety awareness. I also welcome the Scottish fire sprinkler co-ordination group to Parliament and hope that it has a successful event.

I have a long-standing interest in the vital role of fire sprinkler systems as preventative devices in fire safety. I place on record the help that I have received from Councillor Fraser Parr of Highland Council and his former colleagues from the Highlands and Islands Fire and Rescue Service for their advice, guidance and assistance.

In the previous session, I worked up a proposal into a member’s bill that would have ensured that all new houses in multiple occupation had fire sprinkler systems. Unfortunately, I ran out of time, as I also had a proposal on dangerous and defective buildings, although I am pleased to report the resulting Buildings (Recovery of Expenses) (Scotland) Bill was passed unanimously by Parliament. I thank the minister, Derek Mackay, for his help with that.

In simplistic terms, prevention is always better than cure. That is why it is important that we consider other ways in which we can prevent deaths and injuries that are caused by fire. I commend the efforts of the Scottish Fire and Rescue Service in undertaking various preventative programmes, including home fire safety visits. Like Clare Adamson, I welcome the revision to the building regulations in 2010 that made at least one smoke alarm mandatory. That has contributed to more smoke and heat alarms being fitted in homes.

Last April, the previous Minister for Community Safety and Legal Affairs, Roseanna Cunningham, wrote to me, saying:

“It is estimated that installing smoke alarms in dwellings could reduce the risk of death to about 30-50% of the risk where there are no alarms.”

On affordable housing, which Clare Adamson touched on, Roseanna Cunningham went on to say that the

“Scottish together Study found that social deprivation links to increased risk with 40% of accidental dwelling fire deaths occurring within social rented housing and 31% in the Scottish index of Multiple deprivation ... most deprived areas”.

More can be done, which is why I have been advocating the introduction of fire sprinkler systems in all social housing and HMOs. It is clear from the evidence that fire sprinklers can save lives and, if targeted well, can help to protect the most vulnerable people in our society.

Fire sprinkler systems are a highly cost-effective way of reducing the United Kingdom's appalling fire death toll. Fire detection systems and smoke alarms probably save around 80 to 100 lives each year. Of course, most at risk are the most vulnerable members of our society: the very young, the very old, the disabled, the infirm and those who abuse drugs and alcohol.

Sprinklers can prevent fire deaths. In the case of social housing, residential care premises, HMOs, hostels and similar properties, there are clear arguments that sprinklers offer the best chance of preventing deaths should a fire occur.

The most comprehensive study that I could find on the effectiveness of residential sprinklers was carried out by the Rural/Metro fire department in Scottsdale, Arizona. That study showed that sprinklers not only save lives but significantly reduce by an average of 85 per cent the cost of damage caused.

I am very pleased that, as Clare Adamson said, Fife Council and Angus Council have really shown us the way by ensuring that all new social housing has built-in systems. I hope that more councils across Scotland follow suit.

The Welsh Assembly has gone even further and has passed ground-breaking legislation to ensure that, from 2016, all new homes contain fire sprinkler systems. I hope that the Scottish Government will look at the result in Wales and extend the current requirements to fill the gap. Perhaps the minister will talk about that in his winding-up speech.

I am well aware that the Scottish Government has commissioned research into a cost benefit analysis of residential sprinklers in Scotland. In an answer that I received—last November, I think—the minister indicated that the results would be published at Easter. As the results are not yet available—I certainly could not find them—I would be very grateful if the minister could give us an update on the timetable for the research.

I hope that Scotland will continue to lead the way in fire prevention by broadening fire sprinkler requirements to cover all social housing and HMO properties, to ensure that no lives are lost where that could have been prevented.

The Parliament has a proud record of innovation and best practice, such as the introduction of free personal care, the smoking ban and the zero-tolerance approach to domestic abuse. I believe

that we are at our best when we are at our boldest. Let us add another ground-breaking policy and extend the range of sprinklers to prevent death and injury among our old, vulnerable and disadvantaged constituents across Scotland.

12:47

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I add my congratulations to Clare Adamson on bringing this important topic to Parliament today.

It is an interesting subject. I remember that—I think about 10 years ago—Stewart Maxwell MSP and I went to see a demonstration of a sprinkler system in Hamilton. We saw a before and after; we saw a fire without a sprinkler system and then we saw the very different effect of the same fire when it was operated on by a sprinkler. I was left in no doubt whatever about the efficacy of what is actually quite a cheap intervention.

I said “cheap intervention”. Let me defend that. Take the average cost of even retrofitting a sprinkler system to a house. What is that comparable to? It is comparable to the cost of putting in a new gas boiler. It is comparable to the cost of the new generation of high-definition 55-inch televisions, which many people choose to buy. It is not all that different to the cost of insurance for a youngster with their first car—if it is other than a Fiat 500. The cost ought not to be the immediate barrier to our considering a sprinkler system.

We have heard from Dave Stewart—I have also seen the figure elsewhere—that 100 UK deaths each year occur without fire detection systems. How much is a death worth? To the family who experience loss, no financial price can be put on it, but let us take the kind of figures that are generally used. If we assume that we would reduce deaths by two thirds by having sprinkler systems installed universally, we are looking at a saving, based on the amounts that are set against people's lives, that would pay for 13,000 houses a year across the UK—that is not a figure for Scotland. There is a direct and simple financial relationship, but if we want to be analytical there are other savings to be made.

Fewer fires, fewer deaths and a reduction in the impact of fires represent a saving for the Scottish Fire and Rescue Service and for the insurance industry, which means that it would reduce premiums. For the householder, it is likely that installation of sprinklers would be reflected by increased value of the house when it comes up for sale. This figure is a little out of date—I do not have the current figure—but five or six years ago the average mortgage length was only seven

years, which gives one a sense of how quickly one might see a return on that sort of investment.

Simultaneously with thinking about the benefits and the cost benefits of installing sprinkler systems, we should think about what brings about risk of household fires. There has been an increase in consumption of alcohol in Scotland; when people are less sensible of their actions, the risk of fire and a range of other risks increase. That gives further weight to the actions to address the problem of alcohol abuse, which have received broad support from across the Parliament.

We have taken great steps in respect of smoking. I, again, give absolute credit to Jack McConnell for his bravery with regard to smoking legislation. There has been a reduction in the amount of smoking, and that is good. However, I have a little niggle in my mind about the possibility that the fact that smoking has become less acceptable in public might mean that there is more smoking in homes, which might be an issue with regard to the subject of this debate.

I am told that there are representatives of the insurance industry in the public gallery today. I agree that we would expect the cost of insurance to go down when a sprinkler system is installed. However, the sprinkler system itself is a form of insurance, and I think that the one saying about insurance that we should always remember is that it is the one product that we cannot buy when we really need it.

12:52

Margaret Mitchell (Central Scotland) (Con): I congratulate Clare Adamson on bringing this debate to the chamber today and pay tribute to the important work that she does as the convener of the cross-party group on accident prevention, along with its other members, to highlight prevention issues such as the importance of and the need for fire sprinklers.

There is no doubt that the nature and the scale of the Uddingston Rosepark care home tragedy 10 years ago, in which 14 people lost their lives, brought fire-prevention measures to the forefront of the public consciousness. The subsequent findings of the fatal accident inquiry established that the tragedy could have been prevented, had suitable measures been taken.

The Fire (Scotland) Act 2005 therefore sought to ensure that fire safety in Scotland's care homes is adequate, and required that fire sprinklers be fitted in new or altered care homes. Furthermore, last year the Scottish Government issued updated guidance on the act's application to care homes, which recommends retrofitting sprinklers in homes where there are high-dependency residents. Although there are, obviously, costs involved with

retrofitting automatic fire sprinklers, the benefits of preventing avoidable damage have been recognised in the countries that are listed in the motion—namely, Finland, Norway, Sweden and New Zealand. That is surely because those countries recognise that injuries and fatalities through fires far outweigh any initial cost. That sentiment has been echoed in the chamber today.

The updated guidance also states that

“fire protection products should be fit for their purpose and properly installed and maintained”

and that, where possible a reputable third-party certification body, which itself has been accredited by the United Kingdom Accreditation Service should independently check that standards are being met for fire protection products. That is to ensure that installation and maintenance contractors are properly qualified and competent. However, that third-party safety net is not a requirement. Significantly, instead of having one authority with an approved list of fire safety consultants, so that we can weed out the cowboy operators, there are numerous professional bodies, in addition to the United Kingdom Accreditation Service, that operate registration schemes.

It is therefore welcome that, in relation to fire sprinklers, the British Automatic Fire Sprinkler Association acts as a hub for companies that are looking to install sprinkler systems. As a trade association with more than 40 years' experience, its members are responsible for installing more than 85 per cent of automatic sprinkler and water-mist systems in the UK. The association has also led the way in campaigning for retrofitting of sprinklers in residential care homes, schools, high-rise buildings and historic buildings. That is a record to be proud of, which is why today's debate provides a welcome opportunity to acknowledge the British Automatic Fire Sprinkler Association's achievements as well as helping to raise awareness about both the benefits of fire sprinklers and the need to install them.

12:56

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I congratulate Clare Adamson on introducing the debate and on bringing the Parliament's attention to today's awareness event on the importance of protecting people and properties from the threat of fire.

When the Fire Sprinklers in Residential Premises (Scotland) Bill was introduced in 2003, there was no requirement in legislation for mandatory installation of fire sprinkler systems in residential properties. Primary responsibility for making the choice to install equipment fell to the owner—whether they chose to install fire sprinkler

systems was entirely for them to decide. The bill went some way towards ensuring that retrofitting of fire sprinklers became mandatory in certain types of residential property.

That means not only that building regulations must be met and that retrofitting must take place in existing care homes and sheltered housing, but that the equipment is maintained and checked regularly. In the document, "Practical Fire Safety Guidance for Care Homes", the Government sets out the steps that should be followed in accordance with the Fire (Scotland) Act 2005. It states:

"Any defects which occur should be put right as quickly as possible, though there may be a need for contingency plans when life safety systems such as fire-warning systems or sprinklers are defective."

A failed sprinkler system could, as we all know, cost lives.

When we remember such disasters as the loss of life at the Rosepark care home, it is clear that we need continually to reinforce the message that failure to comply with the legislation can lead to tragic consequences. No person who is placed in the care of a home in Scotland should be at risk of such a tremendous threat. It is now an offence to occupy sheltered housing when it is known that a completion certificate has not been granted because a fire sprinkler system has not been provided. Like Clare Adamson and others in the chamber, I see that rule as being vital in preventing loss of life through fire.

That rule should apply to all buildings where the care of a large number of people takes place. The Building (Scotland) Amendment Regulations 2010 added school buildings to the existing list of buildings that are required to have sprinkler systems. I would welcome a comment in the minister's wind-up speech about the position with regard to schools, because I believe that the Government routinely exempts schools from the requirement for sprinkler systems. There may well be a good reason for that, but the situation is not entirely clear to me.

Today, we are focusing on the need to raise awareness both of the risk of fire in homes that have multiple occupants and in our care homes, and of the risk of a failure to take responsibility for ensuring that equipment is installed and maintained. The co-ordination group that is mentioned in the motion works effectively by exchanging information with other co-ordination groups across the UK on research, campaigning for better recognition of the need for retrofitting, and lobbying for changes to legislation that will ensure that installation becomes the rule, not the exception, in key types of property.

The Chief Fire Officers Association has consistently made the case for wide use of sprinkler systems and has stated that their effectiveness has been

"proven in use for well over 100 years, during which time they have a 99% success rate worldwide. There are sprinkler systems over 100 years old that are still in full working condition today."

I must say that I was surprised to read that.

Believe it or not, automatic sprinkler systems have been incorporated in some buildings since 1872. They were originally seen and developed as a means of reducing fire losses to property and contents. However, in recent years, recognition has grown of their contribution to life safety. We all have the right to feel safe in our homes, and when that safety cannot be assured by our own actions because we are in the care of others, we require the certainty that is provided by good legislation to put a duty in place.

In its business case for installation, the CFOA emphasises:

"There are no cases on record where multiple fire deaths have occurred in buildings with working sprinkler systems, where those systems have been appropriately designed for the intended purpose, have been properly installed and maintained."

I join Clare Adamson in welcoming the work of the co-ordination group in ensuring that the legislation is followed carefully and to the letter. Tragic events such as that which we witnessed at Rosepark cannot be forgotten and cannot be allowed to happen again. I support the motion and congratulate Clare Adamson on it and on all the work that she does on safety.

13:01

The Minister for Community Safety and Legal Affairs (Paul Wheelhouse): I welcome the members of the Scottish fire sprinkler co-ordination group who are in the visitors' gallery today.

I congratulate Clare Adamson on securing the debate. She has referred the issue to me a number of times and I know that she is passionate about it. I also congratulate her on her work for the cross-party group.

It is important to note that today's speeches have been thoughtful and informative and have helped me by giving members' perspectives. They have also dealt with some of the cost parameters and consideration of the type of building that we use. The speeches have been interesting and informative and I am genuinely sorry that, because of a pre-existing diary commitment, I am unable to attend the co-ordination group's awareness-raising event this lunch time. I wish it well and hope that

the event is well attended by members from across the chamber.

As Clare Adamson stated, last year marked the 10th anniversary of the tragic events at Rosepark care home. My thoughts are with the families and friends of those whose lives were lost. I am sure that all members have reflected on that today and it is poignant to be discussing the issue in the context of that tragic loss of life.

Since then, Scotland has led the way in the United Kingdom in responding to the tragedy and its implications. In 2005, we were the first to introduce building standards that require the installation of sprinklers in new-build care homes and sheltered housing as well as in enclosed shopping centres and high-rise accommodation.

The Scottish Fire and Rescue Service annually audits all care home, school care and secure accommodation services that are registered with the Care Inspectorate, regardless of whether sprinklers are fitted. The SFRS aims to enable all care homes to deliver on compliance and to work with occupiers and other responsible persons to achieve a satisfactory level of safety for all residents.

It is worth noting in passing that enforcement procedures are robust. We are looking for responsible persons to deliver on fire safety in a number of ways that may include sprinklers in some cases but will also include other measures. When dangerous conditions are found, and the SFRS believes that the use of such premises ought to be prohibited or restricted if it would mean a serious risk to persons in the event of fire, and if that risk cannot be remedied immediately, the service will issue a prohibition notice or restrict the use of those premises. It is important to put on the record that failure to comply with any suggested alterations, or with a prohibition or enforcement notice, constitutes an offence and might result in the prosecution of the person responsible.

David Stewart: In case the minister does not touch on this point, I have a specific question about the installation of sprinkler systems in new-build social housing. We have heard about Angus and Fife, and I congratulate them, but the Government could require all local authorities to do that. Will the minister consider that, as well as looking at the experience of Wales, which has clearly done an appraisal? As Stewart Stevenson said, let us look at best practice and things that we have achieved in the past, such as the smoking ban. This could be a great achievement that all parliamentarians could rally around.

Paul Wheelhouse: I note the consensual tone of the debate. I will come on shortly to research and the work that we are doing on social housing. First, I will address the point about Wales that

Dave Stewart and other colleagues, including Clare Adamson, made.

We will continue to keep this important issue under review, and we are studying closely what is happening in Wales. I am interested in the Welsh experience. We will keep in touch with the UK and Welsh Governments on their experience and will try to learn from it. I give an assurance to all members that we will study closely what happens in Wales and take a considered view of that.

In continuing my speech, I will touch on the points that Dave Stewart has just made.

I have touched on the current regulation, but we want to protect all residents of care homes. The 2009 Scottish community fire safety study report, "Scotland Together", to which members have referred, concluded that the installation of sprinklers in all new Scottish homes would not be cost effective. That was borne out by Scottish Government-commissioned research. It was recognised, however, that particular sectors of our communities—for example, people living in deprived areas, whom members have referred to as facing multiple deprivation and the higher risk factors that Stewart Stevenson and others mentioned, such as drug and alcohol issues—are disproportionately affected by fire risks. It is clear that we must do more to prevent fires in those areas.

As a result, a targeted approach to sprinkler installation for social rented, council or housing association-owned dwellings has been adopted by some providers, as members have noted. For example, Angus and Fife councils now require sprinkler systems to be installed in all new-build domestic properties that they commission. The Scottish Government supports that targeted approach, which is based on cost-benefit evidence and robust risk assessment, across a range of risk reduction initiatives including sprinklers.

We continue to keep this important issue under review, and last year we commissioned research into a cost-benefit analysis of the installation of fire suppression systems in new-build houses, flats, houses in multiple occupation and halls of residence. The report from that research is due to be published very soon, and we will carefully review the research findings. We will keep members informed of our views, of course, with a view to seeing what practical, cost-effective measures might be considered in the future.

Sprinklers are only one of a range of risk reduction measures that can be deployed to reduce the number of fire deaths. David Stewart and Stewart Stevenson referred to others, including smoke alarms. The Scottish Fire and Rescue Service has been working hard to raise awareness of the risk of fire in the home and

encourage people to take action to make their communities safer. That is particularly important, as dwelling fires have been the main cause of casualties from fires in Scotland for the past 10 years.

That is why installing smoke alarms remains a key part of fire prevention activity in domestic premises. Last year, the Scottish Fire and Rescue Service carried out more than 70,000 home fire safety visits—David Stewart referred to those—and installed a total of 60,000 smoke alarms. I hope that members will agree that that is a positive contribution to tackling fire safety in those premises. That approach is working. There were 9 per cent fewer dwelling fires in 2013-14 than in the previous year, continuing the downward trend of the past decade. I agree with David Stewart that the Scottish Fire and Rescue Service—indeed, all firefighters and their support staff who are involved in prevention work of that nature—deserve our thanks for the tremendous work that they do on our behalf.

From what we have heard today, there can be no doubt that sprinklers are an effective way to prevent casualties and, in particular, to limit damage to property that is caused by fire. I was interested to hear Stewart Stevenson's points about the balance in the insurance costs and whether a sprinkler system might be an insurance in its own right. Indeed, the SFRS plays an active role in promoting the benefits of installing sprinklers among Scotland's business community and it joined fire services across the UK in supporting fire sprinkler week 2015 in March.

From a legislative point of view, the requirements that are placed on the duty holders of relevant premises under the Fire (Scotland) Act 2005, to which Margaret Mitchell referred, are not prescriptive—and with good reason. The act requires duty holders to carry out an assessment to identify the risks and to decide which reasonable fire safety measures to take to ensure the safety of the people in the premises. Nevertheless, I note the points that have been made about enforcement when there is perceived to be a significant risk, when the Fire and Rescue Service can intervene.

In some environments, installing a sprinkler system may be an appropriate and cost-effective way of tackling the issue, but in others alternative methods of risk reduction might be more appropriate, cost effective and effective in absolute terms. Having said that, I would encourage any business owner to carefully consider the installation of a sprinkler system, among a range of other risk reduction initiatives, when they are considering the safety of the people using their premises as well as the preservation of their property.

I congratulate Clare Adamson on securing the debate and thank all members for the considered and sincere points that they have made. I am very aware of the situation regarding schools, which Malcolm Chisholm raised. The requirement for automatic sprinkler systems in new schools was introduced in 2010, but I take on board his remarks about existing schools.

13:10

Meeting suspended.

14:30

On resuming—

Devolution of Further Powers

The Presiding Officer (Tricia Marwick): Good afternoon. The first item of business this afternoon is a debate on motion S4M-13160, in the name of Bruce Crawford, on “New Powers for Scotland: An Interim Report on the Smith Commission and the UK Government’s Proposals”.

I call Bruce Crawford to speak to and move the motion on behalf of the Devolution (Further Powers) Committee.

Bruce Crawford (Stirling) (SNP): The Devolution (Further Powers) Committee was established in October last year. Its task was to scrutinise the proposals for further devolution that arose from the recommendations of the Smith commission. We are here to debate our interim report, which was published last week, and which gives the committee’s initial view of the proposals thus far.

Across the committee, we believe our report to be constructive, balanced and objective. Members of the committee may differ on the powers that we consider that the Scottish Parliament should have, but it is clear that we speak with a common voice in saying that, as a minimum, the spirit and substance of the Smith commission recommendations must be delivered in full in legislative terms and in the actions of the Scottish and United Kingdom Governments. Our conclusion was that, unfortunately, the draft clauses that were published in January by the previous UK Government do not meet that objective in significant areas. The committee has called on the new UK Government to seriously consider the areas that we have highlighted in which we believe that the draft clauses fall short.

The UK Government must ensure that the bill, which is expected to be published next week, is strengthened to fully deliver on the Smith recommendations. As a committee, we set ourselves four very clear and specific tasks in scrutinising the proposals for further devolution: to assess whether the draft legislative clauses that the UK Government published would implement the Smith commission recommendations; to engage as widely as possible with stakeholders, communities and individuals; to obtain as wide a range of expert opinion as possible within the timeframe available; and to publish a report that would seek to influence the content and development of a new Scotland bill. I will let others judge whether we have met those objectives.

I wish to thank all those who provided evidence to the committee, whether in formal evidence

sessions, at informal meetings in local communities or at the public meetings that we held in Hamilton, Aberdeen and Shetland. To assist us in our task, we appointed three advisers: Christine O’Neill, to provide advice on constitutional matters; Dr Heidi Poon, to deal with taxation; and Professor Nicola McEwen, to advise us on welfare. I put on record the committee’s thanks for the assistance that they provided us with in developing our report. I also put on record our thanks to the clerking team so ably led by Stephen Imrie, which did a fantastic job in preparing us to question the witnesses who were called to give evidence and in helping to pull together our report. Most of all, I thank my fellow committee members for the mature, professional manner in which they approached their work.

Our report has been agreed unanimously by all members of the committee and, in my view, it carries far greater weight as a consequence. Our recommendations are intended to be constructive and to assist the new UK Government in producing legislation that will implement the Smith recommendations.

It is important to note that in certain areas, such as the devolution of air passenger duty and the aggregates levy, the draft clauses met the aims of the Smith commission as far as the committee was concerned, but because of the time available, I must focus on the broad areas in which the committee found that the draft clauses were not fit for purpose.

In a wide range of areas, the committee considered that clarification was required on the effect of a clause or that amendment was required to the clauses as currently drafted. Perhaps the most significant area in which we considered that to be the case was welfare. The committee considered that the draft welfare clauses would not provide a future Scottish Government with the power to, for instance, create new benefits in areas of devolved responsibility or make discretionary payments in any area of welfare, and that the definitions of “carer” and “disability” would significantly constrain the policy autonomy of a future Scottish Government in those areas. The committee also considered that the clauses would not devolve all the powers over support for unemployed people that Smith expected. For example, the access to work programme appears to remain reserved.

We seek assurances that winter fuel payments will be devolved and that, where a Scottish Government introduces a new benefit or top-up, that will not result in an offsetting reduction in a UK benefit.

The interaction of devolved and reserved powers is critical across many of the Smith commission proposals. Universal credit provides

an example of where there is one such proposed shared power. In that light, the committee considered that draft clauses 20(4) and 21(3) could be considered or perceived to be a veto and that they need to be looked at again.

More generally, we recommended that the principles that would inform intergovernmental working on welfare require to be placed in statute.

That is a summary of our recommendations on welfare. Other members will no doubt want to go into more detail on those recommendations in due course.

The draft welfare clauses are the area in which perhaps most concerns rest, as they are potentially the most complex to implement. I know that the Welfare Reform Committee is carefully scrutinising that area. Those clauses will impact on some of the most vulnerable and disadvantaged individuals in Scottish society. I am reminded of a quotation that Sir Harry Burns is fond of recalling. A Los Angeles priest said to him:

"What we need is a compassion that stands in awe at the burdens the poor have to carry, rather than stands in judgment at the way they carry it."

It is therefore essential that legislation in that area not only implements the spirit and substance of the Smith commission, but is capable of being implemented efficiently.

The taxation powers that the Smith commission proposed for devolution will also result in a significant degree of shared power between the Scottish Government and the UK Government. The most critical elements of the operation of powers in that area are not dealt with by the draft clauses; instead, the operation of those powers will be governed by a new fiscal framework, which is currently being developed. Although the operation of the no-detriment principle and the block grant adjustment may sound esoteric, those issues are absolutely critical to the effective operation of those powers. The committee is grateful for the work that has been undertaken by the Finance Committee in that area. It found clear differences between the Scottish Government and the UK Government on the no-detriment principle. Similarly, we recommend that greater clarity is required on how the no-detriment principle will operate in practice.

We made a number of detailed recommendations that relate to the implementation of the taxation proposals, such as how to determine what constitutes Scottish VAT. However, I will leave that for others to discuss.

The draft clauses were silent on how a new borrowing regime will operate. Accordingly, an early understanding of what borrowing powers are being devolved should be a high priority for both Governments at this point. In the committee's

view, a move towards a prudential regime would provide a sensible approach. We also recommend that future Scottish Governments should be able to retain any underspend in order to better manage volatility in income.

It is clear that the Scottish Government's current borrowing powers are too restrictive to cope with the new era of fiscal devolution. It is therefore imperative that the borrowing regime that is entered into provides genuine flexibility for future Scottish Administrations.

The committee expressed significant concerns about the devolution of the Crown Estate. The Smith commission could not have been clearer in its recommendations on the Crown Estate. It said:

"Responsibility for the management of the Crown Estate's economic assets in Scotland, and the revenue generated from these assets, will be transferred to the Scottish Parliament."

However, the committee found that the draft clauses in that area would result in the creation of two Crown estates operating in Scotland. Let me assure members that that revelation was a considerable surprise to the committee, not least to those members of the committee who also served on the Smith commission.

Moreover, the committee took the view that the legislative approach to devolution taken in the draft clauses could be construed as being overly complex and complicated. Accordingly, the committee recommended that the UK Government should revise its approach to devolving the Crown Estate. I welcome the Rural Affairs, Climate Change and Environment Committee's work in that area, which is now under way.

On the constitutional issues, the committee has made recommendations that seek to strengthen the draft clauses in relation to the permanency of the Scottish Parliament. In particular, we recommend that a referendum of the Scottish people should be held if there was ever a suggestion that this Parliament should be de-established.

We also made recommendations in relation to the Sewel convention. As we all know, that issue has become much more relevant given the new UK Government's plans to repeal the Human Rights Act 1998.

The proposals for further devolution will, if implemented, result in a fundamental shift in the structure of devolution. Lord Smith recognised the importance of intergovernmental relations in the foreword to his commission's report. Throughout the course of the committee's work, the importance of intergovernmental relations was a constant theme raised as a critical issue underpinning the delivery of further devolution.

As a committee we agree with Lord Smith that the current largely non-statutory machinery of intergovernmental relations in the UK will not be sufficient to deal with the challenges arising from the proposals for further devolution. The committee recognises that for intergovernmental relations to operate effectively there must be space for discussions between Governments to take place in confidence. However, the general principles that will underpin intergovernmental relations and dispute resolution in future should, in the committee's view, be placed in statute.

Central to any new structure or intergovernmental relations will be the role of this Parliament and, indeed, Westminster in scrutinising the actions of Governments within the new structure. That will pose a significant challenge to this Parliament. That is an area to which the committee intends to give further consideration and thought in the coming months.

The committee's report is the culmination of seven months of intensive scrutiny, first of the Smith commission recommendations and secondly of the draft legislative clauses that were produced by the previous UK Government. I do not wish to sound conceited—it is not usually my style—on behalf of the committee, but the sense that I have is that the report has been well received across the spectrum of Scottish society. In this age of the digital Parliament, I cite two tweets in my defence. The first is from a former member of the Smith commission, Professor Adam Tomkins, whom many will know well—some in this chamber certainly know him well. He said:

"I'm quick to criticise the @ScotParl when it screws up but today's report from the @SP_DevoCttee is legislative scrutiny at its best."

At the other end of the constitutional spectrum, Dr Andrew Tickell of Glasgow Caledonian University, perhaps better known to some as the author of the blog, Lallands Peat Worrier, considered the committee's report to be "forensic, clear and constructive" and one of the best reports he had seen coming out of Holyrood. I do not make those points lightly. That is a message as much for this Parliament as it is for the Secretary of State for Scotland in terms of the contents of the committee's report.

It is now the ambition of all the committee to see "both the letter and the spirit of the Smith Commission's report fully translated into a legislative package"

in the coming months. If the UK Government is getting ready to fire the starting pistol by introducing the Scotland bill next week, my committee is saying that we are not yet at the starting line, so let us not have a false start. Let us try to get the legislation right at the outset of this journey.

It was in that spirit that Lewis Macdonald, Linda Fabiani and I met David Mundell on Tuesday. We were pleased that he signalled an imminent introduction of a Scotland bill and that he was planning to make some—and I stress the word "some"—changes to the bill before introduction, most notably on the welfare clauses. All three of us welcomed the constructive dialogue that we had with the Secretary of State for Scotland, but we also said that we reserve judgment until we see the actual bill, as there is still a lot of work ahead for the UK Government to get it right. We would like to see as many changes as possible incorporated into the bill before its introduction, but if that is not possible, the Secretary of State for Scotland has a responsibility to clearly articulate what changes he intends to make via Government amendments during the passage of the bill. Let us leave nothing to nuance and interpretation. We owe it to the people of Scotland to be crystal clear on what new powers are coming.

That is not just me or other members of the Scottish National Party speaking, but, I believe, all five political parties that were represented on the committee.

I move,

That the Parliament notes the conclusions and recommendations contained in the Devolution (Further Powers) Committee's 3rd Report, 2015 (Session 4), *New Powers for Scotland: An Interim Report on the Smith Commission and the UK Government's Proposals* (SP Paper 720).

14:45

The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney): I am grateful for the opportunity to set out for the Parliament the Scottish Government's response to the Devolution (Further Powers) Committee's interim report on further powers for the Scottish Parliament, which was published last Thursday. Like all members, I am extremely grateful to the committee for the work that it did on the report, which is dispassionate, evidence based and considered. It is particularly significant that it is a unanimous report that represents the views of all parties in the Parliament.

As we would expect, Mr Crawford presented the report in an entirely measured way. He made it clear that his citing of the commendations that the report and its style have been given was intended to be for the Parliament's benefit and was not intended to reflect his personal contribution. However, dispassionate, evidence-based and considered reports such as the one that we are discussing do not come about by accident; rather, they are the result of careful stewardship by conveners such as Mr Crawford, who presided

over the evidence-gathering process that enabled such a dispassionate report to be produced.

The report is part of a growing consensus about the forthcoming Scotland bill. Since the draft clauses were published in January, the Scottish Government has maintained that they do not address a number of issues and that that has to be remedied. That view has been reflected in the contributions of a number of stakeholders in the past few months, and now a cross-party committee of Parliament has made the serious, substantive and well-evidenced point that the draft clauses that the UK Government published in January will not implement, in spirit or in substance, the Smith commission's conclusions.

That is the essential test and starting point for the debate, because the people of Scotland have the right to expect, at the very least, the full and faithful implementation and translation into legislative reality of the Smith recommendations, without any doubts, uncertainties or need for interpretation. We now have a number of voices, including the Scottish Government—of course, some might say, “They would say that, wouldn't they?”—as well as stakeholders and an all-party parliamentary committee saying that the draft clauses need to translate the spirit and substance of the Smith recommendations into reality. That is a fundamental part of the conclusions of the committee and of today's debate, and it will be a fundamental part of our consideration of the Scotland bill when it emerges in the next seven days.

Before I set out a more detailed response to the report, I will briefly recap our route to this point. The Scottish Government has been clear that the result of the referendum last September was clear and decisive. Although the Government still believes that independence is the best way forward for Scotland, we respect the result of the referendum and the view that the people of Scotland expressed democratically in it. We therefore played a full and constructive part in the Smith process that followed the referendum to develop and deliver more powers for this Parliament.

The Government published detailed proposals for more powers for this Parliament in October as a contribution to Lord Smith's work, founded on acceptance of the fact that the powers that we set out could be secured within the constitutional framework of the UK. Linda Fabiani and I represented the SNP on the commission.

Although we signed up to the commission's conclusions in full and in good faith, it is no secret that we have never viewed the proposals as going nearly far enough. However, we recognised the progress that had been made and sought to work constructively with the UK Government to enable it

to deliver a Scotland bill that commands broad support.

The publication of the UK Government's command paper in January was an important step in taking forward the Smith commission's proposals. However, the Scottish Government made it clear that the draft clauses did not deliver Smith in full. Since the command paper was published, the Scottish Government's priority has been to work with the United Kingdom Government to improve the clauses and to ensure that the bill that is introduced delivers the spirit and intent of the Smith commission in full, in a coherent and practicable way. The Scottish Government has therefore made a number of detailed comments and observations to the UK Government about how the issues and deficiencies that we highlighted in January can be properly and fully taken into account by the UK Government in formulating the Scotland bill.

I turn to the details of the committee's exemplary report. It is an interim report and it is clear that it covers the areas of the bill that are of the highest importance. The committee is—rightly—waiting to see the bill as introduced, and any changes during its progress through the UK parliamentary process, before offering any recommendation on whether the Scottish Parliament should give its legislative consent to the proposals. However, even at this interim stage, it is highly significant that the conclusions have been reached unanimously by the committee. That provides cross-party endorsement of the view that the draft clauses do not meet the spirit or substance of the Smith commission report.

A focus of the committee's report is on the clauses on welfare and employment support. The committee found that how the clauses on new and top-up benefits were drafted would limit the policy discretion available to future Scottish Governments, that the definitions of carers and disability were overly restrictive and that there were unnecessary restrictions on the employment support programmes that could be delivered.

Members will be aware that those are among the most high-profile areas in which the Smith commission reached agreement to transfer further powers to the Scottish Parliament. The significant shortfalls that the committee has identified will have an impact on the Scottish Government's ability to deliver in those critical areas reform and improvement that match the specific needs of the people of Scotland. The shortfalls in the relevant draft clauses therefore need to be addressed as a priority if the Scotland bill is to be viewed as a credible reflection of the Smith proposals.

The report touches on the veto clauses in the draft bill—most notably the one related to changes to universal credit. The committee recommends

that the issue should be resolved through joint working between the Governments. The Scottish Government has made proposals to the United Kingdom Government to resolve the issue through administrative tools such as concordats, effective joint working between officials and joint ministerial working groups, which are proven and well-established means of ensuring the sort of co-operation that will be required, and I continue to see no need for a statutory backstop.

The committee highlighted shortfalls in other areas that it has examined, from the Crown Estate to the Sewel convention and equalities.

Tavish Scott (Shetland Islands) (LD): The minister mentioned the Crown Estate. One of the committee's recommendations, building on Smith, is the implementation of the proposal to devolve to the islands the management of the Crown Estate's responsibilities. Does the Government plan to take that forward?

John Swinney: Yes—the Government intends to take that forward. That has been the Government's consistent position throughout the process. As a signatory to the report, Mr Scott will appreciate that many issues and obstacles have to be resolved in relation to the provisions of the Scotland bill on the Crown Estate, which are far from straightforward.

The Scottish Government strongly supports the committee's call for improvements in the areas that I mentioned, and we have made proposals to the United Kingdom Government to deliver those improvements.

Before leaving the detail of the committee's report, I will touch on tax and the fiscal framework. Successful negotiation of the fiscal framework is one of my highest priorities in the months ahead. I have made it clear to the United Kingdom Government that an acceptable fiscal framework is essential to allow the Scottish Government to recommend that this Parliament consents to the bill, and I suspect that Parliament would expect nothing less of the Scottish Government. I have asked for an early meeting with Treasury ministers to review work so far, and the chancellor and I made a personal agreement before the election to oversee work on the framework to ensure that rapid progress is made.

In relation to specific comments by the committee, I agree that further information will be required from the UK and Scottish Governments to enable the Scottish Parliament to give its legislative consent. My objective is that the Scottish Government and the Scottish Parliament are clear about the financial implications, opportunities and risks that come with the powers that will transfer through the bill.

I will conclude by reflecting on the events that have taken place since the general election two weeks ago today. The Prime Minister came to Scotland on Friday and met the First Minister and me along with the Secretary of State for Scotland and the parliamentary under-secretary of state. The discussions were constructive and helpful.

The Prime Minister and the secretary of state made clear commitments that the Scotland bill will implement the Smith commission in full and we will test that commitment when we see the Scotland bill on 28 May. Similarly, the Prime Minister undertook to consider Scottish Government proposals for devolution beyond the Smith commission. We will put those proposals to the UK Government and I will meet the secretary of state to discuss the next steps.

The Scottish Government is clear that the process that follows any timetable for action should allow for full engagement with the people of Scotland. The general election result in Scotland showed the people's desire for change. The Government will build on the Smith commission proposals and we will hold the UK Government to account to deliver them in full, consistent with the arguments and explanations that the Devolution (Further Powers) Committee has set out. We will also propose a coherent set of powers that will allow Parliament to encourage growth, create jobs, address poverty and tackle inequality in our country.

Those are the Government's objectives as we take forward the constitutional agenda. Our priority is to ensure that the Scotland bill reflects in full and in substance and spirit the Smith commission's report and to put to the UK Government our proposals to extend this Parliament's powers so that we can tackle the issues that matter to the people of our country.

14:56

Jackie Baillie (Dumbarton) (Lab): I thank the members of and clerks to the Devolution (Further Powers) Committee for their work in bringing the report to the chamber today. I am pleased that the Scottish Government has used the unanimous report as the framework for discussion with the UK Government about the draft clauses that give effect to the Smith agreement. As the committee said, all that we want to see is the letter and spirit of the Smith agreement fully translated into a legislative package that will be contained in the first Queen's speech of the new United Kingdom Parliament.

In the short time that is available to me, I want to touch on the three areas of public engagement, the fiscal framework and welfare. That said, the committee report fully explores a number of other

technical and drafting issues, and I commend the detail to the chamber. One example of that is the need to tighten the wording of the clauses on equality provisions to ensure that the legislation allows for quotas to be set for the boards of public bodies; the majority of members support that. The lack of time to cover all of these areas in today's debate does not mean that they are any less important, and I am grateful to the committee for taking the time to scrutinise all that for Parliament.

I turn to the first issue, which is public engagement. The Smith commission was undoubtedly a swift process and the commission members worked at a truly electrifying pace. However, there is a need for a more widespread understanding of what powers are intended to be transferred. We could ask any number of people, but a substantial number are not aware of what powers were transferred to the Parliament in 2012, never mind what is proposed by Smith.

We should use the opportunity to have that dialogue and to talk about implementation. Having the power is one thing, but the question of how we actually use it is a much more interesting discussion. We should take this opportunity to inform, discuss and listen.

My second issue is the fiscal framework. Substantial powers over taxation are coming to Parliament. Some will come for April 2016 and others that flow from the Smith agreement could come by 2020 or earlier. The committee report made it clear that there was agreement with the draft legislative clauses but that the key issue was one of implementation. Making sure that the Scottish Government and HM Revenue and Customs talk to each other about practicalities such as defining residency, arrangements for collection and so on seems to be eminently sensible. I concur with much of what the cabinet secretary said about making sure that the fiscal framework is robust.

Similarly, there needs to be a much clearer understanding of what VAT assignment and the much-quoted phrase of "no detriment" mean in practice. One Scottish National Party member of the Scottish Parliament—who shall remain nameless because I think that they said this to me in jest—defined no detriment as getting full fiscal autonomy for Scotland but not worrying if the sums do not add up because we could always just shout "No detriment" and the UK Government would just bail us out. It is a bit like having one's cake and eating it, and I am sure that that is not the SNP's position.

In this and in other areas, intergovernmental relationships are critical. We need a shared understanding and a shared evidence base to ensure that our legislation and our approach are sound. Far be it from me to point out to the SNP

and indeed the Tories that megaphone diplomacy of the kind that we have seen recently is unlikely to be conducive to having a mature and sensible relationship in the interests of our country. However, I recognise that much of that is political theatre.

With all this new financial responsibility comes the need for much more robust and independent financial scrutiny. The Scottish Government is consulting on giving the Scottish Fiscal Commission a legislative underpinning; I very much welcome that, but the Government must do more than that. The commission should be truly independent from Government. None of its members should occupy a dual role as a Government adviser and someone with an independent scrutiny function. They should have teeth to properly hold the Scottish Government to account for the nation's finances. There should be nothing for any of us to fear from that degree of transparency.

Thirdly, I turn to the area of welfare. This is perhaps where the UK Government has been most disappointing in its draft clauses. The Smith agreement was clear that the Scottish Parliament should have the ability to create benefits in devolved areas and that it should also be able to top up reserved benefits if it so wished. I believe that those particular draft clauses illustrate the behind-the-scenes efforts of the Department for Work and Pensions to thwart the agreement, which is simply not good enough.

I believe in a UK-wide system of social security, guaranteeing a minimum safety net for every person across the United Kingdom, but I strongly believe that this Parliament should be able to enhance those benefits to reflect different but specific needs in devolved nations. Therefore, the UK Government needs to redraft the welfare clauses so that the spirit and substance of the Smith agreement are delivered.

Already, though, the Government is illustrating that the debate goes further. The Labour Party wanted the full devolution of housing benefit, which was not supported by the majority within the Smith commission. We wanted that because we want to abolish the bedroom tax and also because we want to look at how we could better use the money to begin an ambitious programme of house building. However, we need to spend as much time—if not more—on bedding down the powers that we have and the powers that are coming as we do on debating what powers we would like to see.

Devolution cannot simply be about transferring power from one Parliament to another, from Westminster to Holyrood—from one set of politicians to another. That is not enough. We want power to be devolved further, to local authorities

and to communities themselves, empowering them to do more. I have to confess that the SNP has, to me, been one of the most centralising Governments. We need to reverse that trend. If we believe in devolving power—and I believe that that principle is shared across the chamber—we need to move that power out of Edinburgh, too.

15:03

Annabel Goldie (West Scotland) (Con): I, too, take this opportunity to welcome the committee report and to extend my thanks to the convener, Bruce Crawford, the committee members, the clerks and the committee advisers for what I think we all agree is a very thorough piece of work.

This has been a significant exercise and it is important that the Parliament is an effective forum to oversee how changes to the devolution settlement are implemented. The committee has manifestly fulfilled its scrutiny obligation. I have to say to Mr Crawford that, looking at the report, I felt quite nostalgic and missed my presence on his committee.

Above all, it is important that our constitutional direction is a matter of building consensus rather than being politically divisive. In that vein, I pay tribute to the work of my fellow commissioners in the Smith commission and, of course, to Lord Smith of Kelvin himself. Presented with a demanding schedule, as Jackie Baillie said, they worked together to create a scheme of more powers that all parties represented in the chamber could agree upon.

Now we are faced with the work of translating those statements of principle into legislation. It is now for us in the Scottish Parliament and for those in the UK Parliament to provide, in the words of the committee, a “constructive commentary” on the process. We must ensure that the Smith commission agreement is brought forward effectively, recognising both the spirit and the letter of the agreement itself, as both Bruce Crawford and the cabinet secretary have said.

In that, the committee has functioned effectively but, of course, the matter has two sides to it. I am—if members will indulge me—not surprisingly pleased that a Conservative majority was achieved a fortnight ago. We have a UK Government that has implementing the commission’s proposals as an absolute priority, and those commitments will form an important part of the Queen’s speech next week.

However, that is just the beginning of the process of introducing a new, effective Scotland bill that will make the Parliament one of the most powerful devolved legislatures in the world.

Mark McDonald (Aberdeen Donside) (SNP): Will Annabel Goldie give way?

Annabel Goldie: I would rather make progress, if Mr McDonald does not mind. Time is tight.

It is in the interests of the UK and Scottish Governments that the proposed legislation reflects the Smith agreement. To that end, I am sure that the committee’s views will be extremely useful—indeed, cogent—in informing the UK Government’s work as the bill progresses.

This is also a time to reflect further on broader issues. In that respect, it seems to me the Scottish Government reflects three positions on Scotland’s constitutional future. The first—that the Smith commission’s recommendations be implemented as a priority—is something upon which we can all agree. The second—independence for Scotland and leaving the United Kingdom—is an argument that many members will reject and which was roundly defeated in the referendum last year.

The third, which is more powers beyond the Smith commission’s recommendations, is more fluid. Some people will feel that that option is inadequate and others that it is too much, but many will at least want to explore what the Scottish Government has in mind. The Prime Minister and the new Secretary of State for Scotland have met the Scottish Government and said that they will listen to its views on that. That is a constructive approach.

My question is when and in what format the Scottish Government will set out proposals for such further powers. I am not asking simply for a restatement of the SNP’s proposals to the Smith commission because, in that process and the call for evidence, enormous opposition was raised to some of the party’s suggestions, such as the devolution of corporation tax. Concerns about that were raised not only by business groups but by bodies such as the Scottish Trades Union Congress, the Scotch Whisky Association, the Institute of Chartered Accountants of Scotland and the Chartered Institute of Taxation.

With little likelihood of building any consensus around such proposals, it is important that any areas for further attention and devolution that the Scottish Government intends to outline ought to be realistic and evidence based. It would be a constructive contribution to any continuing discussion for the Scottish Government to lay out what powers, short of independence, it seeks and to indicate a framework for the procurement of evidence and for engagement with civic Scotland.

There are some signs of positive change and it seems that at least some within the SNP have recognised the instability of the full fiscal autonomy that they once supported. I understand that its new MP for East Lothian has said:

“fiscal autonomy without inbuilt UK-wide fiscal balancing would be tantamount to economic suicide.”

Fiscal balancing—the pooling and sharing of resources that we spoke of during the referendum—is a vital component not only of a common currency area but of the economic union that the Scottish people endorsed last year. Of course, fiscal balancing must be supported by some level of common taxation.

The Smith commission was careful not to pull apart the areas that support the UK’s single domestic market. I would like the Scottish Government to recognise the principle that the union for which people voted is more than the absolute minimum that is theoretically required to maintain the UK as a state.

The Parliament’s views matter a great deal in the process. By moving forward constructively, we have the opportunity to create an enduring settlement that is based on that broad consensus—a powerhouse Scottish Parliament within the United Kingdom that has responsibility for what it raises as well as for what it spends—and reflects the aspirations of the Scottish people. The interim report is a positive first step in that process.

15:09

Rob Gibson (Caithness, Sutherland and Ross) (SNP): It is my pleasure to speak today in support of the arguments in the committee’s interim report. In particular, I wish to comment on the work of the Crown Estate. It has taken us decades to get to a stage at which we may see Crown Estate issues devolved. The devolution of planning powers to local authorities took nearly a decade to achieve, and although there were demands in the Scotland Bill Committee in 2011–12 for devolution of the Crown Estate, it was not devolved at that time.

We are now in a position in which we have draft clauses before us. However, those clauses could, given the legislative approach that has been adopted in relation to the management and revenues of the Crown Estate, be construed as being overly complicated, unless there is full transparency and full consultation of the Scottish Parliament and Scottish Government during the legislative process.

A range of elements in the draft clauses have been discussed by members who have spoken previously in the debate. I will deal with one or two of those points in more detail.

For example, draft clause 23 states that the Treasury “may make a scheme” to devolve the Crown Estate functions. The committee would like to see the word “shall” in that clause and does not believe that parliamentary draftsmen would have

any difficulty in understanding the import of such a change. It looks at present as though something is being held back, rather than being generously offered.

The Smith agreement made it very clear that the management and revenue of the Crown Estate economic assets that are held in Scotland should be devolved. As Bruce Crawford said earlier, many of us were amazed to find that it appeared that there would, somehow or other, be a continuation of the Crown Estate in another form—indeed, that there would be two Crown Estates working in Scotland at the same time. Crown assets would be devolved, but if the Crown Estate in London decided that it wished to invest in Scotland, it would continue to be able to do so under the proposed scheme. The committee stated clearly that if there were to continue to be a non-devolved Crown Estate—which we think is a ridiculous concept—any profits that would come from its investment in Scotland should accrue to this Parliament to enable Scots to decide how to spend them.

Lewis Macdonald (North East Scotland) (Lab): Rob Gibson is right that the committee highlighted concerns about how that approach might work in practice, but we were very clear not to say that we would wish to prohibit any investment in projects in Scotland by any other public body within the United Kingdom.

Rob Gibson: I thank Lewis Macdonald for that, but it still stands that we want our fair share of any profits that come from those investments, as was stated categorically in the committee’s report.

The Crown Estate deals with an entity called Fort Kinnaird—a shopping complex that is tied up in an English law that was passed in 1907—as part of a partnership with a private entity that seems to be offshore. We are very unhappy about that arrangement continuing, and we think that any profits from those assets in Scotland should be shared with the Scottish Parliament.

The coastline of Scotland is estimated to be about 10,250 miles long. Ordnance Survey has said that the coastline of Britain—Great Britain, not including Northern Ireland—is approximately 19,491 miles. Scotland has disproportionate importance, given that it has more than half the coastline of Britain, so we need to ensure that we are able to apply this Government’s policies to decentralise control of Crown Estate assets and so on. The Crown Estate is, therefore, disproportionately important to the Scots in comparison with its importance for the rest of Britain.

In that respect, we believe that we should, at the earliest opportunity, have the chance to look at the our islands, our future initiative and ensure that

that devolution continues. That is not covered in the draft clauses at present, but it is a commitment—as I understand it—from the SNP Government.

The committee believes that there is scope in some communities for devolution of the management of certain economic assets including harbours, port authorities and local marine interests. We have to find ways to include those in further discussions, but that goes beyond what Smith was talking about, and certainly goes far beyond what is being discussed with regard to the draft clauses.

We recommend that the Scottish Government keep the Devolution (Further Powers) Committee and other Scottish Parliament committees up to date on discussions with local authorities and others about their interest in taking on devolved powers. My committee—the Rural Affairs, Climate Change and Environment Committee—has been bringing the Scottish Crown Estate Commissioner and his officers in Scotland into our Parliament each year to tell us about their activities, which will allow us to interrogate their activities in greater detail.

I suggest that the committee's report is a model of clarity about the things that require to be cleared up, including there being a memorandum of understanding about issues related to UK interests in Scottish waters. However, the issue of the Crown Estate staff is of considerable concern to us because it is obvious that they need to be accommodated in the Scottish Government's approach to using the Crown Estate's powers, and that their expertise should be recognised and utilised, and some clarity given to them about their future.

I am glad to support the motion and I hope that my clarifications help the debate.

15:16

Iain Gray (East Lothian) (Lab): In the days since the general election it has become quite fashionable in some quarters to denounce the Smith commission. Of course, some people started doing that quite early. My fellow member of the Smith commission, Mr Swinney, started his denunciation about 15 minutes after the Smith commission's report was released. However, some of my erstwhile colleagues took a little longer to jump on that bandwagon.

I start by paying tribute again to the work of the Smith commission and all its members, because the truth is that the commission was given what many people believed to be an absolutely impossible job. However, in my view, we made a remarkably good fist of what we were asked to do. We were asked to deal with some extremely

complex issues in a timescale that was very truncated because of the deadline of St Andrew's day, which meant that we had only about 10 weeks to do the work.

The complexity of the issues that we were dealing with is one reason—this comes through in the committee's report—why we agreed that there were some things that the commission was not going to be able to resolve and so they would have to be left for what would usually be negotiation and discussion between the Scottish and UK Governments. Reference has been made to some of those things already—in particular, the fiscal framework and the detail of the borrowing regime. I do not think that we need to make any apology for the fact that those elements of the relationship between the two Administrations and Parliaments have to be worked out over time. There is not a devolved democratic structure in the world, be it federal or otherwise, that does not have some complexity in its fiscal framework and arrangements for fiscal transfer and borrowing.

The commission was a process in which compromise was made. I was cheeky just now about the Deputy First Minister's reaction on the day that the Smith commission's report was published, but in all fairness to him and to Ms Fabiani, they made it very clear from the start that although they were not going to change their view that the devolved settlement would not go far enough for them, they were prepared to take part in the process, and they did so. They compromised; I think that everyone on the Smith commission compromised. We should take the opportunity to pay tribute to that.

The next difficult task, of course, was the draft legislation. I know that drafting legislation is not easy but, to be frank, I simply have to agree with the Deputy First Minister that examination of the draft legislation does rather show that some of it does not, as he put it, reflect both the spirit and the substance of what was agreed at Smith.

I will quickly add to some of the points that the Devolution (Further Powers) Committee has made in its report. I think that the committee has been remarkably clear-sighted in doing the job that it was required to do, which was to look at where the draft legislation reflects the Smith agreement and where it does not.

I want to put in my tuppenceworth on a number of areas. On taxation, it was clear in the Smith commission that the agreement was that a great deal of responsibility would be devolved but that income tax would continue to be a shared tax. That is why, for example, tax allowances were not recommended for devolution. I say gently that the use of income tax devolution to try to justify what is called English votes for English laws has been one of the more reprehensible misuses of Smith.

There was also considerable debate about whether it would be possible to set a zero rate in order to make some taxpayers not liable for tax at all. I am clear that the Smith agreement was that a zero rate should be possible, so the legislation should reflect that.

When we look at the £2.5 billion of welfare benefits that are to be devolved, I am absolutely clear that what was intended was complete devolution of both the resources and the responsibility. If we look at carers allowance as an example, that would mean that a Scottish Government could simply take the money, get rid of carers allowance and use the money for something else. I do not think that it would be likely to do that, but any idea that the agreement means some continuing control over carers allowance is, from my point of view, simply incorrect.

It was also absolutely the intention that this Parliament ought to be able to create new benefits in devolved areas, and not for a temporary period.

As Jackie Baillie said, we on this side of the chamber are not closed to the idea of going beyond Smith. In particular, we continue to argue for devolution of housing benefit because we believe that the case for that has great merit. We did not win the argument in the Smith commission, but we will continue to make it, not least because—this is important—the arrangements in Smith were supposed to ensure that this Parliament would be able to abolish the bedroom tax, but they do so in a rather complicated and convoluted way. The simplest way to achieve that would be to devolve housing benefit. That is just one reason why we will continue to argue for that, as the process continues.

15:22

Linda Fabiani (East Kilbride) (SNP): Although things have very much moved on since last September, I think that it is worth while to put where we are today in context. We started before the independence referendum with the vow that was made, and then we had a post-referendum commitment on what Scotland could expect to happen next. That resulted in the cross-party Devolution (Further Powers) Committee being set up, and it was then given a firm remit to study the draft clauses that came from the Westminster Government in relation to the agreement of the Smith commission, which some members of this Parliament served on.

It is clear, and it certainly comes out in the report of the cross-party Devolution (Further Powers) Committee, that the draft clauses that came from the Westminster Government do not match either the spirit or the substance of the

Smith report. It is telling—and excellent—that there is cross-party agreement about that.

Given the nature of the events and the timescale that I have outlined, further discussion of the issues is needed to ensure that both the spirit and the substance of the Smith agreement are delivered on and that the legislation that results from it is coherent. I am pleased to say that the Secretary of State for Scotland agreed with that point when we met him the other day.

I also want to be clear that we are talking about intent. The spirit and substance of the Smith agreement came from the intent of the Smith commission, following on from commitments that were made. It is about intent, rather than interpretation. You cannot say that the Smith agreement is there to be interpreted and that the draft clauses may interpret it in one way and I might interpret it in another, because it is not that simple. To talk of interpretation is to belittle the commitments that were made, the cross-party work of my colleagues on the Smith commission and the cross-party work of my colleagues on the Devolution (Further Powers) Committee, not to mention the excellent contribution of advisers and witnesses. I cannot emphasise enough that the cross-party committee noted the need to match the spirit and substance of the commission—and, I would add, its intent, rather than an interpretation of it.

I would like to focus on a couple of things, allowing my colleagues to focus on others. The permanence of the Scottish Parliament was a big thing in both the vow and post-referendum commitments. There was a lot of talk about it at the Smith commission and at the committee. The draft clause provides that the Parliament and Government will be “recognised” as permanent. I do not see that there is any purpose in adding those words and it is unclear what the expected effect is of that. Removing those words would move the provision much closer to the Smith recommendation. That was the view of the committee.

If we were to weaken the effect of that clause, it would be unfortunate, given that all-party agreement to the recommendation, and the views expressed to us by the then Secretary of State for Scotland that the permanence of the Scottish Parliament and the Scottish Government is guaranteed.

We consider that the effect of the clause on permanence is declaratory and political, rather than legal. The committee recommends that, should there ever be any thought of a future UK Government deciding that the Scottish Parliament was no longer required, it would have to be tested in a referendum of the people of Scotland, with majorities being required in the Scottish and UK

Parliaments. The Smith agreement specifically said that nothing within any settlement precludes the sovereignty of the Scottish people. As has been noted many times, devolution is a process, not an event.

When Lord Smith came up to appear before the committee, he said:

"If you know a way of making the institution permanent, tell me, because that is the Scottish people's will."—[*Official Report, Devolution (Further Powers) Committee, 2 December 2014; c 31.*]

We should bear that in mind at all times when we are talking about any legislation on powers for Scotland.

There is always a worry that you do not have enough to say and then you start and you feel that you could say so much more. I would like to have talked at greater length about the Sewel convention. Again, the committee was concerned that not enough emphasis was being given to ensuring that the UK Parliament could not legislate against the will of the Scottish Parliament. I hope that the secretary of state and his colleagues will look at that much more closely and redraft the clause before it is presented to the UK Parliament again.

What underpins so much of all of this is intergovernmental relations and interparliamentary relations as a subset of that. I hope that, in trying to smooth the way for the additional powers for Scotland and coherence in that settlement, everyone concerned will bear in mind that it must be underpinned by respect on all sides.

15:29

Tavish Scott (Shetland Islands) (LD): I, too, will start with general adulation for the convener of the committee and all others who served on it. I always take the Deputy First Minister seriously in his remarks, but I find it wonderful for the Government to say such nice things about a parliamentary committee report. I do not remember the Government saying such nice things about the minority report that some of us produced on police centralisation. I guess that that is how such things go in any Parliament.

John Swinney: Be patient.

Tavish Scott: There we are.

I am pleased to join others in saying that Mr Crawford has handled things extremely well, but I have to say that I chuckled when I heard the Deputy First Minister on Friday's "Today" programme extolling the virtues of the committee report and then talking about the impending meeting between the Prime Minister and the First Minister. Only then did it dawn on me why it had been necessary to get the committee report out—

which, of course, was the right thing to do—and how it coincided beautifully with the meeting between the First Minister, the Deputy First Minister, the Prime Minister and, no doubt, a great range of other very important people. I am sure that our committee report helped enormously in those discussions.

The Deputy First Minister has rightly pointed out that next Friday, once the Queen's speech is made, a draft Scotland bill will be produced. I suspect that, when the Queen's speech is read out next Thursday, there will be more interest on the Tory benches in the in/out referendum on Europe than in the Scotland bill, but we can always hope that the Scotland bill will be top of the list. It certainly should be, because of its implications for not just our nation but the rest of the United Kingdom.

Mr Crawford, who is to be applauded for being very careful with his language, pointed out that the draft clauses implement Smith in some areas but not in others. I agree entirely with that synopsis. The Deputy First Minister, who is also extremely careful with his language, did not quite put the matter in those terms, and I think that it is important to recognise that the committee has said that the clauses get things right in some areas but demonstrably do not in others. Indeed, as Linda Fabiani has rightly said, they do not implement the whole spirit of the Smith agreement with regard to certain other areas that Mr Swinney is no doubt going to tell me about.

John Swinney: I am very happy to associate myself with Mr Scott's remark that, although elements of the draft clauses implement the spirit and substance of the Smith commission fully, entirely and to the Scottish Government's satisfaction, they do not do so in other respects.

Tavish Scott: I am most grateful for that clarification and I am sure that that is exactly as it should be.

Mr Swinney said that he would argue for independence; I would argue for something different. I believe that if there was ever a case for a federal solution to the constitutional upheaval in the UK that we seem to be perpetually going through—and, more to the point, putting our people through—this is it. However, in her opening speech, Annabel Goldie made a good observation about parliamentary scrutiny of the suggestions that the Deputy First Minister's Government has rightly made to strengthen the clauses that the committee and many others consider to be deficient. In fact, in what is a very small but, I think, important part of the report, the committee looks at the issue of parliamentary scrutiny of what Government does.

I believe that Mr Crawford said that there needs to be space for confidential discussions—and he is, of course, right. Indeed, Jackie Baillie, Lewis Macdonald and I will recognise that there must be such a requirement to allow Governments to talk. However, there is also a need to ensure parliamentary scrutiny of what the Government is doing, and there are examples that we can consider from other parts of Europe, particularly Scandinavia, where Parliaments are very effective at looking at such aspects. Such matters are dull and dry and are about politicians looking at what other politicians are doing, but it is also all about looking at the policies that we implement.

Similarly, one person's veto is another person's proper discussion. Today's *Herald* reports on what it describes as

“a new front in”

the First Minister's

“rapidly escalating fight with the UK Government after she demanded a veto over Britain's energy policy”.

Mr Crawford rightly raised the veto on social security provisions that some have seen in the draft clauses, but here is an example of a veto on another area of policy—only this time it is the other way round.

I commend to our Government here in Scotland and the Government down at Westminster an approach based on the committee's recommendations on intergovernmental work and activity. Interestingly, the Deputy First Minister—if I heard him right—said that he did not believe that there needed to be statutory backing for that, and I am sure that the committee will wish to come back to that matter. I am also sure that, to his credit, the Deputy First Minister will come along to the committee and explain his thinking on that, because I think that some of us might have sympathy for his arguments but will want to probe the issue completely to ensure that we strike the right balance and allow Parliament to do its job appropriately.

I want to make two final points. First, I broadly associate myself with Rob Gibson's remarks about the Crown Estate. I think that we can get a bit hung up on the two Crown Estates issue; we are going to get rid of one, and I very strongly agree with Mr Gibson's remarks in that respect. I am also grateful to the Deputy First Minister for his response to my question about devolution within Scotland, which is something that I have believed in all my life and which I want to happen.

My final point is on the fiscal framework. I do not have time to go into the no-detriment principle. However, my contention in this area is that the Government has got it right when it seeks to make the Scottish Fiscal Commission independent. That is fundamentally important for our deliberations on

Government activity. The working relationship between the UK-wide Office for Budget Responsibility and the Fiscal Commission, once it is independent, is fundamentally important, too, to how we resolve some of these outstanding issues.

15:35

Stuart McMillan (West Scotland) (SNP): The publication of the report and today's debate are further steps on Scotland's journey through the history that is being made. I am delighted that members of the Inverclyde historical society are in the public gallery today to witness the debate.

I warmly welcome the debate. I am pleased that the committee can speak with one voice on the issues surrounding the draft clauses that were published on 22 January. I aim to focus my attention on two areas of the report: first, fixed-odds betting terminals—FOBTs—in paragraphs 412 to 415; and employment programmes, in paragraphs 302 to 313.

On FOBTs, members will not be surprised that I am raising the issue once again in the chamber. I have been consistent in voicing my concerns about how damaging the machines are. I have campaigned for powers to come to the Scottish Parliament relating to the machines and have welcomed the inclusion of the powers—though limited—in the Smith recommendations.

Paragraph 415 of the report highlights the limited evidence that the committee received on the issue and our concerns about the limitations in the draft clauses, which would have no effect whatever on existing premises in Scotland. The issue of FOBTs is now even more in need of further clarification, because one of the two new UK Government ministers who will deal with gambling, John Whittingdale MP—the new Secretary of State for Culture, Media and Sport—has previously pushed for rules on FOBTs to be relaxed and has supported having up to 20 FOBT machines per betting shop. In contrast, junior minister Tracey Crouch MP said in 2013 that she believed that

“we should look carefully at limiting them or limiting the stakes that people can place on them.”

Those mixed messages at UK Government level need to be clarified as soon as possible; I have written to the UK Government to ask for that clarity. However, the committee will scrutinise the relevant clauses in the bill when it is published next week.

On employment programmes, the Smith recommendations were crystal clear. Paragraph 57 of the Smith report says:

“The Scottish Parliament will have all powers over support for unemployed people through the employment

programmes currently contracted by DWP ... on expiry of the current commercial arrangements.”

Unfortunately, the draft clauses do not go that far. In paragraph 335 of our report, we state:

“The Committee considers that the clauses as currently drafted do not fully implement the Smith Commission recommendations. The Committee considers that the Smith Commission intended that all employment programmes currently contracted by DWP should be devolved.”

We received evidence from organisations expressing their concern at the draft clauses on the issue. However, if we go back to 4 December 2014, when we took evidence from the then Secretary of State for Scotland, Alistair Carmichael MP, on the work programme, it becomes clear that there has been a lack of clarity about the issue from the outset. It was reported that day that the work programme had been extended to spring 2017. When questioned by Linda Fabiani MSP, Mr Carmichael stated that the decision had taken place in August 2014. However, when I questioned Mr Carmichael on whether Lord Smith was aware of that decision, he replied that he did not know. My colleague Linda Fabiani MSP, however, gave a determined

“No.”—[*Official Report, Devolution (Further Powers) Committee*, 4 December 2014; c 22.]

That is all on the public record. I raise that point not to be partisan—most contributions so far, including mine, have been constructive and consensual—but to highlight one area where there has been a lack of clarity.

Draft clause 22 from the UK Government, which was published in January, needs to be improved. If this Parliament were to be provided with the ability to help all, and with the flexibility over the length of time that an individual has been unemployed, that would aid greatly Governments of all political hues.

The committee received helpful evidence on transferring employment powers. The Employment Related Services Association stated:

“ERSA continues to believe that”—

sufficient provision—

“would be best achieved through the devolution of responsibility for all in work and out of work welfare policies and benefits to the Scottish Government, including responsibility for Jobcentre Plus in Scotland.”

Last week, the STUC signed a memorandum of understanding with the Scottish Government on the further powers that should as a priority come to this Parliament. The powers include the minimum wage, trade union and employment law, health and safety law, equalities legislation and further powers over social security. If those powers could be transferred, they would provide this Parliament with greater flexibility and opportunity to help employment programmes such

as the work programme and work choice, which is a specialist disability employment programme.

Every member clearly wants more people in employment and training, and we should always strive to improve what is being done. Unfortunately, draft clause 22, which was published in January, will not deliver what is needed. However, next week, the new UK Government has an opportunity to deliver something meaningful on that matter in the new bill.

In various areas of our report, we have highlighted that the draft clauses do not meet the spirit and substance of the Smith commission recommendations. We also consider that our unanimous report should be taken into consideration by the new UK Government when it works on producing the new Scotland bill.

Clearly, the draft clauses do not go anywhere near far enough for SNP members—that is a given—and we will press for more powers to come to this Parliament. Nonetheless, I suggest that the comments that were made on 23 January by Ben Thomson, who is the chair of the campaign for Scottish home rule, on the draft clauses are apt:

“the real missed opportunity in this Command Paper is that it does not deliver a sustainable proposal based on a set of principles that gives Scottish Parliament control over domestic policy; in other words, it does not deliver Scottish Home Rule.”

It is up to the UK Government to strengthen the clauses and to live up to the spirit and substance of Smith and—who knows?—even to go further than Smith.

15:41

Elaine Murray (Dumfriesshire) (Lab): I am pleased to be able to speak in the debate, despite not being a member of the Devolution (Further Powers) Committee.

Committee members, clerks and witnesses are to be congratulated on a very detailed interim report, which flags up a number of important issues that must be addressed if the Smith commission recommendations are to be properly implemented. As others have said, it is particularly commendable that the committee, which comprises members from five political parties, managed to reach consensus on controversial matters, because that consensus makes the report all the more powerful. Therefore, I hope that the UK Government will consider the issues that are raised in it with the utmost seriousness.

The committee convener talked about intergovernmental relations, and Linda Fabiani at the end of her speech indicated that she would have liked to have said a bit more about the Sewel convention. It was the committee’s

recommendations on the Sewel convention and legislative consent memorandums that stood out for me as I looked through the report. The committee report stated that draft clause 2

“does not incorporate in legislation the process for consultation and consent where Westminster plans to legislate in a devolved area.”

The Law Society of Scotland expressed concern to the committee that the draft clause does not place the Sewel convention, whereby the Westminster Government does not normally legislate on devolved matters without the consent of this Parliament, on a statutory footing. Professor Alan Page of the University of Dundee observed that

“It would be preferable therefore for that to be made clear on the face of the legislation.”

I am concerned that the current position should not be watered down. I want to see the requirement for consultation—with adequate time to do so—to be strengthened. Despite the Law Society stating that the Sewel convention had worked “relatively well”, our experience during my time on the Justice Committee is that it has not always been satisfactory. I ask members to cast their minds back to the legislative consent memorandum on the Anti-social Behaviour, Crime and Policing Act 2014, which we passed on 22 January 2014. Although we somewhat reluctantly agreed to that legislation, the Justice Committee was sufficiently concerned about the proposals to criminalise forced marriage that we could not make a recommendation on that part of the LCM, so we asked the Parliamentary Bureau for a short debate.

Members will recall that the Scottish Parliament had previously passed our own legislation—the Forced Marriage etc (Protection and Jurisdiction) (Scotland) Act 2011—which was thereafter deemed to be in contravention of the Istanbul convention on preventing and combating violence against women and domestic violence. Scottish organisations representing women’s ethnic minority groups had not had the opportunity that their sister organisations in England and Wales had to respond to the UK legislation. They were unable to submit their views on how the Scottish 2011 act was working or, in particular, to make their arguments about why the act was not in contravention of the convention, although legal advice that the committee received contradicted that view.

In addition, major changes were sought in the maximum sentence for the criminal offence, which were to be introduced in Scotland without consultation. I should make it clear that it was not the policy intention that was the concern; we were concerned about the lack of consultation of Scottish stakeholders and the possible conflict

with our own legislation. We were faced with a choice between accepting an LCM that had not been the subject of consultation in Scotland and introducing emergency legislation here, which is—as we all know—a path that is strewn with pitfalls. Reluctantly, most of us accepted that approving the LCM was the better route. However, I am sure that other members will back me up when I say that the committee felt strongly that the LCM process is flawed.

The Justice Committee has received other LCMs—for example, on the Criminal Justice and Courts Bill and the Serious Crime Bill—that were prompted by amendments that were made in the House of Lords. Although most of those have not been as sensitive as the forced marriage issue, there has been very little opportunity to receive evidence in adhering to the short timescales that are required for the Scottish Parliament to give its consent to LCMs.

Therefore, the Justice Committee has not found the LCM process to be ideal as regards the opportunity that exists for Parliament to carry out consultation prior to giving consent or otherwise, and I am very concerned that the draft Scotland bill will weaken the process rather than strengthen it.

The UK Government’s intention to scrap the Human Rights Act 1998 further compounds my belief that the LCM process must be strengthened with regard to consultation and consent. The Scotland Act 1998 places obligations on the Parliament in relation to human rights, but if the Human Rights Act 1998 is repealed and a weaker British bill of rights is introduced at UK level, we might receive LCMs that could contravene the legislation that founded the Parliament. It is clear that the vast majority of MSPs are opposed to repeal of the Human Rights Act 1998. If it is repealed by the UK Government and replaced by something weaker, the Scottish Parliament might decide to pass its own human rights bill to protect human rights in devolved areas.

What will happen if we want to do that? UK legislation could be compliant with the provisions of the British bill of rights, but in contravention of the Scottish human rights act. The Parliament could be presented with LCMs that are incompatible with our legislation. Human rights is an important example, but as more responsibilities are devolved to this Parliament, there will be greater potential for divergent legislation and complications if the UK Government seeks to legislate in devolved areas. Therefore, it is essential that the relevant clause be redrafted to reflect the need for consultation and consensus.

I very much agree with the convener of the Devolution (Further Powers) Committee—the UK Government needs to get the bill right before it

introduces it in the UK Parliament. There are serious issues on which there could be conflict between this Parliament and the UK Parliament if we do not get these things right, and it is necessary for intergovernmental relations that we do so.

15:47

Alison Johnstone (Lothian) (Green): I, too, would like to recognise the diligence of the committee's clerks and our advisers in the process, and I thank all those who gave evidence to assist us in our deliberations. The committee was, of course, convened with flair, firmness and fairness by Bruce Crawford—I am only sorry that I have been unable to make him blush. *[Interruption.]*

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): He has come into the chamber especially for that. You have flair, Mr Crawford.

Alison Johnstone: The committee was tasked with scrutinising the previous UK Government's translation of the Smith commission's recommendations into proposed law. As my committee colleagues have said, that scrutiny was undertaken in an atmosphere of mutual respect and with an agreed determination to ensure that, as the report said,

"both the letter and the spirit of the Smith Commission's report"

would be

"fully translated into a legislative package".

A key conclusion that the committee reached can be found in paragraph 493 of the report, which states:

"In some of the areas ... the Committee believes that the current draft legislative proposals meet the challenge of fully translating the political agreement reached in the Smith Commission. In other areas, improvements in drafting and further clarification are required. In some critical areas, the then UK Government's draft legislative clauses fall short."

In the time that I have, I intend to outline where the Scottish Green Party is content that the clauses meet the letter and the spirit of the Smith commission's proposals and where we believe that they do not. I will also stress the need to broaden public engagement as widely as possible as the process moves forward, which Jackie Baillie touched on.

It is fair to say that we are having this debate because, during the referendum campaign, the people of Scotland, regardless of what side they were on, became so involved in the debate about what kind of Scotland they wanted to live in. Some 18,000-plus emails were received during the Smith

commission process. Given the tight timescale, it is fairly likely that those emails did not all receive the consideration that they perhaps deserved. We will never have all the time that we wish to have, but there is a little more time now for engagement. That level of engagement illustrates that, as the Scottish Council for Voluntary Organisations noted,

"If it is to be meaningful and effective, devolution must be driven by the people of Scotland"

and

"There must be opportunities for the public to influence the process and contribute their views."

The committee report states as a key recommendation:

"The Committee believes that further public engagement, directly with the people of Scotland as well as representative bodies, charities, industry groups, voluntary bodies etc. is still a vital activity that needs to be carried out and is fully committed to the spirit of the recommendation made by the Smith Commission in this respect."

It says:

"The Committee calls on the UK and Scottish Governments to consider how to commit to the spirit of the Smith Commission's recommendation in this respect."

The committee did what it could in that regard to go out and about. It had meetings and engaged where that was possible, but I would like the Scottish Parliament and the UK Parliament to consider properly how to broaden meaningful consultation. I urge the Government to look at things such as citizens juries and consensus conferences. As colleagues know, the charrettes method has been used with some success in the planning system in Scotland. Those techniques are used across the world to help to solve complex problems without top-down imposition by so-called experts.

As colleagues have stressed, welfare devolution is one of the complex problem areas. At First Minister's question time last week, my colleague Patrick Harvie spoke of the

"tangible level of fear among so many people in the face of"

cuts

"to what remains of the welfare state."—*[Official Report, 14 May 2015; c 16.]*

The Engender briefing for today's debate sets out starkly how gendered the cuts have been. Since the coalition Government started cutting, 85 per cent of the money that has been saved from tax and benefit changes has come from women's pockets. We want to fix those wrongs that are harming women, children and vulnerable people, but there are genuine concerns that we will not get the devolution of welfare right. Our job has not been made easy by the complex devolution

agreement, which could potentially make things even more confusing for people.

The committee report has important recommendations to ensure that we are able to create a system that works. On top of that, women and those who are in receipt of benefits need to be much more involved in the design. Engender calls for the administration of universal credit to be devolved early with a section 30 order. Jim McCormick also pointed out that we need much-improved intergovernmental working if we are going to manage properly those really important areas of shared responsibility, such as welfare.

The Greens called for and welcomed agreement on the proposals for the devolution of unconventional gas licensing, fuel poverty and energy efficiency programmes, and formal consultation on energy policy. I agree with much of what the First Minister said yesterday on energy policy. Scotland needs a stronger voice.

The Scottish Government has a moratorium on fracking, but there should be no delay in the public consultation. It is time for a complete ban with no delay in devolving the licensing regime.

As we have heard, the Crown Estate is another area in which the draft clauses do not deliver the Smith agreement. For some reason, the proposed method of devolution is convoluted—the land reform expert Andy Wightman described it as “opaque, complex and unnecessary”. I strongly support the devolution of the Crown Estate away from Holyrood, but there is no need for overly complex preconditions in an already complex settlement. In effect, the draft clauses allow two Crown estates in Scotland, with one managed by commissioners in London and one managed by whatever sort of local devolution scheme is established. That is entirely at odds with the spirit of the Smith commission and must be rectified.

I welcome colleagues’ openness to the idea of building on the Smith commission. There is too much to cover, but I will make a final point. Devolution must not stop at Holyrood. I did not campaign for a mini-Westminster in Edinburgh. If the past couple of years have taught us anything at all, surely they have taught us that we need to trust our local authorities, our communities and our people with more power.

15:54

Stewart Maxwell (West Scotland) (SNP): It is fair to say that, in some senses, we have been slightly overtaken by events. The general election changed things. We are at the start, not the end, of a process, and the watering down of some of the Smith proposals by the draft clauses means that they have to be revisited.

Gordon Brown famously guaranteed that, if Scotland voted no,

“We are going to be as close, within a year or two, to a federal state as you can be in a country where one ... nation has 85% of the population.”

If some think that the draft clauses deliver on that promise, what about the promise made by the Prime Minister, David Cameron, on Monday 18 May in the House of Commons? He said:

“I hope and believe that we can bring the countries of our United Kingdom together, implementing the devolution agreed for Wales and Northern Ireland; creating in Scotland the strongest devolved Government anywhere in the world”.

Let me repeat that promise made by the Prime Minister this week. He said that we will create

“in Scotland the strongest devolved Government anywhere in the world.”—[*Official Report, House of Commons*, 18 May 2015, Vol 596; c 5.]

Not only do the draft clauses not come anywhere near meeting that promise; the Smith commission proposals fall short of it as well.

However, that is the test by which the Prime Minister wishes us to judge his Government’s proposals. The committee asked the Scottish Parliament information centre to provide an analysis of the amount of fiscal decentralisation in the UK compared to other Organisation for Economic Co-operation and Development countries. The UK was almost at the very bottom of that graph. Belgium, Norway, Australia, Italy, Germany, Finland, Spain, the USA, Sweden, Switzerland and Canada all scored much higher on both subnational Government tax revenue as a percentage of total tax revenue and subnational Government expenditure as a percentage of public expenditure.

The amount of fiscal decentralisation to Scotland has been overplayed. Few financial powers have thus far been decentralised. The Smith proposals take us a little further, while the recommendations on devolving benefits do not take us very far forward at all. If the Prime Minister really means to create in Scotland

“the strongest devolved Government anywhere in the world”

as he has promised, his Government’s draft clauses are unrecognisable as the means to make that a reality.

The Smith commission did not recommend extensive powers for the Scottish Parliament on welfare, despite the pre-referendum promises, guarantees and vows. It listed some benefits to be devolved, but the vast bulk of welfare benefits were to remain reserved.

However, the Smith report states:

"The Scottish Parliament will have new powers to create new benefits in areas of devolved responsibility".

Unfortunately, the draft clauses propose that the powers of the Scottish Parliament will apply

"as long as they specifically relate to areas of welfare responsibility that are devolved."

That does not necessarily sound like a big difference, but it is a substantial difference and it in no way meets either the spirit or the substance of the Smith recommendations.

As Professor Paul Spicker of Robert Gordon University mentioned in his submission to our committee, schedule 5F to the Scotland Act 1998 implied a presumption that all benefits would be reserved unless explicit provision is made to the contrary. Professor Spicker said that the draft clauses on further powers

"operate almost wholly by adding further exceptions."

He also said:

"The clauses in the White Paper are not faithful to the recommendations of the Smith Commission. The key differences are the absence of the power to create new benefits, and the restrictions placed on the categories of people to whom benefits refer."

That restriction will have real consequences for the people of Scotland—it is not an abstract concept—particularly for our most vulnerable citizens. Unless the UK Government makes substantial changes in this area it will have failed in its promise to meet the Smith recommendations in full.

One final point on the power to create new or top-up benefits is the crucial one that any additional income created by such new benefits introduced by the Scottish Parliament must provide additional income for recipients and not be offset by reductions in entitlements to benefits, tax credits or tax relief provided by the UK Government. That is the unanimous view of the committee and the UK Government must rise to that challenge.

Even the specific benefits that Smith proposed be devolved have been restricted in the draft clauses. I will give just two examples. It was recommended that benefits for carers be devolved, but the white paper proposes devolving benefits only for unemployed carers. While Smith recommended devolving industrial injuries disablement benefit, the white paper proposes devolving industrial injuries disablement benefit excluding prescribed industrial diseases.

That is important. I will quote a research paper published by the Alliance for Cancer Prevention, entitled "Asbestos in Scotland", to show why I think it is important. The paper states:

"In the last quarter of the twentieth century the government's official statistics ... recorded rates of

mesothelioma in Scotland running at 31% higher than the UK average, while in the Clydeside region rates were almost double, and in Glasgow the rates were two and a half times higher than the UK average. A particular hotspot was the town of Clydebank, several miles west of Glasgow, which officially recorded the highest rate of mesothelioma mortality in the whole of the United Kingdom."

Yet apparently the Scottish Parliament cannot be trusted to deal with providing industrial injuries disablement benefit to the victims of asbestos.

Given the failings of the draft clauses on welfare, the question that I have to ask Labour members is: if SNP MPs lodge amendments to the bill on devolving welfare powers, will Labour MPs support those amendments or will they vote to keep welfare in the hands of a majority Tory Government? That is not an attempt to directly attack our colleagues on the Labour benches; it is an extremely important question that members of the public in this country need to know the answer to.

The general election reset the bar: the Scottish National Party received an overwhelming mandate from the people of Scotland. The Prime Minister has promised to create in Scotland the strongest devolved Parliament in the world. Therefore, the question for all of us here today is simple: will we stand together and demand that that promise is honoured, or will some parties accept an offer that fails both in spirit and substance to even meet the recommendations of the Smith commission?

16:00

Mary Fee (West Scotland) (Lab): I welcome the opportunity to speak this afternoon. In doing so, I welcome the report by the Devolution (Further Powers) Committee and thank Bruce Crawford and his committee for the work that they have done to produce such a comprehensive report.

We need cross-party co-operation to make our additional powers work for all and to ensure that the powers are used for a better Scotland. The Smith agreement has set out a clear path for Scotland to enhance and enshrine our Scottish Parliament. Among the wide-ranging proposals that were set out by Lord Smith, I welcome, in particular, votes at 16 and 17 and the devolution of air passenger duty, tribunals and, most crucially, welfare. With another five years of a Tory Government—a majority one, at that—and its focus on reducing the welfare bill, our poorest and most vulnerable need the protection that is afforded to them through Smith. I hope that we can act on those welfare issues as soon as practically possible and, indeed, work together to ensure that more powers over welfare come to this Parliament.

As we enter the final year of this session of the Scottish Parliament, I anticipate engaging positively with young people to ensure that their voices are heard and not ignored. As a long-standing supporter of lowering the voting age, I found that it was a joy to speak with 16 and 17-year-olds during the referendum campaign and hear their passion and interest, regardless of the position that they took. The work of the Devolution (Further Powers) Committee to engage with young people during informal events and online to seek their views is to be commended.

As the Scottish Labour lead on infrastructure, capital investment and cities, I welcome and support the devolution of air passenger duty. The committee report shows overwhelming support for its devolution, particularly on the part of Glasgow, Edinburgh and Aberdeen airports, which also try to ease concerns about cross-border effects arising from a reduction of APD or its abolition.

In a past life I sat on employment tribunals and, with that experience in mind, I whole-heartedly support the devolution of tribunals in order to improve access to justice. As is stated in our devolution commission report, Labour believes that

“the operation of employment tribunals should be devolved ... even where there is continuing reservation of responsibility for common rights across the UK.”

The administrative cost that is forced on workers who wish to seek justice from their employer goes against everything that I believe in as a trade unionist. With the further transfer of powers for tribunals, I hope that this Parliament will unite in removing those punitive costs.

The Smith commission rightly discussed the issues surrounding victims of human trafficking. I back the call for further exploration to extend the temporary right to remain in Scotland to victims of human trafficking, and I plead for both Governments to work on the basis that victims must be protected from further abuse, in particular in their home country if the temporary right to remain is withdrawn.

On equality, there is a desire for the introduction of gender quotas for the boards of Scotland's public bodies. I encourage the Scottish Government to work with the UK Government to clear up what the committee regarded as

“doubt about the power of the Scottish Parliament to legislate for gender quotas.”

With further clarification needed, I eagerly look forward to the committee's next steps and want to hear more about the relationship between gender quotas and the Equality Act 2010.

On taxation, I join others inside and outside the chamber in warning against a race to the bottom

between the countries of this island. However, with the recommendation that the Scottish Parliament has the power to set the rates of income tax and the thresholds, we must use those powers to tackle inequality and injustice by redistributing wealth from top to bottom.

On borrowing, the committee reports that all the parties of the Smith commission agree that current borrowing powers are restrictive and limited. Utilising the proposed borrowing powers will enable our infrastructure to have the investment required. There is clearly further work required on borrowing powers, and I wish the committee every success in getting both Governments to meet the challenges head on.

The report notes:

“The Smith Commission report states that the Scottish Parliament will have the power to prevent the proliferation of Payday Loan shops.”

That is another area on which I fully support action. The Scottish Government can already tackle the problems of such payday loan shops through the planning process, but so far it has not done so. However, as Citizens Advice Scotland has highlighted, the Scottish Parliament planning laws cannot tackle online access to payday companies. Renfrewshire Council has banned access to online payday loan companies from any of its public library computers. That is a measure to be welcomed and supported by those wishing to tackle the debt problems that are caused by quick access to loans at a heavy burden to the consumer.

With the UK Government expected to launch a bill for further powers next month, I look forward with great interest to seeing what comes from the bill and the subsequent inquiry by the Devolution (Further Powers) Committee. I hope that, across the chamber, we can work together to strengthen our Parliament.

16:06

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I commend the committee for its interim report. I was going to commend the convener, but I think that he has had enough commendations.

Paragraph 5 of the report states:

“In short, all of the Committee want to see both the letter and the spirit of the Smith Commission's report fully translated into a legislative package in the next UK Parliament.”

From what I hear and from what I have read in the report, even that is not happening.

I want to go beyond that. I want to focus on what the report says from page 125 onwards, in the section entitled “Coherence and cohesiveness of

the proposals for further devolution". It is a matter that I raised in a previous debate, on 10 December, when I was a wee bit more fiery. That was in the early days after the Smith commission, when Smith's criteria were that the proposals should be substantive and cohesive. I argued that, although all of us across the chamber could state our differing views about what is substantive, which is appropriate, we should be able to agree on what is cohesive.

There is a caveat to this argument, because I noted that the report states, under that heading:

"the Committee does not, at this stage, intend to take a collective position on this strand of the evidence it has gathered."

That is in reference to the coherence and cohesiveness of the proposals, but the evidence is not the evidence of politicians. It is the evidence of the very civic society to which Alison Johnstone referred. The report cites Professor Michael Keating, who suggested that

"the devolution of a broader range of taxes would have provided greater flexibility to the Scottish Government."

He did not see what was being proposed as cohesive. The report also noted that

"Dave Moxham, of the STUC, also sought a greater range of taxation powers to be devolved",

including employment law and tribunals, to which Mary Fee referred, because what is being proposed is not cohesive.

Peter Kelly of the Poverty Alliance called for control of the national minimum wage, and much more, to deal with poverty, because his view was that the proposals were not cohesive. A range of organisations involved in welfare issues highlighted the linkages between employability and equalities and suggested that the devolution of equalities legislation and employment law would have resulted in a more coherent package of proposals for devolution. We have many such strands of evidence. One Parent Families Scotland took the same view.

Of course we want certain benefits devolved, but will that work? Even though my direction of travel—and it had better be soon—is to independence, and even if other people's goal is not the same and they simply want a form of devolution, whether that is Smith, Smith plus or Smith maximum plus, we must all apply the same test: will it work?

Will the Smith proposals stabilise the UK? Will they work? We have to deal with that question even before we deal with intergovernmental dealings, but we cannot even look at it if the powers that are proposed in the Smith report are not cohesive. I have concerns about the Smith proposals, but I will have huge concerns if we are

not even getting them, and we have not resolved those issues.

As other members have said, in the last election the Scottish people moved on, not to vote for independence but to vote for more than Smith. There is no doubt about that. The Smith proposals will not deal with what the Scottish people voted for and it will not give cohesive and substantial results.

I also raised public engagement in my speech in December. The Smith commission was done at breakneck speed and 18,000 people submitted various proposals. Smith had written his report within a month so, of course, he did not read all those submissions. People took the trouble to make their proposals but, at the end of the day, politicians sorted something out and did not involve the Scottish people, whatever their views were.

I am rather pleased, therefore, with what the committee has said in its report's "Key conclusions and recommendations" and it echoes Alison Johnstone's point:

"The Committee believes that further public engagement, directly with the people of Scotland as well as representative bodies, charities, industry groups, voluntary bodies etc. is still a vital activity that needs to be carried out".

What we must not do is rush. We must do something that is appropriate for the people of Scotland. Of course we will continue with Smith, but that is no longer good enough. It is not good enough in what it seeks to deliver and because it turns its back on what the people of Scotland might want. They have not had a voice in where we are going and it is time they had one.

16:12

Alex Rowley (Cowdenbeath) (Lab): Christine Grahame talked about the stability of the United Kingdom. The greatest threat to that stability is the fact that we have a British Prime Minister in Downing Street who used the threat of Scottish nationalism and played the English nationalism card in middle England to the disgrace of British politics. That is the greatest threat right now; it is certainly not the SNP or the Smith commission.

I thank the committee, under Bruce Crawford's chairmanship, for the work that it has done in producing a very detailed report. I have been able to skim through it and it is clearly valuable. I will study it in greater detail as we move forward.

In his opening remarks, the Deputy First Minister talked about the importance of the Smith commission being implemented in "spirit and substance", and most members have used that term. I agree with that and I hope that we have expressed a fairly united view today. The

Parliament is united in saying that the “spirit and substance” of the Smith commission have to be implemented. I for one hope that my party will stand alongside the Deputy First Minister to make that point clear to the UK Government.

In its briefing, the SCVO says:

“If it is to be meaningful and effective, devolution must be driven by the people of Scotland.”

I agree with that absolutely. The committee’s report makes that point and it is important: not that we take the people of Scotland with us but that they lead the debate as we move forward.

Iain Gray said that he was open to further devolution. I would certainly go further: devolution is a journey, we are on that journey, and that journey will take us further, beyond what the Smith commission has come up with. I accept Iain Gray’s point that a timetable was laid out, and that timetable had to be met for what were obvious reasons, in my opinion. However, I do not see that as the end of the process—I think that we will go much further than the Smith commission recommendations.

That point was made by Jackie Baillie, who highlighted the issue of housing benefit. That is an area that my party thinks should be included. The spirit of the Smith commission must be followed, and the substance must be implemented in full, but there then has to be a discussion that also involves the Scottish people about how we use the powers that we have.

Housing benefit, which Jackie Baillie discussed, is one specific area where I will be making an argument for further devolution. The absolute waste when it comes to the amount of public money that is spent on housing benefit is a national scandal, yet we have a housing crisis in Scotland. If housing benefit was being put to use properly, we would be building more council houses and more public sector houses for rent across Scotland. That is where we need to move on to.

I say to Stewart Maxwell that we must move beyond the politics of grievance. Equally, I accept that we need to move beyond the politics of fear. We have to embrace the journey that we are on in terms of devolution.

Unison Scotland said this week:

“UNISON Scotland has always been a strong supporter of a strong Scottish Parliament.”

In the run-up to the independence referendum, Unison

“produced Fairer Scotland and Devolution. Since then we’ve had the Smith commission report which although it doesn’t go as far as we argued for in our submission is an important step forward.”

It is an important step in the right direction, and it is important that we recognise that and start to consider how we will use those powers.

Unison goes on to say:

“That doesn’t mean of course that we have a simplistic approach”,

where more devolution

“is automatically assumed to be better, the arguments for full fiscal autonomy for example are very weak.”

The Scottish Government has put a stronger case, and has a case, for full fiscal autonomy. I am keen to move away from the politics of fear and have that discussion. Let us have that debate and get things on to the table so that the people of Scotland can have that debate, with an open dialogue, not on the politics of fear but setting out what full fiscal autonomy would mean for Scotland.

I argued for a no vote in the referendum. I did so because I believed that it was in Scotland’s best interests to remain part of the United Kingdom, pooling and sharing resources where practical and necessary but, at the same time, bringing far greater powers to this place where necessary and where that is in the interests of Scotland.

Today, in welcoming the committee’s report and in having this debate, my view is very much that we need to ensure that the spirit of Smith is followed and the substance of Smith is implemented. Nothing else would be acceptable to the Parliament. We should unite on that.

Let us now have the debate about what more powers we need and, more importantly, about how we are going to use those powers to make Scotland a more prosperous place where everyone can enjoy the rewards that are available from a successful economy.

16:19

Mark McDonald (Aberdeen Donside) (SNP): I found Alex Rowley’s speech—as I often find Alex Rowley’s speeches—to be measured and very interesting. There were a lot of ideas there, and it is not for me to involve myself in the internal affairs of other political parties, but I simply say to Mr Rowley that I understand that there may be a vacuum where such positive ideas may well find a home.

I thank the committee clerks and my fellow committee members, including our over-thanked convener. They have steered us very much towards what has been recognised, both inside and outside the chamber, as a substantial piece of work. I also thank the range of witnesses who came before the committee because, if it had not been for the high quality of evidence that we received, we would not have been able to come to

the substantial conclusions that we drew as a result.

Other members highlighted the public meetings that took place. I was able to attend only the public meeting in Aberdeen. One of the things that surprised me at it was the lack of awareness among individuals—many of whom were politically active in the referendum and politics in general—about not only what was in the draft clauses that the UK Government had published but what the Smith commission had recommended in the first place. That ties into what my colleague Christine Grahame said about the fact that the public were not and did not see themselves as part of the process of drawing up the commission's conclusions. I know that the timetable was a victim of campaign rhetoric and that the timetable that was laid out during the referendum campaign had to be adhered to for political reasons, but it should give us pause for thought that even those whom we would consider to be politically aware struggled to comprehend exactly what was on the table.

A number of points in the debate merit a little more examination. One is the fiscal framework, which is vital. It is a dry and technical area of the debate, but it is also extremely important. As well as being a member of the Devolution (Further Powers) Committee, I also have the pleasure of being a member of the Finance Committee. That is not a sentence that normally flows from the mouth of a member of the Finance Committee, but one of the things that that committee has been doing is examining the fiscal framework. A number of issues that have been highlighted during our evidence taking at the Finance Committee came up during the evidence taking at the Devolution (Further Powers) Committee and need to be examined further. They concern tax competition and tax gaming, as well as the no-detriment principle.

I cannot emphasise enough the importance of getting a firm definition and understanding of no detriment because there are different interpretations not only at governmental level but academic level. Some work will be done to explore the definition and practical effects of the no-detriment principle.

On gaming, one of the interesting pieces of evidence that we took was from Professor David Heald of the University of Aberdeen. Professor Heald highlighted the autumn statement and what he considers to be

“the disruptive potential of what the UK Government does”

when it sets its tax policies. He said:

“This Parliament spent a long time trying to reform stamp duty land tax and to produce a property tax that would be implementable by the beginning of April, but the UK Government has basically disrupted that implementation by

suddenly changing the tax in the rest of the UK.”—[*Official Report, Devolution (Further Powers) Committee*, 11 December 2014; c 4.]

I have referred to that in the Finance Committee as the rabbit-out-of-the-hat approach, which is often taken in UK budget setting. We need to consider how it fits with the powers that are being devolved to the Scottish Parliament.

On where we go from here and where we need to go further, one of the issues on which we took evidence concerned savings and dividends, which covers taxation. One interesting piece of written evidence came from the National Union of Students Scotland. One of the concerns that it highlighted was:

“by only devolving non-savings taxes, the Scottish Parliament is put in a precarious position for any future tax rises, and particularly the introduction of a higher rate of tax. As was seen in the year before the introduction of the 50p rate in 2010, and then in the year following the reduction to 45p, those who it affected were able to shift extremely large sums of money between years and between income and dividends”.

There is a concern that, were the Parliament not to be in possession of powers over that, such a situation could cause difficulty. That will merit a watchful eye and further examination as we go forward.

We have heard mention of the STUC's proposals. In yesterday's economy debate, I intervened on Jackie Baillie to ask whether the Labour Party would now come with us and the STUC on the powers over employment law and the minimum wage. In response to me, she said:

“I thank the member for his intervention. We will have an opportunity tomorrow to debate the full devolution package. I will also be speaking then, and I look forward to engaging with him on the substance of that issue.”—[*Official Report*, 20 May 2015; c 20.]

I waited and waited, but I did not hear whether Jackie Baillie and the Labour Party were going to go where the STUC is clearly pushing for us to go.

I understand the Labour Party's reluctance to make those commitments in advance of the referendum; the party was obviously hedging its bets on whether a Labour Government would come to power. However, now we have a majority Tory Government at Westminster—

Jackie Baillie: Will the member take an intervention?

Mark McDonald: I am looking to you, Presiding Officer, to see whether I can take Jackie Baillie's intervention. I can. Given the likely impact of a majority Tory Government at Westminster on trade unions, employment law and the minimum wage, will Jackie Baillie now join the STUC and the Scottish Government in supporting the devolution of those powers?

The Deputy Presiding Officer (John Scott): I will allow Jackie Baillie to honour her commitment.

Jackie Baillie: Presiding Officer, if I had had the seven minutes that Mark McDonald has rather than six minutes, I would have been able to develop my point fully. I am happy to consider any suggestions from Mark McDonald.

Mark McDonald: I will give Jackie Baillie a suggestion. The suggestion is that, when I say to her, "Will you join the STUC and the Scottish Government in demanding that those powers are devolved?" she should answer, "Yes." That is my constructive suggestion to Jackie Baillie on how we might proceed.

Looking at what is coming forward, I note that the bill will be published next week, and it will be interesting to see whether the constructive points that the committee has raised are factored into it. I would like to hear in the closing speeches—particularly from the Conservative side of the chamber but also from Labour—a commitment that, if those points are not factored in, those parties will lobby with us for Westminster to agree to amendments that will deliver the spirit and the substance of Smith. It is the very least that the Scottish people expect and deserve.

16:26

Alex Johnstone (North East Scotland) (Con): The debate has been interesting and has focused on key issues, although it has at times wandered to an extent. I will deal with the issues in much the same way as other members have done.

I note the actions of the convener in producing a unanimous report. Although Bruce Crawford should not be praised too much, there are one or two people in the Parliament who are pretty damned good at what they do; he is one of them, and he has delivered once again.

Much has been made of the fact that there was unanimous support for the committee's report, but it should not surprise anyone that a Conservative member of this Parliament demonstrated commitment to the Smith process.

The Smith commission sat on a relatively short timescale and brought together key ideas at a critical time in Scottish history in the days immediately after the referendum. It did so in an atmosphere that may well turn out to have been unique, so it is only appropriate that we should maintain our commitment.

There are those who are concerned about the timescale that has been applied—in fact, Christine Grahame described the process as going forward "at breakneck speed". However, we should remember that the commitment that was given immediately after the referendum that there would

be a timetable on day 1 appeared to have been broken, when it took us until lunch time on day 2 to put the timetable together, and many on the losing side in the referendum cried betrayal at that very moment. Members should therefore not be surprised that the timescale remains important to the newly elected UK Government.

On the ability of individual clauses that have been published to translate the desires of the Smith commission into law and into practice, there appear to be varying degrees of success.

On taxation, I am particularly happy with what has been put forward, but the weakness is the lack of detail. As time goes on, we will have to address issues such as the fiscal framework, the concept of no detriment, the practices that will be involved in borrowing, and how we deal with assessing what the Scottish component of VAT will actually be. That will have to be done through a much stronger governmental framework, and intergovernmental relations will be key to the process. That is why it is a consolation to me that progress is being made on the development of a strong working relationship between our First Minister here in Scotland and our newly reappointed Prime Minister in Westminster.

The process that we are involved in is driven by the Smith commission and it is important that we find ways to ensure that the promises that were made through Smith are brought into being. Those processes will be easier in some areas than in others. My concerns about welfare in particular drove me to support the committee's broad view. However, having discussed the matter with someone who was involved in drafting the clauses, I am content that the intention was to give effect to Smith. In my view, however, it remains questionable whether the clauses as they currently exist will achieve the objectives of Smith. For that reason, I think that redrafting of the welfare clauses in particular is necessary.

The issue of the veto was brought up on day 1 after publication of the clauses—although in my view it is something of a red herring. However, the wording of the clauses gives rise to concern. Consequently, we need to be sure that we know what they mean before we move forward.

Another issue of concern is the Crown Estate: since publication of the draft clauses questions have been thrown up about it that we did not anticipate. I believe that the Crown Estate issue will only get more complicated before we reach a solution on it.

Among other aspects of the debate that I want to mention is that there are those who have gone off in different directions: there are those who have been more concerned about process than the Smith commission itself, and there are those who

are more concerned about how we might use the policy driver for the new powers, which I believe is going a step too far in this debate because we need to know what powers we will have before we talk about policy. Perhaps that is something for next year's election campaign. There are also those who are too concerned about what we might add to the process; I believe that it would be a mistake to drop the current Smith process and simply go off and try to argue now for additional powers in other areas.

It is perfectly appropriate for our two Governments to discuss where we wish to go next, but it would be a foolish error to drop the current process in the hope of getting something better. We have a tremendous opportunity to put together a package of powers that will be coherent and which will deliver for Scotland. We must also remember that we have a process to go through both in this Parliament and—which is much more relevant—in the Westminster Parliament to deliver the new powers. By virtue of the election that we have just been through, the Scottish National Party has very strong representation in the House of Commons and will have the opportunity to amend the bill as it goes through Parliament.

We must also remember, however, that this Parliament has a role. As we go forward, the two Governments will, of necessity, have to become closer and have a better working relationship, but we must never forget that Parliament must have a role. Do not lock Parliament out; make sure that Parliament has that role and we can make this work for the benefit of Scotland in the longer term.

16:33

Lewis Macdonald (North East Scotland) (Lab): It has been said that

“Devolution is a process and not an event.”

Delivering Scotland's devolved Parliament was one of the highest priorities of the incoming Labour Government in 1997. That priority was delivered in record quick time and it is now 16 years since this Parliament first met on the Mound and elected Donald Dewar as First Minister. The Scotland Act 1998 that Donald Dewar delivered was rightly praised for its clarity and directness. Crucially, it provided that what was not reserved was devolved: that provision removed a range of potential difficulties before they could arise—a point to which I will return in a moment. It also ensured that further devolution was bound to follow. Anything that Government did not do before 1998 but came to do afterwards would be devolved unless a specific decision was made to reserve responsibility for it to the United Kingdom Parliament.

The process of devolution followed and, as the 1998 act implied, it was soon enhanced by both legislative and executive devolution of further powers. On top of that, we have had step changes in the scale and scope of devolution, with the Calman commission, the Scotland Act 2012 and now the Smith commission and the Scotland bill that we expect to see next week. Indeed, with the Smith agreement on the Crown Estate, we have a high-level commitment to devolution from this Parliament to island and other communities—a commitment that I was glad to hear the Deputy First Minister repeat today.

On that subject, I remind Rob Gibson that the Smith agreement was to devolve to local level management of all the relevant economic assets including the sea bed, the foreshore, where appropriate, and mineral and fishing rights. We cannot now pick and choose which aspects of the Smith agreement we want Government to implement.

Rob Gibson: When we are talking about deciding how those things should be done, it is not a question of whether the people at the most local level should control them. Does Lewis Macdonald agree that we have to create a structure in which they can do so, and that the obvious place to do that is this Parliament?

Lewis Macdonald: What is important is that the committee has come together across the parties to call for implementation of the Smith agreement. That is not a call that any of us should back down from, no matter what practical challenges are in the way of making that happen.

As has been said, the scheme to extend devolution within the United Kingdom has been endorsed by every party in this Parliament, including those that campaigned to leave the UK. That is the significance of the Smith agreement: no party that is represented here today can reject that agreement, because every party has signed it and undertaken to deliver it.

Parties can argue for powers beyond Smith. We have done that today, and others have done so, too. Likewise, we signed off the committee report on a cross-party basis, but we have different views on the relative importance of different parts of the Smith agreement and on the areas where the draft clauses fall short or are unclear. There may be issues of interpretation, there will be questions of priorities, and there are differences of philosophy, too.

As Bruce Crawford said, a number of us met the Secretary of State for Scotland in Whitehall this week, and he emphasised the issue of interpretation. However, there should be no doubt about how to interpret the intention of a new devolved power to create top-up welfare

benefits. Since the Smith agreement does not envisage claimants facing a clawback from other income, neither should the next Scotland bill, and nor should the commitment to devolution of employment programmes that are currently contracted by the DWP be artificially limited in the way that the draft clauses propose. In addition, devolution of the power to abolish the bedroom tax—without disadvantaging those who receive discretionary housing payments—is the clear intention of the Smith agreement.

Labour would go beyond Smith in those areas; we would wholly devolve housing benefit rather than see it be absorbed into universal credit, and we would seek to ensure that housing support is used in a range of ways to benefit those who are in greatest need—not least in providing more and better social housing.

Scottish Labour's priorities will be to use the new fiscal resources and the new spending powers to protect people on the lowest incomes as well as to support the creation of jobs and opportunities through devolved employment programmes. The Smith agreement will allow us to do much of that if it is delivered in full, and that is our priority at this stage.

However, if we go back to first principles, the legislation that we will see next week will inevitably lack some of the clarity and simplicity that were achieved by Donald Dewar's original Scotland Act 1998. That legislation grew out of a constitutional convention that was not an all-party process, although it had the support of a number of parties that are represented in the chamber. Nonetheless, it grew, developed and came out as a statute from the Labour Government, and provided a clear basis for the devolution settlement. Under that act powers and areas of responsibility were, broadly speaking, either reserved or devolved. Now, as has been said, responsibilities that were previously reserved are to be shared, whether in taxation or public spending. That must inevitably mean a less clear division of powers in the future devolution settlement. That simply reflects the complexity of the Smith agreement and the choices that have been made in that context.

On welfare, for example, the simple model of reserving the whole of legislative responsibility for social security is to be replaced by a new web of exceptions to reservations and exceptions to exceptions. Likewise, devolution of the Crown Estate is to be done by way of a scheme to devolve its economic assets, rather than simply by removing the Crown Estate as a whole from the schedule of reserved powers.

Some of the flaws that are identified in the report can be sorted by intergovernmental agreements or by relatively straightforward changes to the draft clauses. Others may require

more far-reaching amendments. Whatever we do, we cannot credibly insist on implementation of the Smith agreement and then claim that the lack of coherence of the settlement means that it cannot stand. Given that all parties compromised in order to reach the Smith agreement and all parties have taken a mature approach, as Bruce Crawford described it, to agree today's report, then all parties must get behind the new more complex devolution scheme, once it has been delivered, and make it work.

Whatever the outcome of the parliamentary process over the next few months, it will mean both Parliaments working within a more complex devolution settlement in the future than we have done for the past 16 years. How the Governments work together will become all the more important, as will the mechanisms for holding ministers to account by elected members of both Parliaments.

Bruce Crawford highlighted the committee's call for the general principles of intergovernmental working to be placed in statute. I was somewhat surprised to hear John Swinney appear to reject that view, but that is no doubt an issue that we will return to before too long. Indeed, the Deputy First Minister may have something more to say on it shortly.

For now, we support the committee report as a yardstick by which to measure the bill that is to be produced next week, which will be the basis for the next stage in the process of devolution.

16:41

John Swinney: This afternoon's debate has been constructive and wide-ranging. Dr Murray raised a very specific issue—in the usual detailed and thoughtful way in which she raises such points—about the operation of the Sewel convention and its application to the Human Rights Act 1998. I want to take a couple of moments to address some of the issues that Dr Murray raised. I suspect that a great deal more of the issues that she raised about the implications around the stance of the current United Kingdom Government on human rights provision will require some detailed legal analysis, which Parliament will have to consider.

Dr Murray's points about how confident we can be in the robustness of the Sewel convention are directly applicable to what we might face on the Human Rights Act 1998. Undoubtedly, for the current UK Government to repeal the act and replace it with a British bill of rights will require the agreement of the Scottish Parliament in a legislative consent motion consistent with the Sewel convention. Dr Murray went on to raise the possibility of the Scottish Parliament legislating in the sphere of human rights, but that will be very

complicated for us to consider, given the fact that the Human Rights Act 1998 is named in schedule 4 to the Scotland Act 1998 and is therefore an act that the Scottish Parliament is prohibited from amending.

The issues that Dr Murray raised in great detail illustrate the significance that can be attached to some of the provisions within the Smith clauses. We must ensure that nothing happens that in any way diminishes the effective control that the Scottish Parliament has to protect the legitimate interests of the devolved settlement in relation to some of those questions.

The debate has benefited enormously from taking place in what I might call the cool aftermath of the general election. I notice a significant reduction in the tone and tension in the chamber, so much so that Iain Gray found himself able to say that he agreed with the Deputy First Minister, which was joyous. We former commissioners must stick together.

I do not say this to cast aspersions, but when the UK Government set out its clauses in January, some of the reaction in the Parliament to the points that were made by the Scottish Government almost suggested that we were trying to pick a fight where no fight was to be picked—yet here we find ourselves in Parliament today, with Mr Gray accepting that the spirit and substance of the Smith commission have not been implemented in the clauses. I welcome that. In fact, I welcome that wherever it has come from across the political spectrum, because it puts to the United Kingdom Government the utterly compelling proposition that, if it is to live up to its rhetoric, it has to accept that what was published in January was just not sufficient to satisfy the commitment to translate the spirit and substance of Smith into legislation.

Some of that has been evidenced in a number of members' speeches. As Rob Gibson pointed out, some of the provisions on the Crown Estate in the draft legislation say, "There may be" rather than "There shall be". We all know what "may" means—it means might or perhaps—and we all know that "shall" means that something will and must happen. Linda Fabiani asked why it was necessary for the draft clauses to refer to the Parliament's "permanence" and for them to say that the Parliament would be "recognised" as "permanent". Why do the clauses not just say, "The Parliament's permanent"? That would entrench its position as well as it can be within the UK's unwritten constitution.

I therefore think that the Scottish Parliament has, with some force, expressed its view about what was published—on time—on 22 January. I cannot quibble about its being published on time; it was even early—a bit like most of the Scottish Government's capital projects, I might add.

Jackie Baillie: Will the cabinet secretary give way?

John Swinney: There we are—I should have prevented myself from encouraging Jackie Baillie to get to her feet. [*Laughter.*]

Jackie Baillie: I wonder whether the Deputy First Minister does not regret that last remark, given the discussions that are being had with the Office for National Statistics and Eurostat about the validity of certain capital projects and whether they are on or off budget. Indeed, in my area, Our Lady and St Patrick's high school has been delayed as a result.

John Swinney: Jackie Baillie is always one to break a consensus when she can find one to break.

The point that we have reached in this debate is to recognise that the provisions in the draft clauses must be substantially improved to fulfil the Smith commitments. In that respect, I want to make the Scottish Government's position crystal clear: the delivery of the Smith commission proposals should not be seen as a response to the outcome of the general election. Instead, it should be seen as the fulfilment of the post-referendum commitment that was made and is the absolute minimum that must be delivered by the United Kingdom Government. Anything else would be a breach of faith to the people of this country, given the fact that despite our different points of view we all came together in the Smith commission and argued for the propositions that we put forward. The Scottish Government believes that the delivery of the spirit and substance of the Smith commission report is entirely related to the post-referendum outcome and is nothing to do with the post-election outcome.

The other interesting element of the debate has been the recognition that there is still space for further constitutional development. Obviously I have set out the Government's aspirations for further powers to be devolved to the Parliament within the structure of the United Kingdom; Iain Gray has repeated the argument for the devolution of housing benefit that he made in the Smith commission; and Mr Rowley made it very clear that further responsibilities should be transferred to the Parliament within the devolved settlement.

There is clearly a debate to be had about how we expand and extend the Scottish Parliament's powers, and Alison Johnstone was absolutely correct to say—Annabel Goldie made the same point to me during this week's question time—that it is essential that we have dialogue with members of the public in Scotland about how we can do that most effectively. Indeed, as Christine Grahame pointed out, 18,000 members of the public made submissions to the Smith commission, but I do not

think that any of us who participated in the Smith commission can feel that we did justice to that input and those voices, simply because of the timescale that was involved. Anyone looking at the general election outcome can only conclude that the people of Scotland indicated that they had a desire for greater responsibility to be vested in the Parliament. That is an issue to which we must turn our minds—and we will discuss it with the secretary of state—but I give my commitment to wider public participation in that respect.

My final point is about intergovernmental arrangements. There has been a lot of talk about how Governments need to work together to arrive at conclusions, and I reaffirm the Scottish Government's desire to work constructively with the United Kingdom Government in any way we can on our joint agendas. There will be issues on which we disagree. The Human Rights Act 1998 is one issue where we fundamentally disagree with the United Kingdom and will say so. There are other such issues.

I return to my point about the post-election tone of the debate. I hope that members understand that the Scottish Government sometimes has to dig in its heels to protect the interests of this Parliament and this country. If I had not dug in my heels about the block grant adjustment and the land and buildings transaction tax, this Parliament would have ended up with a worse deal because of what was proposed by Her Majesty's Treasury. That will be crucial in the fiscal framework and the working arrangements. We cannot proceed on the basis that the United Kingdom Government has the ability to impose on the Scottish Government and the Scottish Parliament arrangements that suit it but which do not suit Scotland and the devolved interests of the Scottish Parliament. That is the position that the Scottish Government will take forward in the necessary intergovernmental co-operation to implement these provisions.

16:50

Duncan McNeil (Greenock and Inverclyde) (Lab): In time-honoured fashion, I rise—as others have done—to say that this has been an interesting debate. I express gratitude on behalf of the committee for the tone of the debate, in which complex issues discussed by the committee have been raised. Considered statements have been made and there have been valuable contributions from across the chamber. The consensus that began with the sainted Bruce Crawford, our convener, has almost become a contagion. It is great to hear that, because sometimes consensus does not lead to interesting debates in the chamber. Today, however, it has, and it highlights a great number of common objectives. Maybe we

should focus on those and make progress on them in future.

The Devolution (Further Powers) Committee has considered in detail the Smith commission's recommendations, which have not yet been fully implemented into draft legislation. As members have heard once or twice this afternoon, the committee's report was agreed to unanimously by all members of the committee. It is a stronger report because of that. It shows that the committee system is stronger than some people believe. It is a good example of what can be achieved. Indeed, it is the first parliamentary report on this issue that I am aware of that all the parties on the Smith commission have signed up to. I echo the convener's views and pay tribute to all members of the committee for their efforts in achieving that outcome.

We have heard today that there were some difficult areas. The committee took a particular interest in many of those areas and reflected that in its discussion. As a consequence of the committee's considered approach, in which it has focused on the facts, let the facts speak for themselves and focused on the job in hand, we have received wide acclaim throughout Scotland for the report. Bruce Crawford mentioned that earlier. For that reason, the Scottish and UK Governments need to pay careful attention to the report and ensure that any future Scotland bill addresses the issues that we have raised.

Our report is a considered and constructive contribution to the process of further devolution. Where that process will or should end was not the aim of the committee's scrutiny; maybe we were able to get consensus because the issue is ongoing.

Annabel Goldie and the Deputy First Minister mentioned the committee's discussion about further further powers. We have plans to get the new Secretary of State for Scotland and, indeed, the Deputy First Minister, to come before the committee. There will be opportunities to talk about the further further devolution that may or may not be available.

Our focus was on whether the previous UK Government's draft clauses had fully implemented the Smith commission recommendations. Our conclusion was clear: in substantial areas the draft clauses do not yet achieve that objective. Members have considered in detail the areas that we have identified where redrafting, clarification or proposals must be developed if the further powers that have been agreed to by all parties are to be delivered.

I make it clear that I do not approach the debate in the spirit that the pursuit of new powers for this Parliament is, as Jackie Baillie and Alison

Johnstone alluded to, an end in itself. However, I recognise that the Smith recommendations have been agreed by all the parties represented in the chamber, and that the new UK Government must deliver on both the spirit and the substance of the recommendations. The draft clauses do not do that.

I am looking at Iain Gray, because I am about to cite John P Mackintosh, who is someone he has cited previously, too. The citation is relevant because, although we are not now in the position that we want, that does not mean that we cannot achieve that position as a Parliament. In a speech on the Scotland and Wales Bill before the House of Commons in 1976, John P Mackintosh said:

"Institutions have to be the servants of political demands.

We have people in Scotland who want a degree of government for themselves at the Scottish level. It is not beyond the wit of man to devise the institutions to meet those demands and thus strengthen the unity of the United Kingdom."—[*Official Report, House of Commons*, 16 December 1976; Vol 922, c 1130.]

I want to highlight briefly, in closing this debate on behalf of the Devolution (Further Powers) Committee, the headline areas where the draft clauses fall short.

On welfare, as we have heard, the clauses do not deliver Smith. Furthermore, there will be significant challenges in implementing the proposed powers.

On income tax, significant implementation issues remain to be resolved, such as how a Scottish taxpayer will be defined, how to avoid double taxation, and the timing and phasing of the new powers arriving under the Scotland Act 2012.

On the fiscal framework, the detail of the framework should be available for scrutiny by this Parliament before the issue of legislative consent for any new bill is considered.

On the Crown Estate, the committee has serious concerns about the potential for competition and confusion that may arise from the creation of two Crown Estates. No one wants to rule out the chance for inward investment to Scotland, as Lewis Macdonald alluded to, but the committee was clear that there must be scope for shared investments between the two Crown Estates, with a fair share of revenues accruing to Scotland.

On the permanence of the Scottish Parliament, the Scottish electorate should be asked to vote in a referendum if permanence comes into question, with majorities also being required in the Scottish and UK Parliaments.

As Bruce Crawford highlighted in opening the debate, the issue of intergovernmental relations has permeated every aspect of the committee's

scrutiny of the proposals for further devolution. There is no question but that the shift from a devolved settlement based on a system of largely separate powers to one of shared powers cannot be borne by the non-statutory, ad hoc nature of intergovernmental relations at work in the UK. Tavish Scott and Linda Fabiani took an interest in those issues, and Elaine Murray pointed out some of the complexities.

In particular, the committee is clear in saying that the need for revised intergovernmental structures will be critical in the areas of taxation, welfare, employment support and European Union representation. The structures that emerge will be required to deal with the uneven distribution of powers across the constituent parts of the UK. The committee is also clear in stating that the general principles underpinning the operation of intergovernmental relations should be put in statute. The role of the Parliament in scrutinising the operation of intergovernmental relations in the new landscape of devolution will be a key challenge to which this institution must respond.

The Devolution (Further Powers) Committee intends to consider that issue in the coming months, and I know that it is an area that the Presiding Officer is looking into, along with the Speaker of the House of Commons. We will play a full part in helping the Presiding Officer to ensure that committees in both Parliaments hold their Governments to account. That will involve learning from the practice of parliamentary scrutiny in other jurisdictions and developing a set of principles that could structure parliamentary scrutiny in this area.

We have set a high bar in the common approach that the committee has adopted, and I think that I speak on behalf of the committee when I say that we will continue to meet that high standard in the future. We will seek to get reports that achieve the level of agreement that we have achieved with the report that has been debated this afternoon. That will be our challenge in the coming months, and it will not be an easy one to meet.

The Presiding Officer (Tricia Marwick): Thank you, Mr McNeil. I have already privately congratulated the convener of the Devolution (Further Powers) Committee on his committee's report, but I take the opportunity to thank all its members—you have done the Parliament a great service.

Decision Time

Meeting closed at 17:02.

17:01

The Presiding Officer (Tricia Marwick): There is one question to be put as a result of today's business. The question is, that motion S4M-13160, in the name of Bruce Crawford, on "New Powers for Scotland: An Interim Report on the Smith Commission and the UK Government's Proposals", be agreed to.

Motion agreed to,

That the Parliament notes the conclusions and recommendations contained in the Devolution (Further Powers) Committee's 3rd Report, 2015 (Session 4), New Powers for Scotland: An Interim Report on the Smith Commission and the UK Government's Proposals (SP Paper 720).

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

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