

# **MEETING OF THE PARLIAMENT**

Thursday 1 November 2007

Session 3

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## Scottish Parliament

Thursday 1 November 2007

[THE PRESIDING OFFICER *opened the meeting at 09:15*]

### Alternative Dispute Resolution

**The Presiding Officer (Alex Fergusson):** Good morning. The first item of business is a debate on motion S3M-738, in the name of Kenny MacAskill, on alternative dispute resolution. We have a little time in hand.

09:15

**The Cabinet Secretary for Justice (Kenny MacAskill):** I appreciate the efforts of all those who have come to the chamber this morning to participate in the debate. The topic may not be the most exciting—it does not divide parties or the chamber on the basis of ideology—but it is nonetheless an important aspect of our justice system for a small, but important, section of our society, so the debate will be greatly welcomed. I am grateful to all those members present—both those who volunteered to come to the chamber today, bright eyed and bushy tailed, or who were volunteered—to debate this important aspect of the law of Scotland.

I welcome the opportunity to introduce the debate on the use of alternative dispute resolution procedures, which are less formal, value-for-money ways in which disputes between citizens can be resolved. Before I set out how the Government sees the interaction between ADR and the civil justice system, I will set out our priorities in relation to the operation of the civil courts and administrative justice. In so doing, I recognise that our civil courts have served the people of Scotland well over centuries. However, in an increasingly complex and diverse world—in the global economy and in our knowledge economy—we need to examine more cost-effective, time-effective and less stressful ways in which to resolve disputes.

We need to ask ourselves whether the procedures and processes are as clear and understandable as they can be and whether court-based resolution is appropriate for the range of disputes that are currently decided there. That is particularly true for low-value cases—which, after all, are the vast majority of cases that appear before the courts—where no legal principle is at stake and where a pragmatic solution is required. I concede that major principles are involved in some minor cases. Any system needs to be flexible

enough to recognise that, if a requirement arises to move the case into a different ambit, that should be done. In the main, however, where matters are relatively low cost and straightforward, we should seek to deal with them as pragmatically and simply as possible.

That is true across all ranges of dispute. A key priority for the Government is to develop and enhance a vibrant Scottish economy in order to generate wealth and prosperity in Scotland. We recognise that we are a small country, but we want to place Scotland in the economic foreground of Europe, North America and beyond. Scotland should be an easy place to do business. The law and courts need to back that up to make Scotland the jurisdiction of choice for resolution of disputes, and not, sadly—as is the case at present—a place where people prefer, despite cost and other factors, to pursue matters elsewhere.

We have much to be proud of in the entrepreneurial spirit of the Scots and the success on the international stage of institutions such as the Royal Bank of Scotland, which has shown that we can compete internationally and globally with the best. However, in order to complement and support those levels of international success, our domestic courts and other dispute resolution structures need to be modern, quick and efficient and serve the needs of their users.

In April last year, I participated in the civil justice reform debate in the Parliament, at which time I urged the then Executive to press on with a radical re-examination of the civil court system. My amendment, that the civil justice system

“must also be accessible and affordable”,

was accepted by the then Executive and around the chamber. I also welcomed the announcement in February by my predecessor, Cathy Jamieson, asking Lord Gill to carry out a review of the structure and jurisdiction of the civil courts in Scotland. I look forward to receiving his recommendations when he reports in May 2009. It may be that some structures will change; or the legislation may be found to be appropriate. I give the chamber the assurance that the values and ethos that Scots law has always stood by and for will remain the same, but will be made fit and appropriate for the 21<sup>st</sup> century in which we find ourselves.

Currently, I am involved in discussions with the legal profession about the introduction of alternative business structures, which will change the way in which we offer legal services in Scotland. The issue will be debated in the chamber on 15 November. I look forward to the contributions to that debate—not only those from the Law Society of Scotland that will arrive in my e-mail inbox and doubtless in the inboxes of other

members, too—but those from members around the chamber.

I further welcome the serious consideration that the administrative justice steering group, under the chairmanship of Lord Philip, is giving to the establishment of a way forward for the provision of ombudsman functions and a modern, efficient, effective and responsive tribunal service in devolved areas. Sometimes, we can forget that our constituents are more likely to interface with and come before a tribunal than they are to be before a court of law. The courts not only take the publicity, but they are—understandably—at the forefront of our minds. However, in day-to-day matters, people are more likely to interact with a tribunal than either the High Court or a sheriff court.

All those major initiatives comprise a major challenge to those of us who are deeply committed to the highest quality of dispute resolution system. Of course, structures are not enough in themselves; we all need to be willing to embrace new ideas and new ways in which civil justice can be delivered. My aspiration is to make the use of the formal court system the remedy of last rather than first resort.

That said, the situation is not necessarily the same in all major arbitrations. My experience of mediation as an agent when I practised law is that it is a much better system than any sheriff could pronounce in matters such as access to children, or contact, as it is now called. It is much better for both parties to reach and sign up to an agreement than for the court to force a decision on them that neither party welcomes.

A central part of ensuring the existence of an effective court system is the encouragement of an environment where alternatives to court are made available to meet the needs of different users and circumstances. Over time, a wide range of different dispute management processes have developed. This debate gives the Parliament an opportunity to explore and discuss that range of processes, and to debate how we can enhance and develop their role.

**Gavin Brown (Lothians) (Con):** I was taken by the cabinet secretary's comment on the court as a place of last resort. There is a lot of merit in what he said. However, will he commit today to the Scottish Government resolving all its disputes by ADR and using the court as the place of last resort?

**Kenny MacAskill:** I cannot give that formal commitment, as each and every matter is different. Frankly, in some cases, the Government will have to go to court because the matter is urgent and we have to take immediate steps to defend the interests of the citizen or whatever. That is why we

have measures such as interdicts and why we have at times to arrest or inhibit on the dependence. Sometimes, there have to be ways in which to take immediate action to defend. The Government would sign up to the ethos that it is much better to discuss and negotiate. That said, there are instances where it is necessary to protect the interests, not simply of the Government or the state, but the citizens we represent. In those instances, as I said, we have to reserve the right to litigate, and to litigate urgently and immediately.

Each process has its place, and none is of itself more important than another. As an Administration, we recognise the value of methods such as arbitration, adjudication, mediation, early neutral evaluation, reference to a person of skill, and assisted negotiation. I will focus on the first of those by setting out the Administration's strategy on arbitration reform.

Unfortunately, the current law on arbitration in Scotland is very much in need of modernising reform. In at least one aspect, the law dates from an act of 1695, which was made by the first Scottish Parliament, although I do not denigrate that, in and of its own. Members who have read Arthur Herman's book "How the Scots Invented the Modern World" will know that the noted historian indicated that the single most important act that any Scottish Parliament has passed is an act from about that time—I think that it was 1696—on free public education. The act was driven by the desire of the previous Scottish Parliament to make our people literate so that they could understand directly the word of God. The act had huge benefits, not only for the enlightenment but for our nation. It benefited our people not only at home, but, as Mr Herman pointed out, when we went abroad. We landed on foreign shores literate and numerate. We could read the road signs in places where, in many instances, expatriate Scots communities are still well entrenched.

**Bill Aitken (Glasgow) (Con):** I merely ask, what went wrong?

**Kenny MacAskill:** I say to my friend around the other side of the chamber that it is as we look at the glass in Scotland: is it half empty or is it half full? He is one of those who sees it as half empty; I prefer to see it as half full. We have our problems, but we are addressing them.

The unsatisfactory state of the law here currently makes Scotland an unattractive place in which to arbitrate, but as world trade continues to expand, there will be an increasing demand for high-quality arbitration services as the preferred method to resolve cross-border commercial disputes.

In order to support and develop domestic arbitration and to attract international arbitration business to Scotland, we are developing a three-

track strategy for reform, in partnership with representatives of arbitrators and users of the arbitration process. The approach is, first, to prepare an arbitration bill to modernise and codify the law and bring it into line with up-to-date arbitral practices in other jurisdictions. We will issue a bill for consultation among interested parties in the spring of next year, and I look forward to discussing and debating it with members on all sides. If we can assist prior to that with advice or information, members should feel free to contact me or my department.

**Gavin Brown:** What is the cabinet secretary's view on the current Scottish arbitration code?

**Kenny MacAskill:** As I was saying, we have to update it. We are in a global environment, and the nature of our economy and society has moved on. We need to build on our strengths and the fundamentals that are still appropriate, while ensuring that we have a system that is fit for purpose. Having spoken to a variety of interests, it is clear to me that, although we should have an advantage—over London in particular—in terms of costs and time, we do not, and many people still choose to go to London despite the increased costs and a variety of other factors. We should be able to do the work here.

Secondly, we want to develop a dispute resolution centre, to which international arbitration as well as domestic business might be attracted. Thirdly, we wish to encourage representative bodies to enhance their arrangements for quality assurance among arbitrators, through accreditation, appraisal and training.

In our manifesto, we undertook to work with Scotland's legal community to develop plans to create a Scottish international arbitration centre. We envisage a centre that will also have a role in other forms of dispute resolution. Arbitration is of course only one form of conflict management resolution. More broadly, ADR is a catch-all title, which takes in methods of resolving disputes that do not involve litigation in courts or tribunals. They all have their place, and they can enable people to resolve their disputes more quickly and effectively than by going to court.

There have been a range of Government-led initiatives to develop ADR in Scotland. Despite that, the use and recognition of ADR methods still seems to be outside the norm here. Are we too reliant on traditional adversarial processes and laws? England and Wales have gone further in the use and acceptance of mediation and arbitration, especially in connection with the court system. We are happy to learn from that jurisdiction and other jurisdictions around the world.

In Scotland, the Sheriff Court Rules Council completed a consultation exercise in 2006 on the use of mediation and other forms of ADR, and

plans to adopt new rules to encourage the use of mediation or other forms of dispute resolution. Much work is on-going. We want to encourage that, and we want there to be a wider recognition of the place of all appropriate forms of dispute resolution.

**Robin Harper (Lothians) (Green):** Will the Scottish Government take forward the pilot scheme on the role of mediation in the reformed planning system? My colleague Patrick Harvie asked a question about that in the previous session, and he was informed that it would be finished before the end of 2007.

**Kenny MacAskill:** I am not in a position to answer that at present, but I will inquire. If possible, my colleague the Minister for Community Safety will answer that during his summing-up speech. If not, I will undertake to write to the member and give the relevant details.

We see the potential to enhance Scotland's place in the world and its reputation as a place to do business. Modernising our institutions forms part of that. Scottish businesses and legal service providers can be key players in serving the global market, to the benefit of us all. The Government sees no reason why legal services, aside from satisfying the needs of our communities and our society here in Scotland, should not be able to access a wider market, which could enhance our economy, boost job opportunities and provide services in the global society in which we live. Whether it involves dealing with matters on a United Kingdom, European or global basis, our financial services sector is taking on the world, as we can see with the RBS and HBOS. In accountancy services, we provide locally and compete on a UK and international basis.

Thinking about successful Scots, I am always reminded of one who remains a global brand: Arthur Young, whose name lives on in Ernst & Young. Mr Young was a double graduate at the University of Glasgow before he departed for Illinois, and the rest, as they say, is history. We aspire to serve our communities well, as has been the case down the centuries, but we also wish to add to what has been done and to compete internationally.

I urge the Parliament to support our motion, and I am grateful that there are no amendments, which is indicative of our recognition that the subject is not a matter of dispute among parties, nor is it one where there are ideological differences. I am grateful in advance for members' contributions. I hope that together we can address a matter that, although it is a relatively unspectacular subject for the media, as I see from the absences in the press gallery, is in fact of significance and importance in making Scotland a better place. I look forward to hearing members' contributions.

I move,

That the Parliament recognises the need to develop a broad range of appropriate dispute resolution schemes, as alternatives to the formal court system, which can offer more flexibility, quicker resolution, less stress and reduced expense for citizens.

**The Presiding Officer:** As I indicated at the beginning, I can be quite flexible with time this morning.

09:31

**Pauline McNeill (Glasgow Kelvin) (Lab):** I feel much more relaxed now that the cabinet secretary has been the first to say that, at face value, this might not be our most exciting debate to date. However, I can assure the cabinet secretary that Labour has a full team ready. The Government has said that it is listening, so we will be making many important points this morning. I compliment the cabinet secretary on filling 16 minutes with his contribution; we are certainly raring to go.

Alternative dispute resolution—ADR for short—is a long phrase, giving us a more modern term for mediation. I am advised by those in the field that, in fact, “ADR” is very last session. That is a shame, because it is such a catchy title. What exactly is it all about? Many members will have felt enlightened by today’s choice of debate, but it is a subject that we have probably not discussed enough. A deeper understanding of ADR reveals that it is a real issue and that ADR policies have the potential to make a difference, if they are applied and supported by Government, particularly for those people who have felt closed off from our very expensive civil justice system.

At the highest level, ADR is about solving disputes and differences between commercial companies across national borders. Adopting a legal framework setting out the rules for the settling of such disputes is important. As the cabinet secretary has said, our outdated arbitration laws do not make Scotland as attractive a forum as it might be for international companies to come here and settle their disputes.

When I first read about forum shopping, I thought that it sounded like the thing for me—shopping for the nicest hotels and bars in a tourist-friendly city. Forum shopping is not about that at all, of course; it is about finding the best jurisdiction with the most appropriate framework. It is important to modernise Scots law in that regard. I note that there is nothing in the legislative programme in that area, and I would be interested to hear how the Government is proposing to go about modernising Scotland’s ancient laws in that regard.

At other levels, mediation and ADR are about resolving disputes with another party, at whatever level. The Scottish Mediation Network, a group of

practitioners, promotes mediation in all forms, and it argues that it is very much underused. I agree with that view. If we are to incorporate mediation into our legal system, it must be planned for and supported by Government.

I hope that there are plans beyond those on forum-shopping arbitration, because it is more important to find a place in our justice system for those who are least able to use it at present. It is about social justice as much as anything and I believe that results can be achieved if mediation is incorporated. It offers parties a less expensive and less formal setting than court in which to resolve disputes and ensures that they get a result.

I hope that the civil justice review, which Lord Gill is conducting, will address some of those issues. I sincerely hope that it will be not just a review of the courts but a real examination of how to provide better and fairer access to justice. I will be really disappointed if the review does not cover ADR, because, for many, justice is unaffordable. I have the greatest admiration for our civil practitioners and those who run our civil courts, but some of the costs involved mean that civil justice is completely out of reach. I am opposed to ordinary citizens paying more towards the cost of going to court. A key way of ensuring more and cheaper access to justice is to use mediation more often.

Family law is an area in which we could use ADR or mediation more. We need a radical reform of the system for resolving family disputes. We had a lengthy debate in the chamber not so long ago about the failings in the current system and the fact that the costs for many parties are getting completely out of control. Many cases in which there are disputes between parents about child contact could be filtered out of our court system. There is a case for saying that, in the first instance, families should be more formally encouraged to attend mediation to focus on the welfare of the child involved.

**Christine Grahame (South of Scotland) (SNP):** Although I have not practised for eight years, I was a family lawyer and I understand that sheriffs may direct parties to undergo mediation to resolve difficulties with child contact before they come to court.

**Pauline McNeill:** The member is quite right. However, I want to develop the point that the system should more forcefully discourage parties from coming to court. Some members will remember that my colleague Sylvia Jackson mentioned a child contact case in which a father, whom the court had granted contact with the child, had spent in excess of £50,000 and mortgaged his home to try to get through the civil justice system. That is not acceptable in this day and age—it is not accessible or fair justice. In such cases—



particularly where the court has granted contact—we should give sheriffs more powers to say that parties should use mediation as a less expensive way of resolving the dispute. Mediation should be encouraged more formally.

One of the achievements of the Parliament in the previous session was that the discussion led to at least three pilots on mediation being run. They are not strictly formal mediation forums, but they involve an officer of the court whose job it is to encourage parties to enter into constructive mediation, to try to prevent many cases from coming to court. It would be helpful to hear about the outcome of those pilots soon.

In the previous session of Parliament, following the passage of the Family Law (Scotland) Bill, Mary Mulligan reported to the Justice 1 Committee on the availability and funding of mediation, which was found to be lacking in many areas. Christine Grahame is quite right to point out that sheriffs send parties to use such services. The Justice 1 Committee was pleased that, finally, at the end of the process, ministers announced additional funding of £300,000 for mediation organisations to bid for. Such organisations need to be supported financially. I commend the work of Relate Scotland, Family Mediation Scotland, Stepfamily Scotland and Scottish Marriage Care, which provide a vital service for families, help save relationships, help couples work out their differences and help families come to agreements about contact.

The European Commission has been discussing alternative dispute resolution for several years. In fact, the Justice 1 Committee gave evidence to the Commission by videoconference. A European directive on ADR is encouraging all member states to use alternative dispute resolution models. That is a good concept, which should be encouraged. We would benefit from exchanging information with other countries on models of dispute resolution and arbitration. Members will be familiar with the European Commission's approach to these matters. Although I agree that the Commission should encourage member states to exchange information on their models, I also believe that it is for member states to choose the model that is appropriate for them.

There are still no formal settings for ADR for Scottish citizens in mainstream law; ADR is not yet part of our formal system in the way that it might be. We have an opportunity to step things up a gear so that ordinary people can benefit. I hope that we can rely on the civil justice review to ensure that ordinary people feel the benefit of it.

It is all about professionally trained people using their skills to bring parties together to resolve their differences. Resolving disputes without going to court provides cheaper and perhaps easier justice.

However, ADR operates on many different levels, from disputes in employment to disputes among neighbours, community disputes and disputes in family law—the list is endless.

Employment law is one of the most notable areas in which mediation and arbitration are used. Although employment law is not a matter for this Parliament, I am aware that there are on-going discussions about how to modernise the employment law framework and use arbitration more often.

Labour is proud of the work that it did in coalition to reform the criminal justice system. We were clear that we wanted to spend a lot of our parliamentary time reforming the criminal justice system, for which we do not apologise. We had begun to focus on the civil justice system. Cathy Jamieson, the former Minister for Justice, began the civil justice review. I hope that the Parliament will spend some of its time poring over the recommendations of the review when we get a chance to see them.

Civil justice is expensive and arbitration reform can make a real difference. I support what has been said this morning: there is a need to make Scotland a more attractive place for companies to come to settle their disputes. We want companies to have confidence that our legal framework will allow them to resolve their disputes. I agree that that is an economic issue, so I support what has been said about it. However, I hope that in promoting Scotland as a place for companies to resolve disputes, the Scottish National Party Government will focus not only on the trade issue, but the social justice aspects of mediation and the modernisation of our civil justice system, which are as important.

I do not know whether I have gone over my allotted time, Presiding Officer.

**The Presiding Officer:** No.

**Pauline McNeill:** I was told that I had 11 minutes. I thought that I did quite well in speaking for 11 and a half minutes—without interventions. I have enjoyed my contribution. I know that many Labour members will talk in more detail about some of the areas in which we can expand the use of mediation. I am sure that the debate will be productive.

**The Presiding Officer:** Thank you. In this debate, at this stage, there is no such thing as going over time. I call Bill Aitken. Mr Aitken, you have quite a long time.

09:44

**Bill Aitken (Glasgow) (Con):** I congratulate the two previous speakers not only on their eloquence but on their verbosity, which was welcome.

It is with a feeling of irony that I stand to speak on this subject. For members such as George Foulkes and me, Thursday mornings are about disputes, but we are being asked to spend two and a half hours discussing a scheme in which disputes can be resolved in a less contentious manner—how terribly boring. However, I am sure that there is a way forward. We could not possibly disagree with anything that has been said so far. Genuine possibilities of advancing the case for alternative dispute resolution could benefit not only the people of Scotland but Scotland in wider terms.

First, I will examine what solicitors call low-value cases. There is no doubt that the legal fees and expenses of such cases are completely incommensurate with their value. It is only common sense that we should consider whether we can resolve such cases less expensively and with less recourse to the courts. For many people, appearing in court—even on a civil matter—is fairly stressful. The much more informal manner of arbitration would relieve that stress significantly and improve social justice, to which Pauline McNeill properly referred.

For many years—in fact, for generations—systems for achieving arbitration without going to court have existed. In the financial services industry, arbiters can be appointed in some situations to handle insurance claims, although they deal with quantum rather than liability. In the construction industry, arbitration is of course used extensively, sometimes in very high-value cases. That is good. If we are thinking of expanding our system, we must examine how such systems operate and consider what could be picked out of them and used in future legislation. In low-value cases, travel companies and travel agents associations operate arbitration processes that seem to work fairly well. We should also consider that.

As with everything else, problems can arise from an arbitration process. I think that we all agree that when an important legal principle is involved and a precedent will be set, a court should decide the matter. Otherwise, we will have all sorts of complications further down the road. We must consider whether it is advisable—in my view, it is not—to allow arbitration judgments to form the basis of precedent for future cases. It is clear that arbitration cases should be determined on their individual merits. Of course, generalities apply, but allowing arbitration judgments to set precedents would be a dangerous course.

What about enforceability? Those who sign up for arbitration are also required to sign up to adhering to its outcome. I accept that the information might not be available to the Minister for Community Safety, but I would be interested to

learn whether a significant history exists of people not accepting judgments and not playing the game, so that when a financial ruling is made, the money is not forthcoming. If a significant difficulty exists, something will have to be done to make such judgments enforceable. If people have signed up for arbitration, they must accept the arbiter's judgment and there should be no question of their failing to pay when an award has been made. Otherwise, the case for justice would be largely lost.

There is a strong business case for making Scotland an arbitration centre. That was one of the few proposals in the Scottish National Party's manifesto with which I agreed; it remains to be seen whether, unlike many other aspects of that manifesto, it will be implemented. The cabinet secretary mentioned the proposal and he was right to say that Scotland has a good reputation, particularly in two areas. We have a financial services industry to be proud of, which is respected all over the world, not just because of Mr Young's undoubted achievements but because many of our major companies have performed well, effectively and with absolute integrity. We also have a legal system to be proud of. It has withstood the attacks in the past eight years of the previous Executive, which seemed hellbent on interfering with something that works well.

**Christine Grahame:** Does the member share my delight that, after many years of the union, the Scottish legal system remains so distinct?

**Bill Aitken:** Well, as Christine Grahame knows, I am a strong supporter of the union. The Scottish legal system, which is very distinct, has contributed to the union's strength over the years. We have a legal system to be proud of. It is internationally recognised that our legal system is perhaps the best in the world.

Given that, it is logical that Scotland could be an attractive venue for arbitration in the years ahead—the cabinet secretary is right about that. In technical and practical terms, people would be keener to settle their disputes in Scotland, where settlements are basically sensible and realistic, than to resort to courts on the other side of the pond, where the deep-pocket liability principle arises and where defenders would not have much confidence. There is a strong business case for the proposition, which could be sold internationally. That would not only have immediate financial spin-offs for our legal and financial services industries but raise Scotland's profile, which—believe it or not, cabinet secretary—we are all anxious to do, without appointing grandiose civil servants to operate from the Washington embassy. We agree with the arbitration centre proposal.

The discussion has some way to go. We will watch what is proposed with considerable interest. I am sure that the majority view—in fact, the unanimous view—of members is that we should consider the matter, support the basic principle and see what arises in the years ahead. The Conservatives will not divide the Parliament on the motion at decision time.

**The Presiding Officer:** I am sure that members will have noted that, when it comes to verbosity, Mr Aitken is a match for anybody.

09:52

**Margaret Smith (Edinburgh West) (LD):** I am known to talk at length, so perhaps this is just the debate for me. I welcome what I have no doubt will be pretty much a consensual debate, although the Government never quite gets off the hook. Last week, the Conservatives attacked the Government for not rushing to court after the Macphail judgment whereas, this week, Gavin Brown gently criticises the Government for going to court too much.

I welcome the debate, because alternative dispute resolution can have positive impacts on the country and practical benefits for those who are involved in the process. Developing a broad range of schemes is undoubtedly a positive step towards more flexible and effective conflict resolution in Scotland.

In our work as MSPs, we come into contact with several ADR approaches—from neighbour dispute mediation, which is a thorny issue, to the various ombudsman services and the workings of tribunals. Very often, when constituents complain about a public service such as the police or the national health service, the first step is mediation with that service.

The issue has been live in recent years and the European Commission has done considerable work on it. As Pauline McNeill said, the Justice 1 Committee gave evidence to the Commission on the subject. In general, we should all look to do more to ensure that the Commission takes on board the Scottish legal and parliamentary perspectives. The Scottish Court Service has also done relevant work.

The volume of disputes that are brought before the courts, the time that is taken to resolve them and—most important—the cost of reaching resolution are all increasing. Together, those increases restrict individuals' access to justice.

The issues of fairness and what works are at the heart of the matter. There is also the on-going issue of access to legal aid. I am dealing as a constituency member with a particularly harrowing case that involves the death of children. In

attempting to get civil legal aid for my constituent, I was told that only three law firms in Edinburgh currently take on civil legal aid cases. Luckily for her and me, we will be able to meet one of those firms to discuss the case, but that hardly gives a glowing view of access to modern justice in Scotland. ADR can help to reverse such trends by providing more ways for more people to find more effective resolutions to their disputes.

It is clear that ADR schemes cannot be a straight substitute for legal advice or decisions by a court, as in some cases such schemes would be highly inappropriate, or even unsafe. A point of principle or legal precedent may be at stake and a court ruling may be required. However, in many cases alternatives to the courts can be of great benefit to people who are involved in disputes, which can be traumatic. ADR schemes can be faster at achieving agreements and more cost effective than court settlements, and can often leave participants more satisfied with the outcome because they have been more directly involved in the negotiations and discussions. ADR schemes are potentially more relaxed processes and they are confidential. I will talk later about some of the new tribunals that have been set up, which are not relaxed in themselves—they, too, result in stressful situations for people.

I welcome the cabinet secretary's comments on arbitration. Modernising our arbitration system for a modern commercial world is certainly needed. It makes one proud that the Scots of previous generations, armed with their education, wandered the globe arbitrating, but that is perhaps a slightly different view of the British empire. However, we welcome the announcement on the introduction of an arbitration bill next year.

Mediation is a form of alternative dispute resolution that aims to help people or organisations that are in dispute to reach an agreement. It offers a chance for reconciliation and enables those who are involved to reach agreements above and beyond mere financial settlements or black-and-white decisions. Mediation schemes can be used to handle a wide variety of disputes, including commercial, consumer, workplace, community, housing, divorce and family disputes. I have used family mediation and certainly recommend it as a good way to achieve a child-centred and family-centred solution at a time of separation or divorce. Family mediation will not work for everyone, but it worked for my family. It has stood the test of time for us in many ways, because my ex-husband and I entered into the process in good faith. Such mediation could—and does—work for many couples.

Pauline McNeill talked about a case that Sylvia Jackson mentioned, which I remember well, as I

am sure colleagues do too. One of the key things about family mediation is that it must be a journey of the willing that both parties enter into. Most of the time, both parties enter into family mediation thinking centrally about what is best for their children. In the light of the case that Pauline McNeill mentioned and others that the Justice 1 Committee was made aware of during the passage of the Family Law (Scotland) Bill, there is not—unfortunately—always a journey of the willing in family law disputes.

Mediation also has more wide-reaching benefits. It creates savings for the justice system and in legal aid budgets, and it frees up the courts for other types of cases in which real questions of law are at stake. Those benefits represent just some of the reasons why I welcome the Scottish Government's show of support for the increased use of ADR schemes. The Government has pledged to consider changes to arrangements to allow swifter decision making and reforms to the system in order to let our sheriffs and judges focus on more serious cases, but the cabinet secretary knows that such developments cannot be effected through good will alone. The Government must make real commitments and provide tangible resources to achieve its aim.

Bill Aitken accused the previous Administration of being "hellbent" on changing the legal system. I am guilty as charged, given the relative success of the Bonomy reforms and the attendant improvements for victims and witnesses, including police witnesses, who are now on our streets instead of in our courts.

We welcome the work on civil justice that Lord Gill is currently undertaking, which the previous Executive began. I also welcome the work on reviewing sentencing that the new Government has done so far. We believe that there are other options, including community disposals, which could involve mediation and could directly involve communities and victims in decision making.

I hope that the Government will follow up on the commitment that the cabinet secretary made to me at the Justice Committee to monitor the impact of the changes relating to small claims and personal injury cases, given the concern among personal injury lawyers that the changes will lead to fewer voluntary agreements and more cases coming to court. That said, we welcome the changes relating to small claims, which are a key access-to-justice issue.

The Scottish Liberal Democrats recognise the need for the more extensive use of alternative methods of resolving disputes, but we also recognise the need for action to be taken to make that happen. In government, we provided financial support for a wide range of mediation schemes throughout Scotland, including £643,000 for the 10

local family mediation services in 2006. We also supported pilot schemes in the courts in Glasgow and Aberdeen. We tried to increase public awareness of alternatives to the courts by supporting the Scottish Mediation Network to develop not only public awareness but a much-needed quality assurance scheme to ensure that people have faith in the services that are being provided. I thank all the volunteers and everyone who works in mediation services, in law firms and the voluntary sector, for the important work that they do in that field.

Youth offending remains a major problem for all of us. We believe that there are ways in which acceptable behaviour contracts, for example, which encourage individual agreements between the parties to a dispute, or between offenders and their local communities, can resolve situations. We also support the introduction of youth justice panels that are modelled on New York and Home Office schemes in which volunteers talk to young offenders and agree tailor-made contracts that are aimed at resolving offending behaviour. Youth justice boards have also proved successful in New York, where teams of 14 to 18-year-olds meet to agree ways in which wider juvenile justice problems can be addressed.

**Bill Aitken:** Will the member provide evidence for what she has said, as it is contrary to what I have heard?

**Margaret Smith:** We do not have all the answers to the problems; rather, we are trying to say that a range of different options could be tried in some cases, probably in low-level situations. Mr Aitken knows that the Conservatives have used the New York scenario and have referred to the improvements that have been made there. We simply say to the Government that it would be worth while to look at the work that has been done there to involve young people in decision making on youth justice and settling problems. We think that involving young people in the justice system promotes responsibility and possibly prevents the alienation that often leads to antisocial behaviour.

Figures from the Department for Environment, Food and Rural Affairs show that, where mediation is used, full agreement is achieved in an average of 84 per cent of cases and no improvement is achieved in only 7 per cent of cases. Those figures clearly suggest that an expansion of community mediation would have a beneficial impact on dispute resolution in Scotland.

However, as I said at the beginning of my speech, things are not all positive. I have received feedback from concerned constituents about the workings of the new additional support for learning tribunals, which continue to result in stressful experiences for many families. Such families continue to feel that councils have access to many

more big guns than they do. Will the minister tell us when the workings of those tribunals will be reviewed to ensure that their success rates and participant satisfaction rates are monitored?

The vast majority of members in the chamber support moves to promote, support and increase the scope of ADR, but the onus is on the Scottish Government to take matters forward and to continue to resource resolution and mediation services throughout Scotland. If the Government does that, we will undoubtedly support it.

10:04

**Christine Grahame (South of Scotland) (SNP):** The lawyers come out of the woodwork at the mere mention of the phrase “alternative dispute resolution”. When I was listening to the speeches that have been made, I calculated that 14 per cent of members here are former practising solicitors, and there are other members with law degrees.

I am a former civil court lawyer and legal aid practitioner and I agree with much of what Margaret Smith said. In dealing with family and contract law and delict cases, the last place that a lawyer wants to take a client to—believe it or not—is a court.

First, the lawyer has to erase from the client’s mind the idea that they will get justice. Although they might get justice if they are lucky, what they tend to get is a result. One wants to get that result out of court if at all possible. In many cases, particularly family law cases, one must try to resolve as much as possible either by mediation, to which I will return later, or simply by negotiating with an experienced family lawyer on the other side. When dealing with money, both lawyers generally know where they will end up. Sometimes issues to do with the children cannot be resolved, parties dig their heels in and, probably against their solicitors’ advice, end up in court.

The client has to understand that, even if they are successful in court and they get an award of expenses, that will not pay their legal costs. Certain costs are not met by judicial expenses so they end up out of pocket. That puts to the side stress and the time that is sometimes squandered in litigation when matters could have been resolved much more quickly. On behalf of my former profession, I say that many lawyers try to get their clients to a resolution sooner rather than later and it is sometimes the client who makes the lawyer continue along the road to court.

Many years ago, mediation was recognised as an essential asset to family law, but it can be used in other areas too. Our language is slipping a bit between “arbitration” and “mediation” this morning, but the two terms are distinct. Arbitration is still a

litigious forum and, at the end of proceedings, a decision is imposed on one of the parties. In other words, there is a winner and a loser. Mediation is quite different—the disputing parties arrive at a mutually acceptable solution. As Margaret Smith put it so well, mediation is a “journey of the willing”. In other words, there is no winner or loser; both parties agree and perceive themselves as winners. If a resolution cannot be arrived at through mediation, I regret that the parties have to go to another forum such as a tribunal or court.

As I have told the chamber before, many years ago with my Justice 1 Committee convener’s hat on, I went to Baltimore with an esteemed group of people, among whom I must name the Lord Justice Clerk, the head of the Scottish Legal Aid Board, the Scottish Law Commission and the Sheriffs Association, and Ruth Wishart. What did I do with them on that flight to Baltimore? I will tell members now that they are gripping their seats: I went to learn about mediation in that place that Bill Aitken referred to so disparagingly as the “other side of the pond”.

I was on my way to Maryland where a large mediation network has been functioning for an extremely long time. I have become that terrible thing, not just a disciple but a convert and indeed a proselytiser. I saw in Baltimore how mediation can operate at all levels. The mediation approach was driven by an extraordinary state governor who was also head of the judiciary. I offer some examples of how it worked.

We went to a street where the children had been kicking and throwing balls and playing basketball and had damaged some cars—the usual stuff that happens in Scottish streets. The neighbours were disputing what had happened, the children were being blamed and a rammy was going on. The neighbours, youths and children were brought together to see how the situation could be resolved. It was resolved by providing the children with an area where they could play and engaging them in competitions that were assisted by several of the neighbours. The result was that cars in the street were protected and children were able to play elsewhere. That was a street-level situation.

My breath was taken away even more, however, when we went in our transportation—into which we piled every so often to see such places—to a very smart area in Baltimore and a glassy, glossy building with landscaped gardens in which deer wandered about, to be told that it was a commercial law firm. We went inside to find a whole department dedicated to mediation in large commercial contracts. We are talking about family mediation, neighbour dispute mediation and major mediation in commercial contracts when millions of pounds are at risk. They recognise in Baltimore

that they save money in the long run by reaching agreements.

I am a great believer in mediation because, as well as saving money for individuals and corporations—for which we pay at the end of the day—it saves the public purse money by sustaining a court system in which we do not need so much activity. Of course, it also saves on our legal aid bill, particularly our civil legal aid bill, which is under so much stress. I commend to the cabinet secretary mediation as distinct from arbitration. I am very happy to take him with me to Baltimore to see how mediation works. While we are on the plane—I want to go business class, please—I will ask him to consider using a term other than ADR, because it is not exactly zingy.

10:10

**Bill Butler (Glasgow Anniesland) (Lab):** I am grateful, almost beyond words, for the opportunity to take part in this morning's debate on a subject of importance to the people of Scotland. Indeed, it will be some time before I forget the kindness of the Labour business manager, Jackie Baillie, in making me an offer that I could hardly refuse and be civil.

As members have said, there is little, if anything, in the Government motion with which one could disagree. It is only common sense that we in Parliament should strive to support and expand on the variety of dispute resolution schemes that are available to the public. I doubt that anyone in the chamber would disagree with the proposition that the importance of quality and accessible advice and information are absolutely fundamental in civil justice. Of course, as Bill Aitken said, there will be cases when a formal court process is required, for example when a court's authority is necessary to recover property, to obtain recompense for injury, to prevent damaging or destructive behaviour, or to challenge the actions of a public authority. However, expensive litigation should be avoided whenever possible, as long as that does not place in jeopardy the rights of the individual citizen.

A number of options are open to the individual when confronted with sorting out complaints and legal problems. They include, as has been said, mediation, ombudsman schemes and arbitration, and they are often styled as alternative dispute resolutions of one kind or another. Such negotiation-based means of resolving disputes can offer a practicable alternative to costly, slow-moving litigation or, at the very least, they can help to identify key issues, ensure that dialogue continues and avoid positions becoming too entrenched, which is all to the good.

In the time remaining, I will focus on certain aspects of mediation and say a little about

arbitration, to which the cabinet secretary referred in his opening remarks. I am sure that he agrees that the previous justice ministerial team carried through a number of positive mediation innovations. That team sought to promote good practice in mediation and public awareness about it by working in partnership with the Scottish Mediation Network. That network was funded by the previous Executive to develop a quality assurance framework across all aspects of mediation, which was a sensible and necessary step.

I hope that the present ministerial team can assure us that other measures that Cathy Jamieson and Hugh Henry set in train will still be supported, for example the work of the Justice Department's analytical services division with the Scottish Mediation Network to develop a resilient evaluation framework and to evaluate the in-court mediation pilots that were launched in Glasgow and Aberdeen in May 2006 by the then Deputy Minister for Justice, Hugh Henry. If we are to construct mediation services that are fit for purpose and bring maximum benefit to our constituents who need them, those measures need to be developed and built on by the present Administration.

I want to say a word or two about family mediation services. In 2006, the then Justice 1 Committee—Pauline McNeill referred to its report—agreed to appoint our colleague, Mary Mulligan, as committee reporter to an inquiry that examined various aspects of the provision of family support services in Scotland, with a particular focus on the provision of adult relationship support services. In her report's conclusion, the MSP for Linlithgow raised a number of concerns, one of which centred on the then Executive's

"change in policy to postpone until 2007-08 the transfer to GAE of funding for local mediation services, and then to ring fence this funding until 2009-10."

The reporter welcomed that change of tack. Will the cabinet secretary or Mr Ewing, in summing up, assure the chamber that the present Administration will honour that decision?

The reporter was also concerned about what will happen when funding is transferred to grant-aided expenditure and how the money, which currently provides for 10 local mediation services, will be divided among the 14 regional services. I wonder whether Mr Ewing will shed some light on the present Government's attitude to that specific concern.

Finally, the reporter urged the previous Executive

"to guarantee that current budgetary allocations for local mediation services will not be reduced."

Is the cabinet secretary or his colleague Mr Ewing able to give that reassurance on behalf of the new Administration? I look forward to hearing Mr Ewing's thoughts on those matters in his summation.

In arbitration—which, as Christine Grahame quite rightly pointed out, is a specialised procedure—disputes are, by agreement between the parties involved, referred for resolution to an independent third party, known as the arbiter. In its manifesto, the Labour Party pledged to introduce an arbitration bill that would draw on the detailed review of the law that was outlined in the Dervaird report in the 1990s. I note that the SNP also pledged to develop a modern arbitration system for Scotland, so I unreservedly welcome the cabinet secretary's pledge earlier this morning to introduce a bill in spring 2008 to ensure that arbitration can be modernised. I am often accused of not being a moderniser on certain matters—of course, I remember the days when the cabinet secretary himself was no moderniser—but I am delighted to accept the need for modernisation in this area. I am sure that we all look forward to examining the bill in detail when it comes before us.

The development of a variety of properly funded and resilient dispute resolution schemes is central to the creation of a modern, flexible system of justice. Previous Governments have recognised that as the way forward, and I am sure that as long as the present Administration does not deviate from that course, it will have the whole chamber's support.

10:17

**Gavin Brown (Lothians) (Con):** Before I begin, I should declare that I am retained in the role of solicitor in Scotland, although I have not formally practised for five years. As a result, I do not stand either to gain or to lose from the introduction of ADR.

As the correct resolution method for any dispute depends entirely on the desired result and the complexity of the case in question, a range of options is needed to deal with disputes. As far as formality is concerned, at the top of the chain is, of course, court procedure. Pretty much everything below that is referred to as ADR. The most formal form of ADR is arbitration; slightly less formal is adjudication, which I will focus on in my speech; and less formal again is mediation, about which we have heard a great deal this morning. In fact, my colleague John Lamont will tell us more about what has happened with mediation south of the border. Another less formal method is negotiation.

In his opening speech, the cabinet secretary referred to the introduction of an arbitration bill,

which is to be recommended and applauded. I intervened twice in his speech. I thought that his answer to my first question was good, but his response to my second, on his view of the Scottish arbitration code, left me wanting just a little bit more. In 2000 or thereabouts, fed up with the fact that the Parliament had not yet introduced an arbitration bill, all the experts—industry and legal profession experts, surveyors, engineers and consultants—got together and produced the Scottish arbitration code. The cabinet secretary is wrong to say that it is outdated; indeed, I commend it to him as an excellent piece of work that could form the cornerstone of any arbitration bill. It is vital that we consider the code before we start the process from scratch.

Although arbitration can be an excellent course of action, I should highlight some of my reservations, as certain comments that have been made about it have been a little bit wide of the mark. It is, for example, a myth that arbitration is always cheaper. Its biggest benefit is that a man or woman of skill is brought in to decide on the technical issues in question. However, lawyers are involved for most of the time and, unlike judges, who are paid by the state, the arbiter needs to be paid by the parties involved in the dispute. Moreover, because the arbiter is not always a legal expert, he or she will, most of the time, require the help of clerks, who, as fully qualified lawyers, will also need to be paid by the parties.

Because it is confidential, arbitration can be good, for example, for parties who do not want matters to get into the public domain. It can be faster, but it can also be just as time consuming as other methods. It has its benefits, but we need to go into it with our eyes wide open.

Bill Aitken referred to certain low-value cases that take up an inordinate amount of time in the courts and cost a lot of money. It is important that we prioritise how we deal with such cases. The complexity of some low-value cases means that they must be decided in the sheriff court, but there must be some way of getting into mediation cases in which only value or quantum is under debate or discussion. As Mr Aitken was commenting on such low-value cases, I noticed his fat, juicy wallet stuffed with bank notes, and I had to wonder what he actually meant by low-value cases. However, we will skip over that question.

My main experience as a solicitor was in adjudication, which has not really been discussed this morning and which, in terms of formality, sits somewhere between mediation and arbitration. The only form of adjudication in Scotland was introduced under the Housing Grants, Construction and Regeneration Act 1996 and applies to construction contracts. After all, in the construction industry there are almost always

disputes about time, money or—most commonly—time and money.

Because they involve a web of parties, construction contracts can be pretty complex and, after much lobbying from the industry, the Westminster Government at the time—a Conservative Government, I should point out—introduced adjudication to deal with disputes. It has certainly helped the construction industry a lot. Now every party in a construction contract has a statutory right to go to adjudication. If both parties agree, the matter can go to court instead, but one party cannot veto the other's right to adjudication.

**Christine Grahame:** Did the member specialise in construction law?

**Gavin Brown:** My boss would have said that I did not attend university the day they taught law, but it could be said that I specialised in that area for a while.

The biggest benefit of adjudication is the requirement in the 1996 act for the adjudicator to reach a decision 28 days after the notice of adjudication has been lodged, although there is a provision to extend that time limit by 14 days. In 90 per cent of adjudication cases a result is delivered within 42 days, and in 60 per cent of cases within 28 days. The decision is binding, which means that the parties still have to pay up in the interim, but it is not final and can be appealed in a court of law if a mistake has been made or if, ultimately, the parties are unhappy with it. The fact that payment has to be made has been very important in an industry in which small firms can easily go to the wall if someone decides to delay payments for years and years. Now they have to cough up within a very short time of the decision being made. In considering the various methods of taking forward civil justice, we could learn a lot from the nine years' worth of positive and negative experiences with adjudication, and I commend the system to the cabinet secretary.

I will leave it to my colleague John Lamont to talk more about mediation. The Woolf reforms resulted in the civil procedure rules that tightened up mediation and made it an integral part of civil dispute resolution south of the border. I apologise to Christine Grahame, but there is no longer any need for us to go to the United States to learn about mediation. Mr Lamont, who qualified and worked south of the border, will tell us more about it. We are way behind England and Wales.

I asked the cabinet secretary my initial question because I wanted to make it clear that, in order for mediation to succeed, if we are going to follow what has happened south of the border, we need either strong judicial encouragement for it or legislative, governmental encouragement for it. One way in which the Government could take the

lead without having to pass any legislation and without any judges having to say anything would be to declare that mediation will be used as a first resort. The cabinet secretary gave a good answer when he said that it is important that the courts are still used for interim interdicts, but the Government could say that mediation should be used as a first resort.

Although I have not seen any details, I am certain that there are cases in which the Government will be involved that are just lying about in the rolls of court somewhere and are not being processed at all. Some cases will always need to go to a court of law for a final determination, but there is great scope for arbitration, adjudication and mediation.

I finish with a question that David Mundell asked when he was an MSP:

"To ask the Scottish Executive what plans it has to investigate the scope for the further use of alternative dispute resolution in the Scottish civil justice system."

The question was answered by Mr Jim Wallace:

"The Scottish Executive is interested in investigating the possibility of widening the scope for the use of alternative dispute resolution".—[*Official Report, Written Answers*, 11 January 2000; S1W-3494.]

That answer was given on 11 January 2000. Let us hope that, if the same question is asked in three years' time, we will get a slightly different answer.

10:27

**Nigel Don (North East Scotland) (SNP):** Unlike some of the more seasoned practitioners in this sphere, I do not propose to compete on length of speech. Because we have considered the subject widely, I am looking through my notes to see how I can avoid repetition. I will start with the structural issue.

Several words have been used today that I would like to pin down. It seems that the matter is as simple as A, B, C. Arbitration, A, is different from mediation, which is B for reasons that I will explain in half a moment, which is different from counselling, C. As has been pointed out, arbitration is about a voluntary agreement to put a dispute in front of an arbiter who will come to a decision that the parties will stick to. Mediation is a voluntary agreement to see whether the parties can sort out the mess. I have called that B because it happens at and after the point of breakdown. The C stands for counselling, which is a voluntary agreement to see whether the parties can sort out the mess before it gets to the point of breakdown. If I am right in saying that it is sensible to use those words in that way, I ask for consistency in the way in which we use them.



In my previous employment, I had to talk about risk, which is a correct technical term that insurers use. Sometimes we use it for hazards, sometimes we use it for probability and sometimes we use it for one multiplied by the other. In talking about risk, it is very much better not to use one of the other terms. I suggest that, in talking about arbitration, mediation and counselling—if we are happy with those terms, and I stand to be corrected—we would do well to use the terms correctly.

I also make the point that those three terms are used for the willing, whereas the courts are, by and large, for the unwilling—those who have not found another way of resolving their dispute. The courts are available for those who have reached the point of breakdown, regardless of the value in dispute. Someone could go to court over a fiver—although that would be unwise—because they had not sorted out what they were going to do with it. If they had already worked out that they needed to sort out the fiver, they could probably go through mediation. The distinction between the courts and alternatives is more to do with a willingness to think about the process than it is to do with the value in dispute.

**Christine Grahame:** I do not want to get into a legal debate, but Nigel Don may find that arbitration is sometimes a contractual obligation, meaning that if there is a dispute someone must go to arbitration. They could be described as willing at the point of contract, but they are contractually bound to go down that route.

**Nigel Don:** My point is that the person was willing at the point of contract, having thought about the matter beforehand.

I turn to family law issues, although I do not pretend to be a practitioner in the area and I will not cover issues that other members have already considered extensively. From my experience of dealing with a constituency case, I am aware that there is a real issue with cross-border jurisdiction. It may be a technical issue, but I raise it in the context of possible European mediation. I am dealing with the case of a child who was removed from Scotland to England—I hesitate to use the word “abducted”, as that would presume that the answers were known. The case has been the subject of legal proceedings north and south of the border for years, at huge expense, as members will understand. It is a classic case of something that could have been sorted out had there been a pan-European mediation process for such cases. Given the mobility of labour and people in the European Union, that may be a deficiency. I am not sure that the Scottish Government can resolve the issue instantly, but it might use its good offices to push for a resolution.

On counselling, I will pick up where I left off yesterday evening. I was at a dinner, and an experienced and eminent doctor pointed out to me that most cancer cases are admitted to accident and emergency units, because only when the patients have an acute problem do they go to hospital and find that they have an undiagnosed chronic problem. That is relevant to the issue of counselling, in particular to counselling for family issues.

We like to think that the situation was better in the good old days. I am old enough to remember when London had smog, although it was probably 30 years before I realised what it was. That goes back to the late 1950s. Were those the good old days? Probably not. However, in the aftermath of the second world war, families tended to talk to each other more—we had natural family communities and neighbours. I get the impression that, in the intervening years, such things have tended to break down, and one of the reasons that we now have more family disputes is that they are no longer easily resolved internally.

That leads me to the point on which I will end. It would be good if families that were breaking up recognised that they had a problem and could find counselling. Such services exist, but I get the impression that they do not exist as widely as they could. I am sure that if there were more family counselling services, a lot of what follows from breakdowns could be nipped in the bud. I am interested to know where the Government is thinking of going on that and, in particular, where it is going to put its funding to try to break the cycle of family break-up. I am sure that that is part of the Minister for Communities and Sport’s planning.

10:33

**James Kelly (Glasgow Rutherglen) (Lab):** Like other members, I welcome the opportunity to speak on alternative dispute resolution. When I first saw the subject in the *Business Bulletin*, it did not strike me as one of the more exciting topics for debate. However, having heard members’ speeches this morning and having looked into the matter, I recognise that ADR is important to Scotland and its communities. It has a crucial role to play and it is vital in resolving disputes. The debate presents an opportunity to highlight on-going work on ADR and to focus on potential ways forward for people in difficulty. It also lets us explore the different methods of ADR, which we should try to ensure are more widely used.

Clearly, ADR is an alternative to going to court, which is a major advantage and is attractive to people who are a bit averse to going to court and are intimidated by it. Another barrier to going to court is legal costs. ADR is attractive as an

alternative to court, because arbitration or a third party can be used to find a solution to a problem.

Some lawyers are wary of ADR—we have heard from a few learned friends during the debate. However, a strong social justice issue is involved, and ADR has an important role to play from that viewpoint. ADR can help to solve problems and resolve disputes, and can help people to win their rightful compensation. It can also protect their confidentiality.

In dealing with constituency cases, I often find that people come to my surgery feeling frustrated and upset. They come to their MSP when they have been badly treated by organisations or individuals because they feel that there is no one else they can turn to for help. ADR can provide a platform for justice in such cases and give people who feel powerless a voice.

The SNP's legislative programme, which was announced in September, was somewhat light. It could have provided a window of opportunity to introduce ADR proposals. However, I welcome the cabinet secretary's announcement that a bill will be introduced in the new year. I am sure that that is welcomed throughout the chamber.

I pay tribute to the work of citizens advice bureaux in trying to resolve disputes. They provide an invaluable service to local communities. I am fortunate in having two citizen advice bureaux in my constituency—one in Rutherglen and one in Cambuslang. The latter office, which was opened in the summer by Princess Anne, is staffed by experienced people with expertise in a range of areas, and it uses the latest information technology to provide an important service to local people by advising on disputes and providing guidance on ADR.

Recently, the Scottish Public Services Ombudsman acknowledged that health is one of the biggest areas for complaints. That is mirrored in some of my surgery cases. Where possible, it is important to try to resolve such cases at a lower level—at the general practitioner level. GP practices do important work in that regard.

I visited a GP practice recently that has a mature attitude to complaints. When someone makes a complaint, not only is the practice not defensive about it, but the complaint is investigated and the practice tries to learn from the experience. That is an example of good practice in the complaints process.

ADR arbitration can also be used to address housing issues. For example, there are many neighbour disputes about harassment and noise. I am sure that many members get such cases at their surgeries. Many councils use mediation in such cases, which plays an important role. It is

important to stand up for the victims and ensure that justice is done.

In my constituency, there is an on-going housing dispute for which mediation is important. Residents of south Toryglen have an issue regarding repairs to the external fabric and roofs of buildings that were promised at the time of stock transfer. The repairs have not been carried out because of the lack of funding that is available to Thistle Housing Association.

The Toryglen home owners group feels aggrieved at the role that Communities Scotland—which is soon to be abolished—has played in the situation, and has taken its case to the Scottish Public Services Ombudsman. It is a serious matter, because housing in Toryglen has been underfunded. I tried to mediate in the dispute by requesting that the Minister for Communities and Sport, who has responsibility for housing, meet me and Thistle Housing Association. The request was declined, but I will continue to press the matter.

I have enjoyed the opportunity to take part in the debate, which has helped to raise the profile of alternative dispute resolution. ADR provides a way forward for people in communities throughout Scotland who are looking for a voice. I look forward to the proposals that the new Administration will introduce in the new year.

10:40

**John Wilson (Central Scotland) (SNP):** It is a great pleasure to speak in the debate. However, at this stage, we tend to find that other members have made many of the comments that we intended to make.

I want to return, however, to Gavin Brown's point about David Mundell's written question to the then Minister for Justice, Jim Wallace, in December 1999. Gavin Brown quoted only part of the minister's written answer in January 2000. The minister also stated:

"Research is currently being undertaken on the effectiveness of the mediation services provided as part of the In-Court Adviser service".—[*Official Report, Written Answers*, 11 January 2000; S1W-3494.]

Almost eight years later, the new Scottish Government has key principles and priorities in connection with its declared objective of creating safer and stronger communities. As a way of significantly reducing the need to go through the court process, the Administration has placed an emphasis on the introduction of dispute resolution processes and the development of a modern system of arbitration in Scotland, which is highlighted in the document "Principles and Priorities: The Government's Programme for Scotland".

The lasting benefit of alternative dispute resolution is that it greatly reduces both sides' expenses in a dispute. Pursuing grievances through the courts is burdensome; neither side is the winner because going to court is an expensive and costly mechanism for all parties.

The need to save the public pound is also an important point that any Government must address. Preventing unnecessary expense is a saving for us all as taxpayers. The requirement for public bodies to save money, particularly when they may be involved in litigation, should be of paramount importance. The opportunity cost of unnecessary litigation is that money is denied to vital public services such as hospitals, schools and community facilities.

Alternative dispute resolution is not an unfamiliar process to members who have a background in pursuing economic and social justice. We are all well aware of the need to develop practical solutions for everyday problems. The concept of ADR is well founded in good practice in the modern workplace, as Pauline McNeill said in relation to the Advisory, Conciliation and Arbitration Service. There is good practice in arbitration in industrial relations, but there should be more arbitration in commercial disputes.

A number of years ago, ACAS found that, in certain disputes for which arbitration was required, employers were not applying employment legislation correctly. ACAS believed that the employers needed training and so referred individual employers to lawyers who specialised in employment law. The advice was that the employers should get that training because they needed it.

Over a number of years, ACAS has developed its own training services. It must be commended for the level and range of training that it has provided to employers, which has helped to prevent the types of dispute that previously took place because employers were unaware of their responsibilities under employment legislation. ACAS provides an example of good practice in taking things forward through not only arbitration, but the delivery of training.

We should focus particularly on how ACAS has acted as a champion in helping to sustain a motivated workforce. It has shown the kind of leadership that is particularly relevant in ADR. ACAS has achieved significant advances in marketing its model workplace as a vital tool, which gives employers and employees practical, effective assistance. Such diagnostic models and examples of best practice can be used to inform the Scottish Government's direction of travel on mediation services.

There is a requirement to resolve disputes. Less than 50 per cent of the people whose disputes

were resolved through the courts or tribunals as a last resort said that they had been well served by the process, whereas 70 per cent of people who had resolved their problem by agreement said that they had achieved or partially achieved their objective.

Research into ADR continues, but take-up and use of ADR vary and the old adage about having one's day in court seems to persist. We should focus on work on the key principles behind the establishment of an ombudsman. In essence, appropriately qualified third parties should assist people to resolve their problems without recourse to the courts. Research that the previous Scottish Executive and the Scottish Consumer Council undertook highlighted the need for the civil courts review that is going on under the chairmanship of the Lord Justice Clerk, Lord Gill, in the context of the promotion of dispute resolution at an early stage without recourse to the courts.

The booklet, "Resolving Disputes Without Going to Court", which was published in November 2006, noted that people need to agree that ADR can produce the result that they want. As the booklet says, if the priority of a person who has been injured during medical treatment is compensation rather than redress, they are unlikely to get the outcome that they seek through the Scottish Public Services Ombudsman. That might explain the situation that Andy Kerr described in his response to a written question in 2006, in which he said:

"The number of cases alleging medical negligence against NHSScotland put forward by the Central Legal Office for alternative dispute resolution, including mediation, in each year since 1999-2000 is seven."

The response continued:

"Of these cases, none achieved a satisfactory conclusion through the use of alternative dispute resolution."—[*Official Report, Written Answers*, 19 September 2006; S2W-28243.]

It would be remiss of me not to note that there is resistance to ADR throughout the legal fraternity and society at large. I urge members to support the cabinet secretary's motion, and I ask the cabinet secretary urgently to progress the establishment of ADR schemes in Scotland, to address the gap in the system.

10:47

**George Foulkes (Lothians) (Lab):** Like all my colleagues, I have been looking forward to this debate with keen anticipation. I sympathise with my old friend Bill Aitken—a legend of the old Glasgow borough court. I think that the debate might have been included in today's business programme to fill up time, given the almost complete absence of a Government legislative

programme. I also sympathise with John Wilson. At this stage in the debate, what is there left to say? Everything has been said, as a colleague put it, although not everyone has yet said it. I will try to say something different.

I particularly welcome the proposal to make Edinburgh a world-class centre for arbitration in cross-border disputes, which would confirm the city's leading role not just in Europe but in the world. Edinburgh is Europe's fourth largest financial centre, and huge international conferences are held here. I remember attending the Commonwealth heads of Government meeting here in 1997, for which there was a huge policing requirement. Edinburgh's leading role underlines its need to be granted capital city status. The extra cost of policing of infrastructure needs to be considered. I pay tribute to Margo MacDonald, who has led the campaign for capital city status. Such recognition for Edinburgh was supported by Kenny MacAskill and Fiona Hyslop when they were in opposition, so a third of the Cabinet is behind the campaign. That is nearly as many people as there are Hearts supporters in the Cabinet—I was looking forward to saying that. I hope that we can expect action.

My only concern about a debate on alternative dispute resolution in the Parliament arises from the fact that some people in the Government seem to be courting dispute with Westminster and Whitehall. They should be careful about doing that. John Curtice implies that courting dispute with Whitehall is standing up for Scotland and has been useful for the current Scottish Administration. I agree that that can be the case when disputes are justified, but unjustified disputes do harm to the Government and to the Parliament.

I thought that Nicol Stephen and the First Minister might need alternative dispute resolution the other day, when we found out that el presidente had sent letters to 189 heads of Government, including at least four dictators—although even I can work out that four is not a majority of 189. I am looking forward to the replies that el presidente receives. Some of his correspondents might offer to visit him in Edinburgh. We would need an awful lot more police if that happened.

A great advantage of settling criminal cases out of court is that there is no need for a police presence in court day after day, which takes up valuable time. The police officers who would have been in court can be—I use one of the three Rs—redeployed on the beat. It is a pity that the Cabinet Secretary for Justice is not in the chamber. He described the retention of the police as keeping the “wise old owls”, whereas recruitment was about bringing in “eager new beavers”. We will hold him and the Scottish Government to their

promise to provide 1,000 new policemen, delivered through recruitment, not retention or redeployment.

**Keith Brown (Ochil) (SNP):** I remind the member that we are debating alternative dispute resolution. It would be useful to hear his thoughts on that.

**George Foulkes:** There is no vacancy for a Deputy Presiding Officer, but if there were, I am sure that the member would be a good candidate, although not as good as the Deputy Presiding Officers that we currently have.

I sincerely welcome proposals for alternative dispute resolution if it means fewer lawyers—unless it means that there will be more lawyers in the Parliament, of course.

Marriage guidance has been extremely useful for couples in dispute. ACAS is useful in industrial disputes, which have not been mentioned—*[Interruption.]* I am being told that the matter was mentioned—I am sorry; I did not hear that. We need more work on disputes over land and property, wills and a range of other matters. There should be more mediation—I misread that in my papers as “meditation”, which is useful, but not as useful as mediation, which I certainly support. I understand that the Presiding Officer will mediate later today, when the draw takes place for the semi-final of the CIS cup. I hope that he will produce a solution that is acceptable not just to half the Cabinet but to me.

10:53

**Stuart McMillan (West of Scotland) (SNP):** Last night, I told two friends that I would be speaking in this debate. They gave me rather different advice on alternative dispute resolution. One friend's advice, which might work in some but not all instances, was, “Get the person to sit down with a mediator. They should take three sheets of paper: one for a list of things they want; one for a list of things they don't want; and one for items from both lists on which there's a possibility of finding middle ground.” The second friend's advice was a wee bit simpler. He said, “Why not just take a big piece of wood with a nail in it and hammer people?” When I questioned whether that was a metaphor for the approach that the Westminster Government used when introducing its housing stock transfer policy, that part of the conversation soon ended and we moved on to something else.

I certainly do not advocate the stick-and-nail approach and I am not sure that the three-sheets-of-paper approach would have great success, either. However, methods exist that can be used, particularly with neighbour and community issues. As has been discussed, mediation is one method that can be used as an alternative method of

dispute resolution. It can be used for a variety of problems that affect people, such as arguments with neighbours, antisocial behaviour and arguments in the family home. I will focus on disputes with neighbours. Every member will have cases that involve antisocial behaviour or complaints about one person's actions that have a negative effect on their neighbours' lives. The ideal solution would be a simple knock on the door and a friendly chat about the issue, which would, one hopes, sort out the problem. Unfortunately, times have changed and confrontation may well be the result of that type of action. No one wants confrontation, particularly with a neighbour, so other methods must be examined. Furthermore, the courts and legal action must be the last resort in resolution, as that process can be protracted, time consuming and costly.

Community and neighbour mediation is a way of resolving disputes between those who have issues. It operates with trained mediators who help both parties come to an agreement about the problem at hand and, thankfully, it has a high success rate of about 90 per cent. An independent mediator is present to facilitate the process of the two parties reaching an outcome. If a binding agreement is formed, the courts can, if necessary, ensure that a certain course of action is followed. However, people tend to comply with such agreements and thus do not need the courts at all.

If members looked at the advice on websites such as Shelter Scotland's, they could be forgiven for thinking that much of the information is common sense, such as the suggestions that people should introduce themselves to their neighbours when they move into a new house or ensure that they look after any pets properly, keep an eye on children and do not play music at excessive levels. The vast majority of the population live their lives using that commonsense approach. However, it takes only one person or family to make others' lives unpleasant, which is when mediation can play a part.

Research that the previous Executive undertook highlighted a few points. The largest category of disputes concerns complaints about noise from music systems, televisions and laminate flooring. The second major cause for complaint is the behaviour of children, including noise, arguing, littering, fighting and vandalism. The main referral route for most participants is via the local housing officer, who is often aware of the difficulties between neighbours. The research also showed that 61 per cent of cases that use the mediation service record a positive outcome, in that either the problem is resolved or the situation improves in some way and that, in 28 per cent of cases, agreement is reached on all the issues. People's view of the process is generally positive, although several participants stated that it was more

traumatic than expected. Although the research showed that the outcome is unsatisfactory in 39 per cent of cases, it showed that mediation is a useful and successful method of resolving disputes.

From a financial perspective, mediation is extremely cheap compared with going through the courts. The same Executive research found that the average cost of handling a case was £121, which rose to £204 when face-to-face mediation was involved. The average cost of the legal cases that were examined was £3,546. The average cost of introducing antisocial behaviour orders was approximately £2,250 and for repossession actions it was £9,000. The research shows that mediation has a valuable role in sorting out disputes and that it is effective in keeping people away from the expensive and time-consuming legal system, as other members, including Bill Butler, have mentioned. That can only be good for those who are involved in disputes and for the legal system, which is already clogged up.

I was totally unaware that we have just had Scottish mediation week, which ran from 15 to 19 October. I am sure that, with greater publicity of that week and of debates such as this, politicians with no legal background and the public will have greater awareness of mediation and other forms of alternative dispute resolution, such as conciliation, ombudsmen, arbitration and adjudication, to name just some.

10:59

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** Most members who have spoken in the debate have prefaced their speeches either by making an excuse about why they are in the chamber or by saying why they have a particular interest in the subject. Like other members, I am interested in justice being done and in my constituents having access to justice, but the reason why I am speaking in the debate was pressure from a friend. That friend was talking to me about part of Cumbernauld coming ninth this week in a list of nominations for Scotland's most outstanding places. Members will know that Pauline McNeill is from Cumbernauld—wickedly, she used that excuse to hook me into speaking in the debate.

Most of us are fortunate in that we will not have to deal with going to a court or tribunal to defend a case or to seek for action to be taken and so we will not have to consider the implications for our personal lives. Thank goodness for that, as the prospect of going to court can be stressful and puts many people off, even when they have a sound and just case. I am sure that people are put off by the formality of the situation and by the costs. I am pleased to support the Cabinet

Secretary for Justice in his efforts to continue the previous Executive's work on developing a broad range of dispute resolution schemes.

As we know, many disputes can and should be resolved without the need to resort to a court or tribunal. Members will agree that a modern civil justice system needs a full range of options that can be used to solve problems. We should have a system that is available to anyone who needs it and in which access is not dependent on whether people have the bottle to go to court or on whether it is financially possible for them to pursue a case through the courts. Rich people do not need support and very poor people can apply for legal aid but, for many people in the middle, the costs are prohibitive.

As previous speakers have pointed out, arbitration and mediation can work in a range of disputes, including family relationship and employment disputes and disagreement between neighbours, to name but a few. Some members have pointed out the differences between arbitration and mediation but, regardless of what we call the alternative systems of resolving disputes, interventions that involve parties getting round the table have been shown to work in civil cases.

A Scottish Mediation Network publication states that, through mediation,

"everyone gets a fair chance to be heard. Mediation provides an opportunity for you to say what's important to you and hear the other person's perspectives. The agenda and outcome are controlled by the parties. The mediation approach is problem-solving rather than adversarial and so this often results in creative options for settlement. In mediation, you speak for yourself and make your own decisions."

Interestingly, it continues:

"Mediations are easily arranged. It usually only takes a few phone calls for a session to be set up at a neutral venue."

That is the way in which we should progress. Justice should be seen to be fair and to involve all parties on a level playing field, without one or other being fearful of the situation.

I am keen to have a new statutory mediation framework in Scotland, not just for civil cases but for commercial and enterprise disputes, which have been mentioned. I am sure that Edinburgh or Glasgow would be ideal locations to cater for that need.

In the Labour Party's election manifesto, we stated that we wanted to improve the small claims procedures and to introduce an arbitration bill. I am sorry that the cabinet secretary is not here to hear what I am about to say, although I am sure Mr Ewing will pass it on to him. If the cabinet secretary intends to progress along those lines, I

am sure that many members will be willing to sit round the table and scrutinise his proposals, and to help provide a system that can be of benefit to any member of the population in Scotland who might feel the need to use it.

11:05

**Mike Pringle (Edinburgh South) (LD):** I welcome the motion. George Foulkes started by asking what was left to say, although he referred to a great result in Glasgow last night, which all Hearts supporters will be celebrating today, and he informs me that the First Minister will be making the draw later today. As one of the chosen people—Hearts supporters—I urge the First Minister to ensure that we avoid Rangers in the next round.

As we have always indicated, the Lib Dems are happy to support the Executive when it delivers a positive proposal for the betterment of Scotland's governance. A legal route of discussion and mediation is an empowering resource for Scotland's public, with the potential to prevent and repair the damage that can so easily be caused by disputes. However, as Nigel Don said, mediation is only for the willing. The challenge is to persuade more to be willing to take the route of arbitration. ADR has both the proper respect for the rights of the individual that must be inherent in any valid legal system and the flexibility to offer potential solutions outwith the comparably costly and time-consuming court set-up. I am sure that in time it will prove an invaluable addition to our justice system, as well as a useful resource for communities.

I was interested in Gavin Brown's reference to adjudication in the construction industry, where the process normally takes only 28 days, and sometimes an extra 14 days. If only other forms of ADR were resolved in such a short timescale. That is a real challenge for the Government.

ADR is a step forward, but it must be stressed that it is not an end in itself. As my colleague Margaret Smith has described, it will take more than warm words to tackle the problems faced by Scotland's justice system. Despite today's motion, I question whether the Parliament has yet succeeded in addressing the issue at hand: the exclusion of the local community from the justice system in Scotland, which puts undue pressure on our courts and prisons.

Pauline McNeill put her finger on one of the main problems—the cost of civil law. Margaret Smith and others referred to that as well. Margaret Smith said that only three law firms in Edinburgh do civil legal aid work. People do not have much choice, do they? Pauline McNeill referred to the evidence that we received for the Family Law

(Scotland) Bill on the cost to fathers who are trying to access their children—it was more than £50,000. Bill Aitken asked how we can enforce judgments by arbitration. Of course, if one party decides to rebel, other parties have little recourse but to end up in court.

At the beginning of his administration, Mr MacAskill told us that the Scottish National Party would continue the previous Executive's good work in being tough on crime and tough on the causes of crime—a succinct little soundbite, although perhaps lacking its original impact second time round. How it was put notwithstanding, Mr MacAskill's party promised an expansion of community sentencing to free up funding for rehabilitation. Like other members, I look forward to seeing the report on community sentencing some time in the summer of next year.

That is further acknowledgement of what we in the Liberal Democrats have always maintained: short-term prison sentences are not working and there is a desperate need for tougher community sentencing and the enactment of positive, community-centred justice policy. The facts speak for themselves—60 per cent of Scotland's criminals reoffend, yet just £1 invested in proper rehabilitation can save up to £3 in enforcement. Furthermore, mediation works, achieving full agreement in 84 per cent of cases. I endorse what the cabinet secretary said. It is much better to come to an agreement as a resolution out of court. As Margaret Smith and others said, it frees up court time to concentrate on the priorities for the court system.

If proven successful, the expansion of ADR should serve as a demonstration to the Parliament of what can be done through the implementation of positive policy. We will not reduce Scotland's court backlog by demonising young people with an endless supply of ASBOs or through summary short-term sentencing. What is required instead is a concerted effort to bring the justice system back in touch with the community, along with a wider capacity for mediation. We can all learn from the experiences of others. Christine Grahame talked about her visit to Baltimore, and the mediation schemes that were being put in place there. I very much look forward to the cabinet secretary's report on his return from his trip to Baltimore with Christine Grahame.

**Christine Grahame:** I am lodging a motion—sign it.

**Mike Pringle:** I thought that the member might do that—I will support her in that.

The tools required for progress are at our disposal. They include the introduction of youth justice panels, whereby volunteers can talk to young offenders and agree a tailor-made contract

to resolve their behaviour; the continued expansion of other mediation initiatives, such as acceptable behaviour contracts, which have been going from strength to strength in recent years; and further extensive investment in the rehabilitation of prisoners, to help them to learn skills for work and to break the cycle of reoffending.

That is not to imply that all we have to do is to enact a series of quick fixes. There is a lot of work still to be done, and I look forward to the conclusions of the report on community sentencing that I mentioned earlier. However, we have been down the road of strict enforcement and zero tolerance before. It was never successful before 1999, and this devolved Government should not repeat old mistakes. In other parts of the UK, more positive policies are beginning to bear fruit. I have noted previously in the chamber the example of Lib Dem-controlled Islington. Former Home Secretary Charles Clarke has described acceptable behaviour contracts there as being a far better option than ASBOs.

The expansion of ADR can be seen as a step forward, albeit just the first step. If the Parliament is to reduce crime levels effectively and end the current cycle of reoffending that is the primary source of pressure on our courts, it must take this opportunity genuinely to involve all our local communities and other agencies in both policing and the justice system. I heartily support the principles of the motion, but it is only through the application of further positive policy that Scotland's justice system will move forward.

11:13

**John Lamont (Roxburgh and Berwickshire) (Con):** As Gavin Brown did, I start by declaring a slight interest in that, as a former practising solicitor, I am still on the roll for England and Wales. I started life as a solicitor at Freshfields Bruckhaus Deringer in London before I graduated to Brodies in Edinburgh. Both were tremendous firms for court work—I am probably here as a result of that.

**Christine Grahame:** A sinner who repenteth.

**John Lamont:** Indeed.

The debate has reminded me of all the reasons why I was not a court lawyer. I focused on commercial property, which in my opinion was much more interesting.

Alternative dispute resolution such as mediation, conciliation, arbitration and the use of ombudsmen can be a more cost-effective, more rapid and less stressful form of civil justice. It can resolve minor conflicts—especially relating to family problems—personal injury cases, problems at work and

disagreements between companies and trade associations. One important point, which has not really come through in the debate, is that such schemes are not intended to take the function of the court system. However, use of the schemes as an initial means of sorting out differences should be encouraged. Another important point is that this is about civil justice and not criminal justice. That is certainly my understanding of the area at which the motion is aimed.

In November 2005, the Scottish Consumer Council investigated the civil justice system in Scotland. Its findings became the foundation for the civil justice reform debate in the Scottish Parliament in April 2006. I am pleased to hear that the cabinet secretary has restated his belief in Scotland's international reputation in finance and law. That reputation places Scotland in an ideal position to offer world-class arbitration services to its citizens.

My party has always supported the view that some issues might be better resolved by mediation or ADR without resorting to court. In such cases, skilled advice will still be required, but a court may not necessarily be the appropriate forum.

Alternative dispute resolution offers various methods of mediation and negotiation as a primary level of reconciling differences. We have heard about a number of them during today's debate. Alternative dispute resolution can, depending on the situations of the parties to the dispute, have various advantages over going to court, including greater flexibility, faster solving of problems and less stress, and it can potentially cost less.

However, it is also important to remember and emphasise that alternative dispute resolution schemes are not meant to replace the courts in all cases. Whether a case should attempt to settle via an alternative dispute resolution mechanism is completely dependent on the result that the parties to it want to achieve, the importance of the dilemma, how a party wants to go about solving it and how willing the other party is to seek an agreement.

The desired outcome is often what drives a party to pursue ADR rather than the traditional court route. If the party wanted an order that something be done or stopped, compensation or a judgment from a court about what is right and who is wrong, they would take the matter through the civil courts system. If what is wanted, however, is a result such as a change in how a person or organisation behaves, a promise that a person or company will not do something, an apology or explanation, a mistake to be corrected, money that is owed to be paid or something to be fixed or replaced, parties will benefit from ADR.

An all-encompassing review of Scotland's civil courts system is under way—we can expect it to report in 2009. Although I do not suggest that we copy wholesale the recent reforms to the civil courts system in England following Lord Woolf's recommendations, I am pleased that the cabinet secretary has said that the Government is willing at least to consider those reforms, about which I know a little. Lord Woolf's approach to reform in England and Wales was to encourage early settlement of disputes through a combination of pre-action protocols, active case management by the courts and cost penalties for parties who unreasonably refused attempts to negotiate or to consider ADR. Evidence indicates that the Woolf reforms are working to the extent that pre-action protocols are promoting settlement before applications are made to court, most cases are being heard earlier and fewer cases are settling at the door of the court. In fact, most cases are now settled without a hearing ever taking place. However, costs have increased or have at least been front-loaded. In particular, costs are clearly higher for the parties involved in cases in which mediation has been attempted but agreement has not been reached.

Despite the encouragement of pre-action protocols, civil procedure rules and the funding code, the use of ADR in England has not increased as much as was anticipated. The voluntary pilot mediation scheme at central London county court had a take-up rate of around only 4 per cent before 1999. Between 1999 and 2003, when the effects of the Woolf reforms were beginning to be felt, there was an increase in the take-up rate for the scheme but a decrease in the settlement rates from 62 per cent to 40 per cent. It has been suggested that the Woolf reforms have led parties to mediate to avoid the cost penalties and to appear to co-operate with judicial direction but be half-hearted in their attempts to negotiate settlements. The reasons that are given by lawyers and parties involved support that theory.

The Scottish Conservatives support the view that there are methods to resolve disputes that involve the use of skilled advice but not necessarily in a court environment. We would be considerably interested if the Scottish Government were to extend the system of alternative dispute resolution schemes to cover commercial matters. People who are confronted with an issue on which they need advice should be able to access that advice as locally as possible. One method of ensuring such local access is to provide advice through the CABx, which advise on a range of topics, such as financial problems, family disputes, individual guidance and protecting consumers against incompetence by companies and other groups.



The Scottish Conservatives believe that what is most important is improvement in delivery of civil justice in Scotland. It should be evident beyond doubt how any changes that are made to the justice system will better serve the consumer.

Thank you, Presiding Officer. I am sorry that I have not filled up more of the time, but I have done my best.

**The Deputy Presiding Officer (Alasdair Morgan):** No—you did just what I was planning on.

11:20

**Paul Martin (Glasgow Springburn) (Lab):** We should recognise that there have been a number of historic moments in Parliament this morning. Hearts supporters have something to sing about following the Celtic and Hearts game last night. I understand that it is the first time in Parliament's history that that has been the case. Moreover, Bill Butler has converted to being a new Labour moderniser—another conversion and another welcome aspect of the debate.

**Bill Butler:** I ask Paul Martin to withdraw that comment, because I do not recognise a party called "new Labour". I believe that I am a member of the Labour Party, as is he.

**Paul Martin:** I take that as read. I am sure that Peter Mandelson will welcome that qualification.

I also welcome the fact that ministers have amplified their support for alternative dispute resolution. Fergus Ewing and Kenny MacAskill are not well known for being involved in the arts of meditation, conciliation and arbitration, but we welcome their support all the same.

James Kelly referred to the number of surgeries that he has held as an elected representative. Those of us who have been elected members for a number of years will have had a number of disputes brought before us in which conciliation and alternative dispute resolution would have been the way forward. I remember disputes about council house sales from when I was a councillor. Members of the public wanted to settle disputes about land allocation, and that case was made on a number of occasions. I have also dealt with a number of cases that involve property factors. There are opportunities to ensure resolution much earlier in such cases.

The Labour Party would welcome clarification from the minister on how ADR will be promoted. That is important. Christine Grahame made a point well when she asked what the public understand by the term. How many of us had to do a Google search on it last night for our speeches? We can see from that that the public would experience difficulties throughout the country.

It is also recognised that provision of the different forms of mediation throughout the country is patchy. I had an offline discussion about that with Charlie Gordon, who made the point that the cost is sometimes prohibitive. In the Glasgow Housing Association example, it is £180 per day. The Government will have to provide additional funding to ensure that such disputes can be resolved.

The public would also be surprised to learn that there are opportunities for such arbitration to be legally binding—public information is required on that. Bill Aitken made a powerful point about the need to ensure that people who use alternative dispute resolution comply with the agreements that are reached at the conclusion of the process. It would be helpful to hear evidence on the percentage of parties who comply with such arrangements and on whether there are repeat offenders in respect of non-compliance.

James Kelly made a very good point about citizens advice bureaux and law centres throughout Scotland, which fulfil a valuable role in ensuring that our constituents are aware of the options that are available to them. Many CABx and law centres are undervalued, as is shown by the funding that has been made available to them. If we are serious about providing opportunities for alternative dispute resolution, we must ensure that they are given additional funding for that purpose.

The cabinet secretary said that he will bring forward proposals for a dispute resolution centre. I would welcome clarity about where the centre will be located and when it will be created. Perhaps Fergus Ewing can give us that information when he sums up.

A number of academic reports have stated that there is confusion about what is meant by ADR—a number of members made that point today. We would welcome leadership from the Scottish Government in providing clarity on the matter. There have been many debates and academic reports on the issue, but we need clarity and guidance.

The cabinet secretary would not expect to reach the end of the debate without hearing Labour members make the case for additional funding. Often, members of the public will not enter mediation if they believe that the costs will be prohibitive. I mentioned that in relation to GHA. Complainants will not propose mediation if they believe that they will be financially penalised as a result. We have to be clear that, in respect of the complainant, there are opportunities for costs to be avoided.

I understand that the matter is complex and that, often, complainants do not want to bring matters to conclusion through mediation. I have dealt with a

number of constituents who were determined to have their day in court. That was how they wanted to make their case, and mediation was not an option for them. They were clear that going to court would give them an opportunity to amplify their concerns. The matter is complex, but we need a framework that provides opportunities for mediation. Pauline McNeill made the point powerfully that there has to be a way of enforcing the process if we want to ensure that people enter it.

In conclusion, there has been an unprecedented level of consensual debate this morning, except on Hearts football club. I cannot remember a debate with the Scottish Government in which there has been so much consensus. It means that the cabinet secretary and the minister do not have to come back to Parliament on the matter until they have specific proposals. I hope that, from today's debate, they understand what we want. We look forward to hearing their proposals. The debate is not the most exciting debate that we will have, but it is important to people who are involved in disputes. As James Kelly and others have said, it is also important for organisations such as Citizens Advice Scotland, which deal with cases at the front line and which require clarity on the matter as well.

11:28

**The Minister for Community Safety (Fergus Ewing):** Although I warmly congratulate Hearts on their success, I am struggling with the unaccountable exit from the competition of Inverness Caledonian Thistle.

That aside, I welcome members' contributions to the debate. The motion has received broad support. We recognise the need to develop a broad range of appropriate dispute resolution schemes as alternatives to going to court. We accept that such schemes can offer flexibility, quicker resolution, less stress and reduced expense for citizens.

Recently, the Cabinet Secretary for Justice and I had the opportunity to meet a number of figures who are active in promoting the case for Scotland to become recognised throughout the world as offering top-quality forms of alternative dispute resolution. I noticed that present today in the gallery were John Campbell QC—who, we remember, helped us through the Fraser inquiry, which we might loosely say was a form of dispute resolution—and Jane Irvine, the Scottish Legal Services Ombudsman. In addition, I met Brandon Malone and representatives of the Chartered Institute of Arbitrators, and the cabinet secretary met other distinguished lawyers who are determined to promote Scotland, with its own legal system, as a centre of excellence throughout the

world. We want to promote Scotland not only as a place where people can do business easily but as a place where business disputes can be resolved using the high-quality legal minds, talents and experience that we have.

I make it clear that the Government, in some respects continuing the work that we inherited, wishes to take forward the process of reform. To tackle Paul Martin's point about the establishment of a dispute resolution centre, we argue that the first step is to reform the law. Until that is done, it would be premature to establish a centre. For avoidance of doubt, I state that we plan to introduce a draft bill for consultation. Today's debate has given us some useful pointers to the possible content of the bill.

**Pauline McNeill:** I thought that, in the spirit of consensus, I would intervene and use up, perhaps, 20 seconds of the long time that is available to the minister.

On a serious point, I am glad that the minister clarified that the Government will introduce a draft bill. We welcome that. I think that we all agree that the law on the matter is pretty outdated, given that it is contained in an act from the 1800s or something. I know that Lord Dervaird has done some work on the matter over the years. Will the minister tell us, broadly, in what ways he intends to modernise the legislation? What changes will attract companies to come to Scotland and use our framework rather than use another country's framework?

**Fergus Ewing:** I say to Pauline McNeill that I am actually not short of material. Like Bob Hope, I have plenty of it, although not all of it should necessarily be aired in public.

In answer to Pauline McNeill's question, I say that we think that the draft bill that Lord Dervaird produced is a useful model on which to base our proposals.

In response to Gavin Brown's point, I confirm that important work is being done on development of the code. The code needs to be improved to deal with certain problematic aspects. It is not being used to the fullest extent. We understand that the work, which is being done by the Chartered Institute of Arbitrators, will be completed soon—possibly this month. It will pave the way for us to move forward with draft legislation based on Lord Dervaird's proposals. As the cabinet secretary pointed out, some of the law on the matter dates back to 1695, so the case for modernisation is robust.

Our manifesto contained a commitment to work with the legal professions towards the establishment in Scotland of an international centre for arbitration. However, a centre that offers a range of methods of alternative dispute

resolution might be a better option. That option is being investigated by officials. Numerous members, including Lord Foulkes, who is not here—perhaps he has gone to another place—mentioned the matter. Plainly, we wish a centre to be established. The idea has many benefits. There would be fees for use of the centre, fees for the arbitrators, legal fees for the legal practitioners, and spin-off benefits in that people who would come to Scotland would use hotels and other facilities. No decision has been made on the centre's location, but I gather that Edinburgh has been mentioned as making a pitch for it, although other candidates are free to come forward and make their cases.

The establishment of a centre would also provide a focus for the take-up of ADR, which is promoted by a wide variety of sources including CABx, lawyers, various people in public services, councils and their service points, and even MSPs.

The other day, I discovered somewhat to my surprise that I am about to take part in my 700<sup>th</sup> constituency surgery. Much of the work that MSPs do is in trying to conciliate, mediate and find solutions—we provide a sympathetic ear but we also try to resolve complaints that can often be extremely taxing and challenging.

There is a great deal of support for ADR, and many members have mentioned different aspects of it. Many of the most interesting contributions have come from the non-learned friends. Stuart McMillan was right to highlight that mediation can be far less expensive than court action or, indeed, ASBOs. He gave us some useful statistical information to prove his point.

We have also heard about the application of ADR to many circumstances, including family mediation. Let me make it clear that, at present, sheriff court rules entitle a sheriff at any stage of an action involving parental rights and children to refer a case to mediation. That is extremely important, and I understand that the Sheriff Court Rules Council has agreed that that principle—namely, reference to mediation—should be extended beyond family actions.

John Wilson mentioned medical negligence cases. Those are some of the most taxing and troubling cases that will concern any constituent. In them, they feel alone, vulnerable and as if they are in a David and Goliath challenge.

I should mention that every local authority must make available independent mediation for additional support for learning disputes under the Education (Additional Support for Learning) (Scotland) Act 2004. My experience is that there are few more challenged people than parents who are struggling to fight for justice for children who have special needs. It is an unequal and difficult

struggle. If there is anything we can do to help them to feel that they are not in some sort of ghastly Kafkaesque plot, we should do so.

**Margaret Smith:** The minister might recall that I mentioned concerned parents. Will he assure us that the Government will monitor and review parental satisfaction and how the tribunals work, possibly after they have had a chance to bed in for a couple of years? The reports that members are getting about them are at best mixed.

**Fergus Ewing:** That is a useful point. I was going to answer Margaret Smith's earlier comments by pointing out, in relation to supervision of tribunals, that the new Scottish committee of the Administrative Justice and Tribunals Council has been set up under the Tribunals, Courts and Enforcement Act 2007. It has the power to submit a report to Parliament if it has concerns about how devolved tribunals operate.

Bill Aitken spoke about the enforceability of decrees arbitral. Of course, it is a facet of arbitration that the parties voluntarily agree to it and consequently deny themselves recourse to other forms of resolution. I understand that the parties normally enter into a contract to be bound by the outcome of the arbitration. In that respect, they agree that arbitration should be binding. However, we are undertaking research to ascertain whether there have been problems with enforcement, which will inform the consultation process later in the year. In addition, the New York convention to which we adhere governs enforcements of awards in other countries, so Scottish awards can be enforced abroad and vice versa.

The debate has had its moments of levity, some of which I will touch on briefly. We heard somewhat unexpectedly about the British empire from Margaret Smith—I was not aware that the British empire was famed for mediation and conciliation throughout the world. We then learned from Gavin Brown, again unexpectedly, that Bill Aitken has a "fat wallet". Many of us did not know that the said article exists or if it does—I do not concede the point—whether it has been spotted in public any more frequently than the Loch Ness monster. I bow to Mr Brown on his research. It might be useful for Mr Aitken to help Christine Grahame, who is anxious to have a return trip on what she called "a journey of the willing" to Baltimore. Perhaps some financial assistance could be provided. Christine Grahame kindly invited the cabinet secretary and me to accompany her on that trip, but I must tell her that our ministerial diaries are full until 2011—or they certainly will be now.

Lord Foulkes made a pawky and persistently irrelevant speech, which I thought was an

inadvertent advert for the abolition of the House of Lords—or at least the transfer of its proceedings to some remote cable channel for insomniacs.

In conclusion, I commend the motion to the chamber.

**The Presiding Officer (Alex Fergusson):** I commend members for managing to get that debate to overrun.

## Question Time

### SCOTTISH EXECUTIVE

#### General Questions

11:41

#### Scottish Ambulance Service

**1. Mary Scanlon (Highlands and Islands (Con):** To ask the Scottish Executive when the Cabinet Secretary for Health and Wellbeing last met the Scottish Ambulance Service. (S3O-1030)

**The Deputy First Minister and Cabinet Secretary for Health and Wellbeing (Nicola Sturgeon):** I met the chair and chief executive of the Scottish Ambulance Service in August when I chaired that board's annual review.

**Mary Scanlon:** An answer to a parliamentary question concluded that

"an accident and emergency ambulance should be double crewed, with at least one crew member being a paramedic unless in exceptional circumstances, such as short notice sick absence".—[*Official Report, Written Answers, 27 July 2007; S3W-2125.*]

That is not the case in many parts of the Highlands, where single-crewed ambulances respond to 999 calls. Last night on the Isle of Skye, all ambulances were single manned.

Will the cabinet secretary have further talks with the Scottish Ambulance Service about its approach to single-manned ambulances in the Highlands, to ensure that ambulance crews are supported and valued and that no patient lives are put at risk?

**Nicola Sturgeon:** I confirm that the policy is that an accident and emergency ambulance should be double crewed, with at least one crew member being a qualified paramedic, unless in exceptional circumstances—such as short-notice sick absence—the cover cannot be secured. It is also policy that, when a single-crewed ambulance is sent out to respond to a category A call, a double-crewed ambulance is dispatched as soon as possible thereafter.

As the matter was raised last week during question time, I am aware that specific challenges in some parts of rural Scotland, for example around on-call working out of hours, sometimes make it difficult to provide double-crewed ambulances. That is why the Scottish Ambulance Service is working hard to reduce reliance on on-call working—indeed, it has reduced it already by 20 per cent. However, I remain extremely aware of the issues, and I will continue to discuss them with the Scottish Ambulance Service. A new chief

executive is due to take up post next Monday, and I will continue to discuss that and other issues with the service to ensure that it provides a service that is safe for the public.

**Liam McArthur (Orkney) (LD):** The cabinet secretary is aware of the representations that she has received from me, the leader of Orkney Islands Council and others in my constituency that there remain serious concerns in Orkney, particularly among those who live in the outer isles, about the lack of a locally based air ambulance.

Does the cabinet secretary agree that the departure of Adrian Lucas, the former chief executive of the Scottish Ambulance Service, offers an opportunity for a rethink of its approach in Orkney? Will she ask the new chief executive, Kevin Doran, to undertake such a review as a matter of urgency and to meet local stakeholders as part of the process? If the Scottish Ambulance Service is persuaded to look again at a locally based solution to emergency provision, will she guarantee the necessary support for such a solution from the Scottish Government?

**Nicola Sturgeon:** I am well aware of the controversy and local feeling in Orkney on the issue, but I am also well aware of the work that the Scottish Ambulance Service has done with local people and stakeholders to secure a safe and sustainable service for the Orkneys. As I said, the new chief executive takes up post next Monday; I will suggest to him that he meet the member to discuss that and other issues that are relevant to his constituents, so that he can assure them that we take issues of safety seriously.

**Rob Gibson (Highlands and Islands) (SNP):** Is the minister satisfied that the Scottish Ambulance Service's budget is adequate to provide fully staffed ambulance services in remote and rural areas such as the north-west Highlands and Islands? Overtime working and single-crewed ambulances are chronic conditions at Lairg and many other stations.

**Nicola Sturgeon:** This financial year, the allocation for the Scottish Ambulance Service was £179.2 million. Obviously, next year's and subsequent years' allocations will be set out following the publication of our spending plans in the budget. It is, of course, for the Scottish Ambulance Service to decide how to allocate that money to its six operating divisions across the country in a way that delivers the best service for patients and best value for money.

As Rob Gibson is aware, the challenges that the Scottish Ambulance Service and other parts of the health service face in delivering services in rural and remote communities are not just about money; complex issues of staff recruitment and

retention are involved. I assure him that we will continue to work with the Scottish Ambulance Service and other boards to ensure that the quality of service that people in rural areas receive is as high as that which is available to people in other parts of the country. That is an extremely important principle.

### **Argyll and Bute Council (Social Work Services)**

**2. Jackie Baillie (Dumbarton) (Lab):** To ask the Scottish Executive what action it will take following the recent publication of the Social Work Inspection Agency report into Argyll and Bute Council. (S3O-1032)

**The Minister for Children and Early Years (Adam Ingram):** The Minister for Public Health, Shona Robison, and I have written jointly in clear terms to the chief executive of Argyll and Bute Council to express our concerns about the findings in the Social Work Inspection Agency report that was published last week. We will meet the chief executive early next week to discuss what actions the council will take to ensure that the report's findings are taken forward quickly.

**Jackie Baillie:** I thank the minister warmly for that response. As he is aware, the report contains 24 substantial recommendations that point to weak leadership, unmet need and underfunding of older people's services by the council. The spin that is coming from Argyll and Bute Council attempts to suggest that the report is positive and that things happened just in a time of change. Does the minister regard that as a sufficient response to a report that I consider to be, frankly, dire? Will he intervene to ensure that there is absolutely no doubt in the minds of those at Argyll and Bute Council about the challenge that it needs to meet?

**Adam Ingram:** I certainly agree with the member's interpretation. I understand that one argument that council officials advanced to explain their difficulties with free personal care was that they were being required to divert funds from free personal care to children's services, yet the report found weaknesses in children's services, especially services for looked-after children. I am very concerned about those matters. I can promise a robust exchange with the council next week.

### **Secondary Teachers (South-west Scotland)**

**3. Alasdair Morgan (South of Scotland) (SNP):** To ask the Scottish Executive what steps it is taking to encourage secondary teachers to apply for vacancies in areas where there is a teacher shortage. (S3O-999)

**The Minister for Schools and Skills (Maureen Watt):** The Scottish Government carries out an

annual teacher workforce planning exercise to maintain a broad balance, at national level, between supply and demand. However, the filling of vacant teaching posts is a matter for individual authorities.

**Alasdair Morgan:** Is the minister aware of the problem in the south-west of Scotland—particularly in the west of Dumfries and Galloway—where there are difficulties in filling vacancies not just at ordinary teacher level but for promoted posts? In Stranraer, learning support teachers, behaviour support teachers and headteachers are regularly required to take on a class workload. Can the Government do anything to assist in the situation, which I point out extends to other professions, too? Ironically, once people actually take a job in Dumfries and Galloway, because of its manifest attractions they often never leave.

**Maureen Watt:** I can help in so far as the additional funding of £1.5 million for the Crichton campus, which the member will recall was announced by the Scottish Government on 20 August, includes support for the expansion of initial teacher education in the south-west to meet current and future local needs. Some 80 new undergraduate places for ITE are to be funded and phased in over the next three years. I accept that that will not alleviate the immediate problem that the member highlights, but it will help in the long term. Along with local MSPs, I urge Dumfries and Galloway Council and other local agencies to promote the area as a great place to live. More teachers and health professionals need to be encouraged to enjoy the delights of Dumfries and Galloway, which the member and I both know about.

### Class Sizes

**4. Rhona Brankin (Midlothian) (Lab):** To ask the Scottish Executive whether it will deliver maximum class sizes of 18 for primary 1 to primary 3 by 2011. (S30-1036)

**The Cabinet Secretary for Education and Lifelong Learning (Fiona Hyslop):** We are fully committed to reducing class sizes in primary 1 to primary 3 to a maximum of 18. However, it would be counterproductive to increase teacher numbers without maintaining quality. We are discussing with the Convention of Scottish Local Authorities and others the scale and pace of change that, without extensive disruption to class configurations, will allow teacher quality to be maintained while driving down class sizes. Advice from educationists is that such a year-on-year staged process will be the most effective.

**Rhona Brankin:** I thank the minister for that astonishing reply. It confirms that, as with the SNP's broken pledge on 1,000 extra police

officers, its commitment on maximum class sizes of 18 for P1 to P3 is a promise that it has no intention of keeping.

In yesterday's debate on early years policy, the cabinet secretary would not deny that the SNP's class size reduction plan could result in more pupils being taught in classes of up to 36 pupils. In a written answer that Hugh Henry received from Adam Ingram this morning, the SNP Government has again failed to deny that. The answer states that the issue will be discussed with local authorities. If the cabinet secretary will not answer the question on bigger classes, will she at least confirm that the policy will not result in more Scottish children being taught in portakabins sited in playgrounds?

**Fiona Hyslop:** The only astonishing point is that parents, teachers and pupils support class size reductions but the Labour Party does not. We are committed to class size reductions, as specified in our manifesto, and we are in negotiations with COSLA on the matter. As a minister, Rhona Brankin had an unfortunate experience while negotiating on fishing issues; I suggest that it is helpful that she is not the one who is currently negotiating with COSLA.

**Kenneth Gibson (Cunninghame North) (SNP):** My nine-year-old son is currently in a primary class of 60 children and has been so since he first went to school, under a Liberal-Labour Executive. That works well because, although the number of pupils per teacher is limited to 33, the two teachers in the class split the children into two equal groups, based on ability, for each subject.

Does the cabinet secretary agree that having two teachers in a class of 33 would be less expensive, less disruptive and easier to expedite than having a limit of 18 children per classroom for primaries 1 to 3, would permit greater individual focus on the educational and associated needs of each child while providing increased flexibility for group working, would be welcomed by the teaching profession as it would allow significantly greater preparation time by staff and the permanent deployment of more teachers following their probationary year, and would ensure that parents could send their children to their preferred school without worrying that class size limitations might reduce capacity in the school of their choice?

**Fiona Hyslop:** I think that the question was about whether the Government will be flexible in its response to councils. The answer is yes. We know that different parts of the country have different experiences; some areas are experiencing falling school rolls, while in others the rolls are increasing. Our job is to deliver on our manifesto commitments but to do so responsibly and with common sense in responding to the

individual needs of councils, some of which have made similar representations to those that the member has just made.

**Karen Whitefield (Airdrie and Shotts) (Lab):** I welcome the minister's commitment on flexibility, which she did not give in yesterday's debate. What does she propose to do with the children in schools in which it is physically impossible to build on the site to accommodate a decrease in class sizes, even though class sizes are above the maximum limit?

**Fiona Hyslop:** We have always said that we will deal with the matter flexibly and with common sense. We must reflect on the fact that some older schools are not open plan, whereas some modern schools—including many in Lanarkshire—are open plan but may present other issues and challenges. Our job, and duty, is to be responsible in doing that. I recognise the challenges that are involved. That is why the Government has invested £40 million to help to support the capital requirements that, in future years, will deliver our manifesto commitment of driving down class sizes to 18 in P1 to P3.

**Gavin Brown (Lothians) (Con):** How much more difficult will the class size target become if councils such as the Liberal Democrat-SNP City of Edinburgh Council decide to close down primary schools?

**Fiona Hyslop:** I cannot comment on proposals to do with the City of Edinburgh Council that I understand have not been published. The member should not believe everything that he reads in the *Edinburgh Evening News*. All local authorities face challenges. As Lothians MSPs, Gavin Brown and I know about the changing demography of the area. West Lothian and Midlothian have very full schools, but school rolls are falling in Edinburgh, perhaps because of housing challenges. That situation has been addressed by the Cabinet Secretary for Health and Wellbeing, which means that we can tackle some of the issues that are involved in housing problems and falling school rolls in places such as the city of Edinburgh.

### Trident

**5. Sandra White (Glasgow) (SNP):** To ask the Scottish Government whether it will provide further details of the working group that is to be set up to examine issues surrounding the replacement for Trident being based in Scotland. (S3O-1020)

**The Minister for Parliamentary Business (Bruce Crawford):** As announced at the summit on 22 October, the working group will, among other things, help to advise the Scottish Government on how we can most effectively support international peace and reconciliation work in the context of our devolved

responsibilities. The group will also examine the economic impact of any decision to remove nuclear weapons from HM Naval Base Clyde, including the impact of reallocating the current and future resources that are spent on Trident to other areas of public expenditure. I will confirm its remit and membership as soon as possible. I expect the group to meet for the first time early in the new year.

**Sandra White:** I thank the Government for hosting the summit at Òran Mór in Glasgow, which allowed many views—diverse and otherwise—to be expressed, including my own. The summit was a huge success. As a matter of interest, who was invited to the meeting to discuss the serious issue of weapons of mass destruction on the Clyde?

**Bruce Crawford:** The trade unions, churches, wider civic Scotland, and the local authorities were invited to the event. We also invited all the political parties that are represented in the Scottish Parliament. In addition, the United Kingdom Government was invited. I am delighted to say that a senior official from the Ministry of Defence attended and contributed to the summit, in addition to the MOD submitting papers. All that added up to an historic and successful event.

Prior to the election, a leader of one of the Scottish parties said that they

“will not keep quiet on these issues. Labour should not be allowed to duck responsibility. Labour should stand up and be held accountable—not hide in silence.”

Members might think that that came from Alex Salmond, the First Minister, but it came from Nicol Stephen, the Liberal leader. It is clear that, on that particular day, the Liberals were the ones who were in hiding. [*Interruption.*]

**The Presiding Officer (Alex Fergusson):** Order.

### Coalfield Communities

**6. Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** To ask the Scottish Executive what support it will make available to former coalfield communities. (S3O-1050)

**The Minister for Communities and Sport (Stewart Maxwell):** The Scottish Government is preparing its future investment plans as part of the strategic spending review. When we announce our plans, I expect local authorities and their community planning partners to work closely with former coalfield communities to improve local prospects for sustained employment and to promote broader regeneration.

**Cathy Jamieson:** The minister is aware of the problems that are faced by residents in many of the former coalfield villages in my constituency, where derelict buildings have become a blight on

the landscape. At best, there is confusion and, at worst, there is disagreement between the Government and the local authority on the legal powers and resources to act on the problem. Will he agree to have a conversation with the cabinet secretary with responsibility for planning and, subsequently, to meet me and representatives of East Ayrshire Council to take action as part of that wider regeneration programme?

**Stewart Maxwell:** I am not aware of the detail of the projects to which the member referred. If she writes to me with the detail, I will be more than happy to look at the matter, and to meet her and others to try to resolve any problems that she may find in her constituency.

## First Minister's Question Time

12:00

**The Presiding Officer (Alex Fergusson):** I am sure that members will already be aware that the Scotland branch of the Commonwealth Parliamentary Association is this week hosting the 19<sup>th</sup> CPA parliamentary seminar in the Scottish Parliament. All the delegates are in the Presiding Officer's gallery and the public gallery, and I am absolutely delighted to welcome them to First Minister's question time. [*Applause.*]

### Engagements

**1. Ms Wendy Alexander (Paisley North) (Lab):** To ask the First Minister what engagements he has planned for the rest of the day. (S3F-230)

**The First Minister (Alex Salmond):** Presiding Officer, in view of what you just said about the presence of the Commonwealth Parliamentary Association delegates in our galleries today, it might be appropriate for me to mention that I will not be available for First Minister's questions next week—I will be in Sri Lanka with the Government delegation and the delegation from the city of Glasgow for the attempt to win the 2014 Commonwealth games for Scotland. Obviously, we cannot guarantee success—there will be an election among the Commonwealth countries—but I can assure the Parliament that, with the support that I know is given by every single member, the Scottish Government and the city of Glasgow will leave no stone unturned in order to secure these vital games for Scotland in 2014.

Later today, I shall have meetings to take forward the Government's programme for Scotland.

**Ms Alexander:** On the First Minister's opening remarks, he will carry with him to Sri Lanka next week the good wishes of the entire chamber. We wish him well with the trip.

Last week, the First Minister told the Parliament that he would meet his promise to reduce class sizes in primary 1 to primary 3 to 18 by the end of the session. Yesterday, in a debate in the chamber, and a few moments ago during general question time, his Cabinet Secretary for Education and Lifelong Learning refused to repeat that promise. Who are the parents, teachers and pupils of Scotland now to believe?

**The First Minister:** It is quite clear: they believe the Scottish National Party Government, and not just because we are working with local authorities to meet the Government's objectives for lower class sizes. People know that there are already an extra 300 teachers in our schools and 250 training



places, and that there is £40 million of additional investment in the fabric of Scotland's schools. That is why they believe the Scottish National Party Government.

**Ms Alexander:** Let me ask again. Will the First Minister keep his promise to reduce class sizes in primaries 1, 2 and 3 to 18 by 2011? Yes or no?

**The First Minister:** We are working with the Convention of Scottish Local Authorities and our friends in local authorities to meet the Government's commitments. People in Scotland are already seeing more teachers, more investment and more training places as a result of SNP Government.

**Ms Alexander:** That obfuscation is highly significant. Last week, the First Minister gave a very different response to the same question. He claimed that his class size pledge still held and that John Swinney would be offering councils the moneys to fund it. Another day, another broken promise. More important, this is a betrayal of the parents and teachers throughout Scotland who believed those promises.

The First Minister has repeatedly made a commitment in Parliament—no ifs, no buts, no maybes. There was nothing about having to rely on others to deliver that commitment; there was nothing about phasing or delay. Is he keeping his promise to Parliament, or is he breaking it? Does he admit that this is just another broken promise?

**The First Minister:** The Cabinet Secretary for Finance and Sustainable Growth is working with local authorities to meet the Government's commitments. That is what we are doing at present. The difference between the Government and the Labour Opposition is that we believe in lower class sizes. Labour members all fought the election on a platform of lower class sizes, but their new leader told *The Scotsman* on 11 September this year, in a ringing declaration:

"Class sizes are not a good measure of what matters."

I ask Wendy Alexander: do class sizes matter or not?

**Ms Alexander:** I said last week that the First Minister's trademark style was to attack rather than answer, so let me deal with the attack. My position on class sizes is very clear. Like the vast majority of parents and experts, I am happy to see smaller class sizes—we reduced them—but not at the expense of other measures that have a greater impact, such as one-to-one tuition or proper support for teachers.

The real difference between the First Minister and me is that I will not make promises that I cannot keep—that is the First Minister's speciality. Will he keep his promise to reduce class sizes? It now seems clear that he cannot tell us when the

policy will be delivered, where it will be delivered or how much it will cost. Last week he broke his promise on police. This week he is breaking his promise on class sizes. What will be the next broken promise?

**The First Minister:** I am still no clearer whether class sizes matter to the Labour Party. They matter to this Government. I really think that Wendy Alexander should lighten up a bit.

**Members:** Answer the question!

**The Presiding Officer:** Order.

**The First Minister:** People throughout the country are highly satisfied with the Scottish National Party Government. They are satisfied because of the commitments that we have made, and redeemed, to cut the tolls on the Forth and Tay bridges, restore free education in Scotland and, most recently, make progress towards the founding aims of the national health service—free and available at the point of need—by reducing and then eliminating prescription charges.

What people in Scotland are wondering is how the Labour Party managed to do so little over so long when the SNP has done so much in so little time.

### Prime Minister (Meetings)

**2. Annabel Goldie (West of Scotland) (Con):** To ask the First Minister when he will next meet the Prime Minister. (S3F-231)

**The First Minister (Alex Salmond):** I have no plans to meet the Prime Minister at present, but it is likely that I will meet him at the summit of the British-Irish Council in Dublin later this year.

**Annabel Goldie:** We will all find out in two weeks' time just how few extra police the First Minister's Government will give Scotland. We now know that it will not be the 1,000 extra officers that the First Minister promised in his manifesto.

However short on numbers the budget announcement is, I believe that we can do more. I ask the First Minister whether he agrees that

"Community wardens are nothing more than an attempt to provide policing on the cheap. They have no law enforcement powers and therefore can't provide communities with the protection against crime and anti-social behaviour that they need. 30 million pounds"—

which is roughly the annual bill for community wardens—

"would pay for a lot of extra police officers. It is time that the Scottish Executive started listening to the very people they say they want to help."

Does he agree that community wardens are nothing more than "policing on the cheap"?

**The First Minister:** Community wardens play a valuable role in policing and public safety. I do not think that they are a proper replacement for fully qualified police officers, but the community wardens of Scotland play a valuable role, which members should recognise.

**Annabel Goldie:** We read at the weekend that SNP ministers and their party are bemused and bewildered over the SNP's broken police pledge. For the benefit of the bemused and bewildered, hands up all those on the SNP benches who back the First Minister in breaking his police pledge. *[Interruption.]*

**The Presiding Officer:** Order.

**Annabel Goldie:** Just look at them showing the unconvincing mute loyalty of the divided, the riven and the split.

**The Presiding Officer:** Order. Come to a question, please.

**Annabel Goldie:** There is more. The First Minister is now at odds with his deputy. Those were Nicola Sturgeon's words that I used; it was she who said in 2004 that community wardens were "policing on the cheap" and that she wanted the money switched to provide more police. She agreed—sound woman—with the Scottish Conservatives then. Why does the First Minister not agree with her now?

**The First Minister:** Because the Deputy First Minister said that community wardens were not a replacement for fully qualified police officers, which is exactly what I said.

Annabel Goldie will have a full opportunity to question the excellent Deputy First Minister at First Minister's questions next week, when she will be able to see whether she can get on any better with Nicola Sturgeon than she can with me.

### Cabinet (Meetings)

**3. Nicol Stephen (Aberdeen South) (LD):** To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-232)

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

**Nicol Stephen:** I will try to help the First Minister on teacher numbers. I have here a press release from one John Swinney of the SNP when he was in opposition. He said precisely that the SNP would need 3,115 extra teachers to meet a commitment to class sizes of 18 in primary 1 to primary 3. Why was the SNP so clear in opposition when, in government, the First Minister's ministers have not got a clue?

**The First Minister:** Ministers are negotiating productively with our local authorities, in a way that the previous Administration never achieved—*[Interruption.]*

**The Presiding Officer:** Order.

**The First Minister:** They do so to deliver not just the Government's commitments, but the commitments and priorities of the Scottish people. That might be why the Government is so popular and the Liberal party has been almost forgotten.

**Nicol Stephen:** In opposition, John Swinney said that the commitment would take 3,115 extra teachers and cost £145 million extra. That was crystal clear: dates, costs and numbers were provided down to the last detail. Now, after six months in government, the SNP cannot even give us a figure to the nearest thousand either way. It is like police numbers and student debt—broken promises.

The First Minister's party was so clear in opposition but, in government, his schools policy is falling apart. The SNP cannot even tell us the basics. How many extra teachers? How many extra classrooms? How much will the policy cost? I give the First Minister one last chance. Will he guarantee today that his budget will answer the question of how many extra teachers he needs, or will he just confirm what we all know—that he has not got a clue?

**The First Minister:** I will give the former Deputy First Minister a clue and some numbers. There are 300 more teachers in Scotland now than there would have been if he were still Deputy First Minister. There are 250 more teacher training places now than there would have been if he were still Deputy First Minister, and £40 million more is being invested in the fabric of school buildings throughout Scotland. I would have thought that even the former Deputy First Minister would welcome that progress for the Scottish people.

### Transport Links (Glasgow and Edinburgh)

**4. Sandra White (Glasgow) (SNP):** To ask the First Minister whether improving links between Glasgow and Edinburgh will lead to substantial economic benefits for the whole of Scotland. (S3F-236)

**The First Minister (Alex Salmond):** Yes—improving links between Glasgow and Edinburgh is a key driver of economic development. Quicker and more frequent transport links between our two major cities are central to that, and a range of measures to improve rail connections was announced to Parliament in September. They will bring substantial economic benefits to the central belt and therefore to the country as a whole.

**Sandra White:** As a frequent traveller between Glasgow and Edinburgh, I welcome those substantial announcements, as I am sure everyone in the two cities does. What is the proposed timescale for the projects? Will the First Minister consider measures to ensure that people who are completing modern apprenticeships benefit from those excellent projects?

**The First Minister:** On the second question, Scotland's colleges and universities work closely with employers to meet the needs of Scottish business and to help those in modern apprenticeships.

On the first question, the programme of improvements to rail connections between Edinburgh and Glasgow was announced to Parliament on 27 September. That is part of the wider strategic transport projects review.

As part of road improvements, work on M8 improvements is estimated to start in 2010. Draft orders for that were published on 23 October and the consultation on them ends on 5 December. Those improvements will at last give us a motorway all the way from Glasgow to Edinburgh.

**Charlie Gordon (Glasgow Cathcart) (Lab):** I welcome the First Minister's support for the M8 Baillieston to Newhouse project, which the previous Labour-led Executive started, and I support his commitment to the electrification of the Glasgow to Edinburgh via Falkirk rail line. However, will he give an assurance that there will be no reduction in the frequency of trains that call at the intermediate stations on that line?

**The First Minister:** I will get the Minister for Transport, Infrastructure and Climate Change to write to the member specifically about the improved services, faster journey times and increased frequency of services that are outlined in the transport review. As the member knows, there is a commitment in that review not only on the electrification of the line between Edinburgh and Glasgow, but on the electrification of the line between Cumbernauld and Glasgow, which I am sure that all members will welcome.

**Alison McInnes (North East Scotland) (LD):** The First Minister's recent re-announcement on completing the M8 was welcome confirmation that there is at least one transport project that the Scottish National Party is not going to ditch. That said, does he agree that, however welcome improvements to the links between Edinburgh and Glasgow are, they should not be progressed at the expense of improvements to the links between Aberdeen and Inverness? Will he therefore clarify when his Government intends to take action to improve the rail and road infrastructure links between those two important cities?

**The First Minister:** I am disappointed that—

**The Presiding Officer:** I am slightly disappointed that the question is not about links between Glasgow and Edinburgh, but I will leave it up to the First Minister to decide whether he wishes to respond.

**The First Minister:** I will try to bring my answer into order, even if the question slightly varied the subject.

If the member had dwelt on every word of a speech that I made in Aviemore on Sunday, she would have said that a commitment to faster journey times between Inverness, Aberdeen and the central belt is also very much part of our proposals. I am sure that members from throughout Scotland welcome the SNP's attitude to a strategic transport approach that will connect up all our country.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** I welcome the Administration's commitment to continue with the electrification of the Cumbernauld line, but I seek an assurance from the First Minister about the main Glasgow to Edinburgh line, which serves the communities of Cumbernauld and Kilsyth through Croy station. Will he give an assurance that, as the leader of the Government, he will ensure that no services are taken away from Croy station as a result of the shortened journey times?

**The First Minister:** Those are essential connections. I welcome the member's welcome for the Government's proposals. Given her constructive attitude, it would be highly appropriate for her to have a meeting with the Minister for Transport, Infrastructure and Climate Change to consider the detail of her questions. We are talking about good news for Scotland. Changes and improvements to our rail network that have been overdue for a generation have been proposed. I am sure that the member and the Minister for Transport, Infrastructure and Climate Change will have a constructive meeting.

#### **Redundancies (Quangos and Government Agencies)**

**5. John Park (Mid Scotland and Fife) (Lab):** To ask the First Minister how many redundancies the Scottish Government expects to make following the announcement that it will reduce the number of quangos and Government agencies by a quarter. (S3F-239)

**The First Minister (Alex Salmond):** We want to have a simpler and more effective public sector for Scotland that is good for Scotland's competitive position and overall economic performance. To deliver that, we believe that we need fewer organisations. The issue is the public sector's structures and processes; it is not about criticising

our public service workers, who do a valuable and valued job for Scotland's people.

There will be no compulsory redundancies as a result of the proposed structural changes. That attitude contrasts with the attitude to the public sector elsewhere. Work is now under way to consider specific proposals to streamline the existing landscape. The precise implications of the changes will be clear when that work is complete. We will announce further details to Parliament later this year.

**John Park:** I am sure that the hundreds of workers who are concerned about the announcement at the weekend will welcome the First Minister's personal commitment to having no compulsory redundancies.

The First Minister has been quick to praise reports from Unison on, for example, private finance initiatives and public-private partnerships. He will be aware that, last year, Unison published a report on the public sector's role in driving Scotland's economy. Where does he stand on that issue? Does he agree with the likes of Unison, or does he think that the public sector is crowding out the private sector?

**The First Minister:** I think that our public servants play a valuable role.

The no redundancy commitment is critical because, at a time of necessary change in the public sector, making changes in the context of a no redundancy commitment—

**Duncan McNeil (Greenock and Inverclyde) (Lab):** No compulsory redundancies.

**The First Minister:** A no compulsory redundancy commitment secures—*[Interruption.]* Labour members should perhaps consider the attitudes of departments south of the border that give no guarantee whatsoever of no compulsory redundancies. That guarantee is important because it secures the co-operation of our unions and our staff in looking at the most effective way to deliver in the public sector landscape in Scotland. Of course, many of our public servants do an extremely valuable job that is valued by the Scottish people.

**The Presiding Officer:** Mr McNeil, it would be helpful if contributions were confined to those whom I call to make them. *[Interruption.]* I call Derek Brownlee.

**Derek Brownlee (South of Scotland) (Con):** Will the First Minister reassure those who might be slightly more cynical about whether the commitment on quangos will be met? If the number of quangos is reduced by a quarter, will their budgets also be reduced by a quarter?

**The First Minister:** No, not necessarily; one does not follow from the other. A number of

savings will be made from decluttering the public sector. There will obviously be efficiencies in terms of costs and staff numbers, but one of the crucial factors is that, by not having a number of organisations do the job of one organisation, we will, we hope, relieve the burden on business and elsewhere. Much of the unnecessary delay that takes place occurs when various agencies are consulting one another rather than facing the public.

I hope, Presiding Officer, that Duncan McNeil keeps speaking. The Government's popularity is partly based on what we do, and partly based on what Duncan McNeil does.

**Margo MacDonald (Lothians) (Ind):** I may be wrong, Presiding Officer, but I think that that was a challenge to the chair from the First Minister.

On decluttering bureaucracy in Scotland, the First Minister has the support of most people in the chamber, and we hope that it can be done sensibly. I was happy to hear him say, honestly, that he was not certain whether much money would be saved. I ask him to look at efficiency before everything else. If he does that, he will come to the same conclusion that I have reached, after having watched sportscotland get on top of its job. If he agrees that sportscotland should be wound up, does he realise that 32 local authorities and 54 sports governing bodies will have to do the job that sportscotland currently does in distributing lottery funds? That would not be decluttering the landscape.

**The First Minister:** We are consulting on that proposal at present, as Margo MacDonald well knows.

There was a great temptation on the part of the previous Administration to farm out key public sector responsibilities to agencies. Sometimes, of course, that can make sense and can lead to public good. Sometimes, however, one could argue that it is about the evasion of public responsibility. Such responsibility belongs with central Government, with ministers accountable to a national Parliament, which means better and more effective public sector decision making in Scotland.

**George Foulkes (Lothians) (Lab):** Can the First Minister tell me when the Cabinet Secretary for Finance and Sustainable Growth will answer the written question that I lodged nearly two months ago, in which I asked how many new bodies and quangos have been set up since May 2007?

**The First Minister:** I am sure that the Cabinet Secretary for Finance and Sustainable Growth will reply to Lord Foulkes shortly.

One of the reasons why we set out the 199 quangos and public sector agencies that we

inherited is so that people, including Lord Foulkes, can chart our progress as we reduce that number to a much more manageable size. If we achieve that, I am sure that Lord Foulkes will be the first to congratulate both the Cabinet Secretary for Finance and Sustainable Growth and me.

**David McLetchie (Edinburgh Pentlands) (Con):** We have heard what the First Minister had to say about there being no compulsory redundancies. Can he hazard a guess as to whether, as a result of the proposals that have been and are to be announced by his Government, he expects the total number of people employed in the public sector in Scotland to be greater or smaller in 2011 than it is today?

**The First Minister:** The answer to that question is that it will be smaller in 2011 than it is today. The commitment to no compulsory redundancies is very valuable for the people who are working constructively to have more efficiency in the public sector for the good of not only the public sector but the people of Scotland.

**Mr Frank McAveety (Glasgow Shettleston) (Lab):** If the issue is about accountability, will the First Minister comment on the failure this week of his Minister for Communities and Sport to respect the position of the Parliament's Health and Sport Committee with regard to the timescale for responses to the review of sportscotland? Will the First Minister also address the concerns of not only the sporting sector but my constituents in the east end of Glasgow, who expected sportscotland's headquarters to be located in the major national arena that will form an integral part of what I hope will prove next week to be our successful bid for the Commonwealth games?

**The First Minister:** If that was an expression of support for the Commonwealth games bid, I am very glad to accept it.

I point out that the Minister for Communities and Sport asked the Health and Sport Committee in September for its views on the sportscotland proposals. Moreover, I have a reasonably long memory, and I am not sure that the member should be the one to criticise others for disrespecting this Parliament.

**Johann Lamont (Glasgow Pollok) (Lab):** I refer the First Minister to his earlier comment that there would be full consultation on sportscotland's future. There has been an internal review by the Executive on its future. Will he instruct his Minister for Communities and Sport to ensure that there is a full consultation on this matter and that sportscotland is not sacrificed to an entirely different agenda around quangos? This is about meeting the needs of sport and sports bodies in Scotland. Will the First Minister make that commitment to tell the Minister for Communities

and Sport to ensure that the consultation is a real one?

**The First Minister:** The Minister for Communities and Sport has already made that commitment. He is consulting not only the Parliament and its committees—which is very important—but stakeholders and interest groups around Scotland. Of course, a full consultation is being carried out, and the minister needs no encouragement from me to make such a commitment.

### Schools (Additional Support Needs)

**6. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** To ask the First Minister whether the Scottish Government will ensure that parents of children with additional support needs can choose schools that best suit their children, even if the schools lie outside their local authority areas. (S3F-244)

**The First Minister (Alex Salmond):** Yes, it is the Scottish Government's intention to ensure that the parents of children with additional support needs are able to make placing requests to schools outwith their local authority area.

**Jeremy Purvis:** I thank the First Minister for his clear response. The thorough report of the 11 October ruling of the Court of Session addresses the institutional structure and the legal details of the appeal that was made. However, does the First Minister agree that the issue is the 25,000 young people who are potentially affected by that ruling and that many parents struggle to get the often complex care and support packages for children who require additional support? Does he agree that although the Education (Additional Support for Learning) (Scotland) Act 2004, which received cross-party support, introduced good reforms, one of its unintended consequences, which might require reform in this parliamentary session, is that some parents whose children require extra support might have their choices restricted? Furthermore, if the Court of Session's ruling is upheld in an appeal to the House of Lords that might be looming, will he speak to the other parties in the Parliament to keep the cross-party support going and change the law?

**The Presiding Officer:** I detected more than one question there, First Minister.

**The First Minister:** Yes, but this hugely important issue affects many parents and children in Scotland.

It is my clear understanding that Lord Macphail's decision will now be appealed in the House of Lords. If the House of Lords upholds that decision, we will review the 2004 act to ensure that the legislation covers the original policy intentions. In any event, as I said in my response to the first

question, we will take whatever steps are necessary to ensure that the parents of children with additional support needs are able to make placing requests outwith their local authority area. I hope that that response helps the member and gives encouragement and reassurance to parents throughout Scotland.

**Alex Neil (Central Scotland) (SNP):** I regret to say that in the North Lanarkshire area the needs of a significant number of children, particularly those with autism or Asperger's syndrome, are not being dealt with properly. Indeed, the prevailing consideration appears to be cost rather than those children's needs. I ask the First Minister to look into the situation in North Lanarkshire to ensure that children with special needs get the service that they merit.

**The First Minister:** Those are local authority matters, but I am aware of them because one of the parents recently approached me on the issue. I will certainly look into the matter, and I will arrange for a reply to be sent to the member both from the local authority and from the educational needs point of view.

12:30

*Meeting suspended until 14:15.*

14:15

*On resuming—*

## Question Time

### SCOTTISH EXECUTIVE

#### Justice and Law Officers

##### Wildlife Crime

**1. Sarah Boyack (Edinburgh Central) (Lab):** To ask the Scottish Executive what plans it has to tackle the illegal poisoning of wildlife using poisoned baits that also pose a health risk to humans and domestic animals. (S3O-1035)

**The Minister for Environment (Michael Russell):** The Scottish Government aims to tackle the cruel and destructive practice of poisoning wildlife. First, we will ensure that detection and prosecution are consistent and robust. The inspections of the police and prosecution service that were announced at the debate in the chamber on 4 October will assist with that. Secondly, we aim to build trust among all those with an interest in the countryside, so that we can identify and work towards shared objectives. I have been encouraged by the commitment of landowners, managers, gamekeepers and, of course, non-governmental organisations in that respect. I believe that their knowledge and skills will be of great help in identifying those who commit these dreadful crimes.

**Sarah Boyack:** Is the minister aware that a number of chemicals in the Possession of Pesticides (Scotland) Order 2005 (SSI 2005/66)—including carbofuran, mevinphos and strychnine—are classified as highly or extremely hazardous by the World Health Organization, and that some such chemicals can be absorbed through the skin? Is he aware that poisoned baits and their victims, which include wildlife, cats and dogs, have been found by members of the public, including children? The illegal use of such poisons to target wildlife poses a serious risk to people.

Does the minister agree that, in cases in which accused people were ultimately convicted of placing poisoned baits or of storing such chemicals in unsafe circumstances, the serious risk to public safety was not adequately reflected in the decision by prosecutors to accept pleas of not guilty to charges of culpably and recklessly endangering public safety?

**Michael Russell:** The member makes an important point. Many of us are astonished that there has not been damage to human beings—casual passers-by—as a result of the use of such poisons. I emphasise the extreme, criminal

recklessness of people who use such poisons. The point that the member makes is very much in our thoughts, and I will make sure that we continue to draw the attention of all the relevant people in the legal system to the reckless use of illegal substances.

### **Domestic Abuse Court (Edinburgh)**

**2. Malcolm Chisholm (Edinburgh North and Leith) (Lab):** To ask the Scottish Executive whether it will establish a domestic abuse court in Edinburgh or support one if proposed by local agencies. (S3O-1038)

**The Cabinet Secretary for Justice (Kenny MacAskill):** I set out the Scottish Government's position in a written answer on 19 September. A number of initiatives support victims of domestic abuse in Edinburgh, including space 44, the safe as houses pilot and the streetwork outreach service; and two projects work with perpetrators—the domestic violence probation project and the working with men project. All of that already makes a real contribution to the better handling of domestic abuse cases in the criminal justice system. The Scottish Government funds 11 organisations in Edinburgh that support the victims of domestic abuse. The case for any dedicated specialist domestic abuse court in Edinburgh will be better assessed once our reforms to summary justice have been fully implemented.

**Malcolm Chisholm:** I have of course read the written answer, but I am sure that the cabinet secretary knows the disappointment of the groups to which he referred that a domestic abuse court would not be established in Edinburgh. Does he agree that the Glasgow domestic abuse court has been an outstanding success through its use of dedicated sheriffs and a comprehensive support package for women who are going through the court? Although I accept that there may be difficulties in replicating the Glasgow model in more sparsely populated areas, a similar domestic abuse court in Edinburgh would surely bring the same advantages of speed, support and judicial specialisation to women in Edinburgh who are suffering from domestic abuse.

**Kenny MacAskill:** The Government supports the Glasgow pilot, but we should remember that it deals only with a specific and narrow geographical area. We are assessing the pilot to see how it can be rolled out so that it becomes a proper Glasgow domestic abuse court.

Tackling domestic abuse is not simply about courts but about a variety of ways of challenging people. I mentioned the domestic violence probation project; the Solicitor General for Scotland, who is sitting on my right, recently passed me documentation relating to that. Domestic abuse is an horrendous problem that

scars Scotland. Courts have to address the problem, but no one simple solution exists. We will have to look at education, targeting and support for victims, and consider all such matters in the round.

Obviously, what happens in Edinburgh will depend on a variety of matters. What is important is not simply what the Government wants but what sheriffs are capable of providing, what the core service facilities are able to deal with and what fiscals are able to cope with.

As I said in answer to Mr Chisholm previously, it would probably not be feasible to roll out domestic abuse courts in every area. Lochmaddy does not have a resident sheriff, a resident fiscal or a resident sheriff clerk. Clearly, what works in Glasgow or another major urban area is not capable of being replicated everywhere. However, members can rest assured that the Government will do everything that it can, in as many ways as possible, to address the problem of domestic abuse.

**Gil Paterson (West of Scotland) (SNP):** I know that resources are finite, but I encourage the minister to further consider the benefits of establishing more dedicated domestic abuse courts. I refer him to Canada, where domestic abuse courts have been in existence for quite a long time and have had a powerful and beneficial impact on families.

**Kenny MacAskill:** I know the member's commitment to this cause, as evidenced both in this session of Parliament and when he was previously a member.

The matter that we are discussing is something to which we aspire but on which we are constrained by space in some cases and by the availability of resources in others. Members who represent parts of Edinburgh would do well to remember that the Government would like to do an awful lot of things in this city but, as long as we are bound by the need to fund a tram system—which the citizens of this city do not want—at a cost of £500 million, we are prevented from providing a lot of the things that our citizens do want, including schools and domestic courts.

**Johann Lamont (Glasgow Pollok) (Lab):** The minister might reflect later on what he has just said and judge how unwise it was to make that kind of comment on an issue that members across the Parliament—I acknowledge Gil Paterson's contribution—have taken seriously. Many people on my side of the chamber would wish to work closely with the minister to meet the challenges of funding any such pilot scheme and I am sure that it is an issue on which consensus could be found.

Will the minister confirm that a critical element of the success of the Glasgow pilot has been the

advice, support, safety and information services together—ASSIST—project, which has not only supported women but, crucially, informed the court about the nature of domestic abuse and the element of risk that women face? Will he confirm that any roll-out of the pilot in Glasgow will continue to fund ASSIST as a central part of that and that he will ensure that that support element, including intervention in the court, will be woven into the centre of any further developments beyond Glasgow?

**Kenny MacAskill:** Johann Lamont makes a good point about ASSIST, which has performed a central function by providing support to victims of domestic abuse and providing information to the court. As I indicated, a feasibility study group is considering the options for supporting a domestic abuse court across Glasgow and has been asked to report to me in January. I know that that means that we are asking members to wait for a few months, but I assure members that matters are being addressed. I hope that we will be able to satisfy Johann Lamont.

### Underage Alcohol Consumption

**3. Brian Adam (Aberdeen North) (SNP):** To ask the Scottish Executive how it plans to deal with child welfare issues arising out of underage alcohol consumption. (S3O-1000)

**The Cabinet Secretary for Justice (Kenny MacAskill):** It is everyone's responsibility to protect children and look out for their welfare. Families, the police and local authorities need to take the lead, supported by Government. We are taking immediate action to tackle underage and binge drinking. We are continuing implementation of the Licensing (Scotland) Act 2005, ending irresponsible promotions, rolling out test purchasing for alcohol and overhauling the offences of selling and supplying alcohol to children. As agreed by the Parliament last week, we will convene a summit to consider proposals for tackling underage drinking as part of our long-term strategy to tackle alcohol misuse. We will do so with the full support and assistance of members across the chamber.

**Brian Adam:** I welcome the proposals for the summit. As part of those considerations, would the minister be willing to consider a zero-tolerance approach, as adopted in Sweden? If we are to be as successful in our aims as Sweden has been, a zero-tolerance approach must be taken not only by the authorities but by society. How would the minister encourage society to adopt the zero-tolerance approach to this problem?

**Kenny MacAskill:** First, we have to recognise, as a country, that there is a problem. Thankfully, from the tenor of the debate, I think that all parties in the chamber recognise that there is a problem.

We are dealing with a cultural problem, so the answers will have to be long-term ones. They will also require efforts that go beyond legislation. We are trying to make it quite clear that it is not only selling alcohol to youngsters that is an offence but supplying it to them. We have the tragedy in some places of people providing children with alcohol, either because they are given inducements, or because they benignly think that they are helping the children and doing them a favour. We have to make it clear that we will not accept the selling or supplying of alcohol to youngsters. We hope that that will come out at the summit.

We have to work with partners in the chamber and with licensing boards in particular. The powers that the 2005 act brings in will greatly enhance what the boards can do. The Government—and I hope that we will be supported on this by the other parties—will encourage licensing boards to deal with the matter effectively and not to countenance the appalling abuse that has been going on. It is also up to every adult in Scotland to realise that our behaviour is to some extent being mimicked by our youngsters. Until adults in Scotland learn that there is a problem and that we have to change, we cannot berate youngsters, because they are copying their elders.

**Paul Martin (Glasgow Springburn) (Lab):** Will the minister provide statistics for the number of adults who have been referred to the procurator fiscal for selling alcohol to young people? Will he confirm that additional resources will be provided to police forces throughout Scotland to ensure that they detect those individuals in the first place and to ensure that the legislation that we passed to allow for the possibility of imprisonment for such adults is taken forward?

**Kenny MacAskill:** I do not have the information to hand regarding the number of prosecutions, but I will write to the member with that. Regarding additional resources, the member will be aware—indeed, he has never hesitated to point out to us that he raised the matter—that the polluter should pay. We are happy to work with him on that. It appears to us that additional resources are required. Those who profit from the sale of alcohol should realise that it is not a God-given right to be able to sell alcohol. They should be required to face the consequences and meet the costs, whether those are to do with health, criminal justice or other areas. I look forward to working with the member to ensure that those additional resources are available to our licensing boards and to encourage the boards to use them.

**Dave Thompson (Highlands and Islands) (SNP):** In a recent report in the *Highland News*, it was revealed that, in Inverness, children as young as 10 suffer from alcohol problems. What measures has the Scottish Government taken to



ensure that sheriff courts and children's panels have adequate means to inform the children with alcohol problems who appear before them of the range of services that is provided by Alcoholics Anonymous?

**Kenny MacAskill:** That is a matter of the Government seeking to work with our partner agencies and, in particular, social work departments. We have to remember—especially given the age group that the member mentioned—that these are children. We do not seek to prosecute children, except when they commit horrendous offences and have to be prosecuted. We must treat them as children. The problem is that sometimes they do not deserve any sympathy, and it is hard to give them sympathy. However, we have to remember that these are children who are copying what has been done by adults for generations, and who are accessing alcohol that—as a result of legislation that they have not decided on—is far too easily available to them. It is up to us as adults, particularly in social work departments and in the Government, to address the issue. We have to keep in mind the maxim and the ethos that these are children whom we need to protect, not people whom we need to punish.

### Crime

**4. Patricia Ferguson (Glasgow Maryhill) (Lab):** To ask the Scottish Executive how it plans to fight crime in Scotland's communities. (S3O-1042)

**The Minister for Community Safety (Fergus Ewing):** We shall tackle crime in Scotland's communities through tackling the root causes of crime—drink, drugs and deprivation; through tackling organised crime through the work of the serious organised crime task force; and through delivering effective, visible front-line policing to address the fear of crime and to deter criminals.

**Patricia Ferguson:** The recent evaluation of the Scottish Executive's community warden scheme by GEN Consulting concluded that there was evidence from a number of sources that wardens were having a positive impact on the quality of life in their target areas, leading to reductions in crime and antisocial behaviour. Will the minister confirm that funding will continue for community wardens after March 2008? Presuming that the minister agrees with the First Minister that such schemes complement the work of police officers, does he agree that such schemes should be rolled out across Scotland in tandem with the Scottish Government's promise to have 1,000 extra police officers on the front line by 2011?

**Fergus Ewing:** This Government recognises that community wardens play a key role. I witnessed that for myself when I met community

wardens in Glasgow. I saw that they had created a better understanding of their role. Societies and communities throughout Scotland are beginning to appreciate the role of community wardens and the work that they do to reach out to communities and tackle crime, particularly minor crime. Patricia Ferguson asks whether I agree with the First Minister. I regularly agree with the First Minister and very rarely disagree with him.

### Fines (Collection)

**5. Bill Aitken (Glasgow) (Con):** To ask the Scottish Executive, with the exception of fines imposed for breaches of health and safety at work legislation, what the total monetary value of fines imposed by Scottish courts has been in the last three financial years and what percentage of that figure has been collected. (S3O-1022)

**The Cabinet Secretary for Justice (Kenny MacAskill):** Fines totalling £49.6 million were imposed between 2004-05 and 2006-07 in the High Court and sheriff courts, and £38.3 million has been collected. That equates to a collection rate of 77 per cent. Those figures exclude any fines in excess of £5,000, so significant health and safety fines are not included.

**Bill Aitken:** Health and safety fines are the easiest to collect.

Is the minister not concerned that £11.3 million remains uncollected and that, as a result, the impact of the courts' disposals is lost? Does he not agree with a point that I have made previously, which is that the simple solution is to collect the fines by means of deduction from benefits, or from salaries and wages when the convicted person is in employment?

**Kenny MacAskill:** I agree with Bill Aitken's ethos that if a fine is imposed by a court on someone who has the ability to pay, that fine should be paid. For that reason, when we were in opposition we supported the previous Executive in rolling out legislative changes to introduce fines enforcement officers and allow deductions to be made from benefits.

It is important to get the statistics right and acknowledge that about 80 per cent of the value of financial penalties imposed in the sheriff courts and High Court has been collected successfully in recent years. Of the remaining 20 per cent, 12 per cent was discharged by the defaulter serving a sentence of imprisonment—that matter is being tackled; 3.5 per cent was discharged by the defaulter undertaking a supervised attendance order, which is a sensible way to go; and 3 per cent was discharged by judicial order, death of the accused or successful appeal. All that was unrecovered was the 1.5 per cent that was written off. I made this point to the member earlier: it

depends on whether we see the glass as being half full or half empty. It seems to me that if 98.5 per cent of the value of fines imposed is being collected, that is not bad.

### Aberdeen Prison

**6. Lewis Macdonald (Aberdeen Central) (Lab):** To ask the Scottish Executive what account it took of the views of Aberdeen prison visiting committee in making its decision on the closure of Aberdeen prison. (S3O-1058)

**The Cabinet Secretary for Justice (Kenny MacAskill):** We took the decision to replace Aberdeen and Peterhead prisons knowing that it would not be possible to please everybody. We decided that there would be a new public sector prison to meet the needs of the north-east of Scotland. That has ended nearly a decade of uncertainty for staff and for the local communities.

**Lewis Macdonald:** I am sure that the cabinet secretary recognises that serious issues are involved. Will he urge the First Minister to agree to meet Aberdeen prison visiting committee, which asked for a meeting four weeks ago, to address its concerns about the impact of the closure of Aberdeen prison on the rehabilitation of those held in prison? Will he also acknowledge the concerns about remand prisoners travelling 40 miles each way every time they attend court in Scotland's third largest city? In that context, will he consider sympathetically the case that has been made by the visiting committee for a modern, purpose-built remand centre in the city of Aberdeen?

**Kenny MacAskill:** I am obviously not in charge of the First Minister's diary, and he is extremely busy. I will leave that matter to him and those who represent him.

On Friday, I attended the annual conference of the Prison Officers Association Scotland. On behalf of the Government, I was delighted to pass on, both to my party's conference and to the First Minister, the association's hearty congratulations to the Scottish National Party Government on delivering on its manifesto commitments. I rest my case.

**Brian Adam (Aberdeen North) (SNP):** Other than those from the prison visiting committee, what representations has the cabinet secretary had to retain a prison in Aberdeen?

**Kenny MacAskill:** We heard substantial representations from those who work in the sector. We also had representations from Aberdeen City Council and from Aberdeenshire Council, but they were not exactly singing from the same hymn sheet; there was a difference of views. The matter was discussed and debated. I told the Prison Officers Association and those representing Aberdeen that we welcomed and appreciated their

hard work over the years but that a decision had to be made and we believe that the correct one has been made.

## Finance and Sustainable Growth

### Tourism (Antonine Wall)

**1. Margaret Mitchell (Central Scotland) (Con):** To ask the Scottish Executive what assessment it has made of the tourism impact of achieving world heritage site status for the Antonine wall. (S3O-1024)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** If the Antonine wall becomes a world heritage site, I expect to see significant community, educational and tourism benefits. That is the predominant experience of most other world heritage sites.

**Margaret Mitchell:** Is the minister aware that, within the Central Scotland region that I represent, numerous communities such as Cumbernauld, Falkirk, Bo'ness and Kirkintilloch are located along the wall and could derive huge economic benefit from the increased tourism revenue that world heritage site status could bring? Can the minister confirm that, if the bid succeeds, the Scottish Government will commit to providing the necessary support for those communities to ensure that they are in a position to realise that economic benefit?

**Jim Mather:** The bid is currently part of a transnational world heritage site movement to recognise the frontiers of the Roman empire. We are in the happy position of being able to meld those communities into our overall tourism planning, and to look to the precedent that has been created in Europe, where the frontiers of the Roman empire have already attracted European funding from the Culture 2000 programme. We expect to be able to go to that source of funding as a top priority.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** When the Antonine wall is given world heritage site status, as I am sure it will be, will the Government ensure that funding will come from the Government to the local authorities to enable them to market the many worthwhile tourist attractions that they have along the wall?

**Jim Mather:** That is an operational matter for VisitScotland and we will be working closely with it on the issue, looking, as always, to ensure that we maximise every aspect of the Scottish tourism offering.

### Economic Growth (Islands)

**2. Jamie McGrigor (Highlands and Islands) (Con):** To ask the Scottish Executive what action it is taking to encourage economic growth on islands such as Luing in Argyll. (S3O-1026)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** Economic development on Scotland's islands is the responsibility of Highlands and Islands Enterprise, which operates on the principles of balanced development across the entire Highlands and Islands area. Achieving that desired balanced growth requires resources to be targeted towards the less prosperous parts of the area, which is reflected in Highlands and Islands Enterprise's resource allocation model.

**Jamie McGrigor:** Will the minister acknowledge that good transport links are one of the fundamental priorities in helping to boost economic growth on islands such as Luing? I know that he will be aware of the campaign to secure a fixed link for the crossing to Luing. Will he assure me that financial support for such a link will be made available as a result of the imminent Scottish budget statement, to add to the money that the Highlands and Islands strategic transport partnership has ring fenced for that project?

**John Swinney:** I am very much aware of the issues raised by the people of Luing about the proposal for a fixed link to the island. I am also aware of the final Scottish transport appraisal guidance report that was presented to Argyll and Bute Council in April 2007. The council submitted that report to Transport Scotland, which is now actively considering it. Until the STAG appraisal has been completely assessed by Transport Scotland, any commitment from the Government would be premature, but I assure the member that the matter will be considered as urgently as possible.

**Rob Gibson (Highlands and Islands) (SNP):** Would the economic development of islands be aided by a planning regime that made it easier for islanders to build homes on their islands rather than having to leave because of the inflexible application of planning rules by officials, which leads to people having to go to the mainland or even abroad?

**John Swinney:** The Government has the greatest intention to encourage economic development in our island communities. Indeed, present at the convention of the Highlands and Islands on Sunday evening and Monday were Mr Mather, as the Minister for Enterprise, Energy and Tourism, but also with a constituency interest as the member for Argyll, me, Mr Stevenson and the First Minister. We heard at first hand of the aspirations in our island communities to guarantee that they are able to deliver and experience greater economic growth.

Undoubtedly, the point that Mr Gibson makes is eminently fair. If appropriate housing is available for people who want to live and continue to live on our islands, and to find economic opportunities on

the islands, the Government will be at one with them in that respect.

The announcements yesterday by the Cabinet Secretary for Health and Wellbeing assist us in establishing a coherent approach to the development of social housing throughout Scotland, whether urban or rural. I give Parliament the assurance that Mr Stevenson and I will look carefully at planning issues to guarantee that that approach can be efficiently and effectively developed.

### **Voluntary Organisations (Funding)**

**3. Michael Matheson (Falkirk West) (SNP):** To ask the Scottish Government what action it plans to take to ensure the financial sustainability of voluntary organisations. (S30-1012)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** The Scottish Government supports the principles of the Scottish compact and is determined to ensure best practice in funding for the third sector. We support the practice of three-year funding and will encourage the use of longer-term funding agreements across the public sector, where possible, to provide a stable and efficient operating environment for the sector.

**Michael Matheson:** I draw the cabinet secretary's attention to the problems experienced by some voluntary organisations in my constituency, particularly the Princess Royal Trust for Carers and Advocacy Into Action. Although those organisations have three-year service agreements with the local authority, they are not being provided with any financial uplift in council funding over those three years, which means that they have to meet the gap in funding.

Does the minister agree that such practice undermines the important role of voluntary organisations? What action does the Government intend to take to ensure that local organisations get the financial uplift to which they are entitled?

**John Swinney:** As I said in my first answer to Mr Matheson, it is important that voluntary organisations that operate in the fashion that he suggests are properly and effectively supported. The argument that I hear frequently from voluntary sector organisations is about their desire to have three-year funding to ensure that they have stability in their financial planning. Obviously, financial settlements have to be fair so that account is taken of the development of costs over time.

I place on record my view that voluntary sector organisations are well equipped to deliver some of the support required in public sector activity and, although I do not wish to comment on the specific case that Mr Matheson raised in his question,

where we ask voluntary sector organisations to perform particular roles in the delivery of public services, they should be properly remunerated for that. The direction of Government policy is designed to support that approach.

**Patricia Ferguson (Glasgow Maryhill) (Lab):** I am grateful to the cabinet secretary for indicating his desire to achieve sustainability for third sector organisations. Neither his colleague, the Minister for Communities and Sport, nor the First Minister could give me a guarantee that the community regeneration fund would continue. Therefore, can he end the uncertainty for organisations that depend on that money to keep them going through the year, or is he content to see those organisations send out redundancy notices with their Christmas cards next month, as one of the organisations put it to me?

**John Swinney:** As an experienced former Government minister, Patricia Ferguson will understand the situation that the Government is in. We have a budget to announce two weeks yesterday, so we must be in a position to set out our budget proposals in an orderly fashion—I would have thought that Patricia Ferguson, of all members of the Parliament, would have understood that—and that is exactly what the Government will do.

I reiterate a point that I have made on countless occasions, which is that the Government is determined to support the voluntary sector. We will do that as effectively as we can within what is—I put it on record again—the worst financial settlement since devolution.

### Scottish Budget (Manifesto Commitments)

**4. James Kelly (Glasgow Rutherglen) (Lab):** To ask the Scottish Executive which Scottish National Party manifesto commitments will not be provided for in the Scottish budget. (S3O-1051)

**The Cabinet Secretary for Finance and Sustainable Growth (John Swinney):** I will set out our spending plans to deliver on this Government's purpose, its five strategic objectives and our manifesto commitments on 14 November.

**James Kelly:** I note that, in her comments yesterday, the Cabinet Secretary for Health and Wellbeing said that a first-time buyers grant of £2,000 was still under consideration. Is the first-time buyers grant under consideration as a specific spending commitment for the forthcoming budget, which will lay out spending commitments over the next three years, or has that pledge been ditched on the road back from the SNP conference in Aviemore?

**John Swinney:** I thought that the Deputy First Minister dealt effectively with all issues relating to the housing policy proposals that will be consulted

on, which were set out yesterday. Labour members do plenty of moaning about a lack of consultation, but when the Government is prepared to consult on an issue, they are not happy, either. I simply state that the Government will set out its spending plans on 14 November. A clear statement will be made on how the Government intends to take forward its programme in the years to come.

**Jim Tolson (Dunfermline West) (LD):** The minister will know that the Scottish Police College at Tulliallan castle is in my constituency. What extra financial provisions have been made to help the college meet the demand for extra recruits that the commitment in the SNP's manifesto to provide an extra 1,000 police officers created?

**John Swinney:** Mr Tolson will know from what I have said to other members that the spending review will set out exactly how the Government intends to deliver on our manifesto commitments in the period ahead. We will do that timeously, as I promised the Parliament that we would—we will produce our proposals on 14 November.

**Derek Brownlee (South of Scotland) (Con):** I will not tempt fate by asking which Conservative manifesto commitments will not be provided for in the Scottish budget. Instead, I will ask about the efficiency savings that will no doubt be relied on in the budget. Will Parliament have the opportunity to study the detail of those efficiency savings prior to voting on the budget? If not, will all those savings be independently verifiable, will they all start from a clear baseline and will they all be delivered?

**John Swinney:** The Government has made no secret of the fact that we have predicated our approach on the delivery of efficiency savings of at least 1.5 per cent right across the public sector in Scotland. We will continue with the practice of tabulating and monitoring efficiency savings—which I have freely accepted was strengthened during the most recent session of Parliament—and will report accordingly. On that basis, the Parliament will be able to scrutinise the financial measures that the Government brings forward and the approach that we take to efficiency.

The efficiency agenda is central to the questions that continue to be raised about how the public finances are managed. Indeed, at our most recent meeting, the Chief Secretary to the Treasury strongly encouraged me to pursue the efficiency agenda. I am glad that he and I are on the same wavelength on that, if not on every other issue.

**Andy Kerr (East Kilbride) (Lab):** I note the minister's comment about moaning. There has been a fair bit of moaning about the budget settlement in Scotland. Does he agree first that, in fact, double the resources that were available to Donald Dewar's Government are available to his

Government, and secondly—and more importantly—that his Government has 99.7 per cent of the funds that he thought would be available to it, according to the financial predictions in his party's manifesto? Therefore, did his party simply mislead the Scottish people in its manifesto?

**John Swinney:** As an experienced former Minister for Finance and Public Services, Mr Kerr will be aware that in this financial year the Scottish Government has at its disposal a real-terms increase in its budget of 0.5 per cent. I cannot quite remember whether Mr Kerr was the finance minister when the budget was rising by 11 per cent above inflation, but he was certainly a supporter of the Government at that time. The contrast between the days of abundant resources that the previous Administration had and the 0.5 per cent increase that this Government will have could not be greater. Because of the changes that the United Kingdom Government made to the budget process, we will have at our disposal £700 million less than was anticipated in the SNP manifesto. I highlight the fact that our baseline was reduced by £342 million, which took no account of circumstances here in Scotland.

**Andy Kerr:** The cabinet secretary has 99.7 per cent of the funds that he thought would be available.

**The Presiding Officer (Alex Fergusson):** Mr Kerr, you have already made that point.

**John Swinney:** Labour Party members of the Parliament have a brass neck continually interrupting me when I am trying to answer their questions, given that it was they who volunteered to suspend a mechanism to compensate Scotland for council tax benefit rising faster in England than in Scotland—a decision that is now costing Scotland £100 million a year. If that is what the Labour Party calls standing up for Scotland, it is no wonder that Labour members are now on the Opposition benches, where they belong.

#### **Minister for Enterprise, Energy and Tourism (Meetings)**

**5. Bob Doris (Glasgow) (SNP):** To ask the Scottish Executive what conclusions and lessons for Scotland the Minister for Enterprise, Energy and Tourism identified in his meetings with economic, social and political representatives during his recent trip to Canada. (S3O-1005)

**The Minister for Enterprise, Energy and Tourism (Jim Mather):** The lessons for Scotland that I identified on my visits to businesses and legislatures in Toronto, Edmonton, Calgary, Victoria and Vancouver over five days of the recess are as follows: first, Canadian businesses are receptive to the Government's message and

will invest further in Scotland; secondly, Canadian businesses are receptive to doing more business with more Scottish companies in Canada, given the success of existing Scottish businesses and our national and business common values; thirdly, the Canadian provinces of Alberta and British Columbia are doing particularly well because they enjoy a high level of financial and fiscal autonomy, control their own resources and retain an increasingly fair share of the wealth created in their provinces; and fourthly, we saw the oil and gas royalty review in Alberta, based on a report called "Our Fair Share", in which the concept that

"Alberta's natural resources belong to Albertans"

was taken as given and tabled unchallenged.

I drew the conclusions that, first, Scotland under the SNP Government is now on the right track, and secondly, that our aspirations to emulate and exceed the powers of Canadian provinces are right, urgent and guaranteed to reward the people of Scotland.

**Bob Doris:** I am glad that the minister mentioned Albertan oil. Does he agree with Peter Day, the BBC World Service presenter, who stated:

"This oil belongs to the Province of Alberta. It is making it rich: a big place with a small population of three million people. Alberta has paid off its debts and has such a budget surplus already that it has just given every provincial taxpayer a rebate cheque for 400 Canadian dollars"?

Are there lessons to be learned for Scotland from that case study?

**Jim Mather:** I agree with Peter Day. The lessons for Scotland are that increased autonomy works, that autonomous, independent nations make better use of their natural resources, and that a Government such as that of Alberta can create a win-win-win-win situation, in which the Government, the taxpayer, the oil industry and the economy win. The unionist approach could never be sold to the empowered and enriched Albertans.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** Was one of the minister's reflections that the years since the Liberal Party of Canada introduced fiscal federalism have brought about an economic disparity between the neverendum culture in Quebec and the fiscally devolved powers of other provinces in Canada? That shows the difference between a separatist approach and a unionist, but federal, approach, which is the approach that should be followed.

**Jim Mather:** The direction of travel in Canada is much more towards our approach. The provinces of Canada are taking an increasingly independent approach. If the member does not see the validity of that, I suggest that he goes back and re-reads the paper written by Professor Ronald MacDonald,

which talks about fiscal powers and independence being of primacy in the move away from the clutter and nonsense of royal commissions and the regular checking that Jeremy Purvis would have us do in a fiscal federalism that would fetter Scotland and prevent it from maintaining its maximum trajectory.

## Child Protection

14:55

**The Presiding Officer (Alex Fergusson):** The next item of business is a statement by Adam Ingram, the Minister for Children and Early Years, on child protection. The minister will take questions at the end of his statement; therefore, there should be no interventions.

**The Minister for Children and Early Years (Adam Ingram):** First, I apologise to my counterparts for the late arrival of the promised advance copy of my statement—you know what they say about good intentions. A few last-minute changes required me to hold things back a little bit.

Yesterday, the Scottish Government set out its vision for how an effective early years strategy can contribute to a positive future for Scotland. Today, I want to turn attention to the most vulnerable children in society: those who are in need of our care and protection.

Child protection is one of the most difficult but important issues with which the Parliament deals. I doubt that there is anyone in the chamber who is not deeply moved by accounts of child abuse and neglect. We respond to the inherent issues as politicians; but we respond first and foremost as human beings. I hope that all will share my ambition and work with me to do everything possible to eradicate such suffering, as experienced by children and young people in Scotland. There is no room for party politics in child protection, and I acknowledge the considerable progress that the previous Administration made in driving child protection reform.

Throughout Scotland, multi-agency child protection committees now provide a strategic overview, and support change and improvements in child protection practice and multi-agency working. The strategic understanding of the Scottish Government and child protection committees throughout the country is being broadened and deepened by the learning secured through the tough child protection inspections that Her Majesty's Inspectorate of Education leads. We expect child protection committees to work vigorously in addressing areas of weakness that are identified in inspections and in further developing areas of strength in the delivery of services.

Our vision is for services that always proactively seek to identify and assist children at risk, so committees are expected to use the self-evaluation tool, "How well are children and young people protected and their needs met?" That tool

is designed to build capacity within organisations for continuous self-inspection and improvement, regardless of the inspection cycle.

More generally, the challenge for everyone dealing with child protection is to create an environment in which we do not wait for crises to happen to children at risk before we intervene to help. We need to think and work proactively rather than reactively. Child protection services in Scotland need to be timely, flexible, responsive to the needs of the individual child, efficient, consistent with the principles of "Getting it right for every child" and delivered by skilful staff at every level of every organisation and every discipline that is involved in the care of vulnerable children. In addition, we need a coherent and joined-up means of delivering that vision in a multi-agency and multidisciplinary environment.

A consistent theme running through child protection is that of better and earlier information sharing. That is at the heart of good delivery of services to children who may be at risk; but, of course, we want to ensure that information is shared only when necessary and that everyone has the same understanding of the rules for doing so. That is why we are giving a high priority to devising and implementing appropriately a draft code of practice for sharing information when there are concerns about a child.

Since taking office, I have been considering a range of initiatives that relate to specific aspects of the child protection agenda and the ways in which we can ensure that our efforts in that area are coherent, strategic and proactive. Throughout my deliberations, I have reflected on the importance of childhood and of striking the right balance between providing a safe and caring environment for Scotland's children and giving children space in which to grow up to be confident individuals. I am sure that that dilemma will strike a chord with many members who are parents as well as politicians.

To get the balance right—collectively, from national Government right down to individual parents—we have work to do, to assess risks to children better and to act upon risk assessments with improved skill, speed and precision. I attach high priority to making progress in that difficult area and to developing flexible and robust policy principles, to support parents and professionals who work with children.

A particular issue that accentuates the dilemma on risk is that of vetting and barring. The issue was debated during the passage of the Protection of Vulnerable Groups (Scotland) Bill, which was introduced in the previous session of the Parliament. I understand the discomfort that some people have about disclosure checks, but none of us would want to drop our children off at school

without the assurance that the staff with whom they come into contact do not have a history that raises concern about children's safety. Our objectives must be to undertake disclosure checking in the most streamlined, efficient and unobtrusive way and to act swiftly on information that suggests that people who are working with children and protected adults might pose a risk to them.

The Protection of Vulnerable Groups (Scotland) Act 2007 delivered the framework for a robust vetting and barring scheme. I am pleased to announce the publication of the consultation on the secondary legislation required to implement the provisions of the 2007 act. I look forward to engaging further with parliamentary colleagues and stakeholders as we develop the secondary legislation and move closer towards implementing Scotland's strengthened vetting and barring scheme, which we hope will go live in the summer of 2009.

During the passage of the Protection of Vulnerable Groups (Scotland) Bill, Robert Brown placed particular emphasis on the importance of wide-ranging and meaningful engagement with the sectors affected by the legislation. I too believe that we cannot deliver an effective vetting and barring scheme without such engagement. The operational details must be right, and the accompanying guidance and training need to be trenchant. The publication of the consultation marks the start of that engagement.

Although I want to frame consideration of child protection issues proactively and proportionately, it will always be necessary for the Scottish Government to respond to emerging issues of national significance. Many members will be aware of the revelations of abuse at Kerelaw school. Glasgow City Council's investigation of the school identified an unacceptable and long-standing history of abuse of children. The council acted quickly to close the school in 2005, to take disciplinary action and to provide support to the children who were in Kerelaw. Those actions are to be commended, but we would do a great disservice to all those involved if we did not consider what we can learn from the Kerelaw situation. I want to be assured that abuse and allegations of abuse on such a scale and over such a long duration cannot ever happen again in a residential setting in Scotland—we owe it to the children who were abused, to the staff who were not involved in the abuse but who were caught up in the events by association and to all children in residential settings, whom we have a responsibility to safeguard.

Since the publication of Glasgow City Council's report in June, I have been in discussion with the council about how we can ensure that we take

forward the lessons that can be learned from Kerelaw constructively and in a way that is sensitive to the subject matter and does not put disclosures about events at Kerelaw under a glaring public spotlight. I am pleased to announce that the Scottish Government and Glasgow City Council will jointly commission an independent inquiry into Kerelaw. I want the inquiry to secure comprehensive insight into the circumstances that led to the abuse at Kerelaw, to examine Glasgow City Council's stewardship of the school, to consider the steps taken by Glasgow City Council subsequent to the closure of Kerelaw, to identify recommendations relevant to ensuring that the contributory factors that led to abuse at Kerelaw never arise again, and to identify any other issues that the Kerelaw inquiry considers relevant to the safe care of young people in residential settings. I have asked Mr Eddie Frizzell to chair the inquiry. He is visiting professor of public service management at Queen Margaret University and a former senior civil servant. He brings a breadth and depth of experience and, most significantly, a fresh and objective perspective.

I want to ensure that the inquiry does not impede any criminal proceedings relating to Kerelaw and that it proceeds in a way that actively involves former pupils, staff and other stakeholders who want to participate. With input from the Lord Advocate and Glasgow City Council, I will in the coming weeks discuss a detailed remit with Eddie Frizzell, with a view to a further announcement in the new year. On this occasion, it is better to maximise the insight that we can gain from Kerelaw than to rush headlong into matters. It is better for Scotland's most vulnerable children that we get the matter right rather than carry out the inquiry swiftly.

Glasgow's willingness to open up the issues to independent scrutiny and to facilitate the learning from the Kerelaw situation sets an important example of leadership and accountability. Councillor Steven Purcell will shortly advise a full meeting of the council of the steps that the council has taken in relation to Kerelaw and of what we both want to achieve from the inquiry. I am pleased that Margaret Doran, Glasgow's executive director of education and social work, is in the public gallery today, which reflects the joint approach that we are pursuing.

I have received reports on Kerelaw from Glasgow City Council, HMIE, the Social Work Inspection Agency and the Scottish Commission for the Regulation of Care. In the interests of openness, I will place those reports on the Scottish Government website in the coming days. It is important that we all work together to learn all the lessons that we can from Kerelaw. I have also carefully considered how the independent inquiry sits alongside the forthcoming publication of the

independent systemic review of historical abuse in residential care between 1950 and 1995, by the expert Mr Tom Shaw. That review is of great importance—its purpose is to identify the various legal and regulatory systems and processes that were in place to protect children during the period. The review will help to answer the fundamental question: how could abuse on such a scale have continued for so long without being prevented?

Mr Shaw will submit his review to the Government in mid-November and it will be published shortly thereafter. The findings will be analysed and considered fully as we make progress on proposals for strengthening the contribution of residential care. I also intend to introduce proposals on support for survivors of historical abuse, once I have considered Mr Shaw's findings. The Shaw report on historical abuse and the independent inquiry on Kerelaw are complementary and I am confident that, together, their findings will provide a rich insight that will contribute positively to the significant improvements that I want the Government and the Parliament to achieve for our most vulnerable children.

Residential care is the best possible environment for some children and young people, providing a range of opportunities for children to thrive and flourish in an environment that is safe and tailored to their individual needs. More than 220 establishments in Scotland provide some form of residential care to children. Those establishments should provide a safe and nurturing home for our most vulnerable children, and their staff should be dedicated and committed to providing the very best of care to those children. I want positively to support the sector so that all establishments and all those who are tasked with looking after children can make a positive contribution to the lives of and outcomes for vulnerable children.

We have a collective responsibility to all Scotland's children and young people to ensure that they get the best start in life and, if they are vulnerable, to ensure that they get all the care and help that they need. I urge members to join me in ensuring that the Parliament takes all reasonable steps to do the very best for the children in Scotland who need our help most.

**Rhona Brankin (Midlothian) (Lab):** This is a hugely difficult and sensitive area, and we owe it to children and families in Scotland to get it right. It goes without saying that my party will work constructively with ministers on the issue. As the minister has recognised, in Government we took the issue very seriously and legislated to protect vulnerable groups. I welcome today's announcement of an independent inquiry into Kerelaw. I echo the minister's views, and



commend Glasgow City Council for its leadership and accountability on the issue, which shows an open approach and a willingness to learn from mistakes. I congratulate Councillor Purcell on his bravery.

As the minister is aware, many agencies are involved with the issue. Can he assure me that those agencies are all prepared to learn the lessons from Kerelaw and to reflect on the issues thrown up by the independent inquiry? Secondly, he will be aware that the First Minister was asked in June about the fact that provisional placing on the disqualified from working with children list does not per se prevent someone from working in a child care position. Do any Kerelaw workers still remain on the temporary register? If so, how many, and when will that be resolved? Does the minister agree that, in the interests of both children and staff, it is essential that staff placed on the list without a criminal conviction should have their cases dealt with as speedily as possible?

I agree that we must all learn the lessons from Kerelaw. We must be prepared to be open to the difficult issues that the independent inquiry may throw up. We owe it to children and families in Scotland. The broader issues touched on in the statement will be dealt with by other members of my team. I thank the minister for his statement. It would have been easier for us to deal with it if we had had it expeditiously, but I accept his apology.

**Adam Ingram:** I apologise again for the lateness.

The member wanted an assurance that all agencies will participate. I have had some useful contacts with a number of key people. For example, I spoke to Scotland's Commissioner for Children and Young People this morning, hoping that she might assist with the inquiry and have an early meeting with Mr Frizzell. I have also spoken to Matt Smith of Unison, who is keen for his union and its members to engage with the inquiry. Similarly, as the member probably knows, I wrote to the inspectorates to ask them why they had not revealed the scale of the problem of abuse during the course of their work. I expect to hear from all those agencies, particularly Glasgow City Council, given that it had responsibility for the management of the school.

As at October 2007, 226 individuals are fully listed on the disqualified from working with children list. A further 32 are provisionally listed. We do not comment on the names of individuals referred to on the DWCL—that is a confidential process between the referring organisation, the individual and the Scottish Government. A number of cases arising from the Kerelaw situation are still being considered for the DWCL.

**Elizabeth Smith (Mid Scotland and Fife) (Con):** I thank the minister for prior sight of the statement. It was at rather short notice, but at least it was better hearing it from him than from the media. On such an important issue, that is fitting.

I give members an unequivocal assurance that the Scottish Conservatives support the efforts to improve child protection that were under way under the previous Executive and are now under way under the current Government. We are pleased that the Protection of Vulnerable Groups (Scotland) Bill was adjusted into a form that we could accept, given our concerns on two issues.

The first of those was the fact that the consultations were incomplete and some of the bill was imperfectly drafted. That put at risk quite a lot of the good will of the organisations that are required to implement any changes, so I urge the new Executive to avoid repeating that mistake with any new legislation, especially given the sensitivities that surround the issue and the Kerelaw inquiry in particular. The second fault with the bill was that it left too much detail to secondary legislation.

It is good to hear that the minister is addressing both those problems, but I seek two further assurances from him. First, does he agree that the voluntary sector has neither the infrastructure nor the budgets of the public sector to cope with the administration of child protection? If so, will he comment on how the Government can assist voluntary agencies, especially if any retrospective checking of staff is required? The public needs to have full confidence and trust in the process, which is not always the case at present.

The second reassurance that I seek concerns an issue that is close to my heart as a former teacher who is involved in sports coaching and outdoor education. Will the minister do something to allay the fears that some aspects of the child protection process are so bureaucratic that they are in danger of preventing some people from volunteering to help with the huge range of extracurricular activities that are of great educational and social benefit to children all over Scotland?

**Adam Ingram:** Elizabeth Smith's last point was something that exercised the Education Committee in the previous parliamentary session. A substantial number of people came to the committee to give us evidence on that front. That is why the Government is keen to move forward with its consultation on the secondary legislation—putting in the nuts and bolts, if you like. In effect, we want to streamline the disclosure process so that the bureaucracy that has fouled up the system—multiple applications being made, for example—is done away with.

We are also conscious of the fact that we need a proper balance between protecting children and encouraging people to give of their services to help children. We will engage with the voluntary sector on that. In my statement, I mentioned guidance and assistance. As Elizabeth Smith knows, disclosure checks are free to volunteers, and we will maintain that situation.

I am conscious of the issues that Elizabeth Smith highlights. I cannot remember her other point, but perhaps I will come back to it when I do.

**Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD):** I am sure that the minister will join me in paying credit to the dedication of the 800,000 people throughout Scotland who work with children or vulnerable adults. I thank him for advance sight of not only the statement, but the consultation paper and for the open way in which he has approached the matter this week.

Does the minister acknowledge that 80 per cent of child abuse is not perpetrated by strangers but happens in the home? Will he ensure that resources are directed not exclusively towards bureaucracy and institutions but towards additional support for family and child protection social workers, who are overworked and continuously under pressure?

Will the minister underline how any lessons that are learned from the Kerelaw inquiry will be implemented through the residential care estate? What role will the Scottish institute for residential child care, local authorities and charities have in that implementation?

The disqualified from working with children list in Scotland stands at 226 individuals. In December last year, Nicola Sturgeon called for anyone on the sex offenders register to be placed on the list, which would make it an offence for anyone on it to apply for a job working with children or for such a person to be given such work. There is no mention of that in the consultation paper that the minister launched today; is it still the Government's intention to introduce legislation to bring that about?

**Adam Ingram:** No, I do not believe so. I think that we have all the primary legislation in place and the secondary legislation is out to consultation at the moment.

I have some further information in answer to Rhona Brankin's question on the number of people on the DWCL. Eight people who worked at Kerelaw are listed on the DWCL and a further 10 are provisionally listed.

In response to Jeremy Purvis's question on the residential care sector, I am looking for wider lessons, other than the particulars of Kerelaw, to come from the inquiry. For example, how does the

corporate parenting role need to be developed in the context of residential care? I am concerned about the lack of visibility of children in residential care to the elected members and senior officials of councils. How do we combat the out-of-sight, out-of-mind tendency? In some areas there is dependence on out-of-area placements, which perhaps accentuates that tendency.

The investigations by Glasgow City Council that led to the decision to close Kerelaw school revealed that it had a dysfunctional and staff-centred culture. What management systems and controls need to be put in place to prevent the growth of such cultures? Why did the inspectorates and the care commission fail to pick up concerns about children's safety? We need to ensure that children report abuse when it happens and that they are listened to and supported when they do so. How do we make that happen?

**The Deputy Presiding Officer (Trish Godman):** A considerable number of members wish to ask questions, so it would be helpful if questions were short and concise.

**Michael Matheson (Falkirk West) (SNP):** Like others, I welcome the minister's statement and the publication of the consultation document. He mentioned in his statement the need for a streamlined system of disclosure checks. I support that objective. I am sure that he is aware of the problems of those who have to go through repeated disclosure checks; I know of a case in which someone went through 10 different checks in a year as a sessional worker.

Can the minister assure me not only that any change to the disclosure check system will retain the proper and necessary safety checks, but that he will look for ways to reduce the need for repeat checks? Under the present system, some individuals have to go through many checks.

**Adam Ingram:** Yes, I can give the member an assurance on that. The system will change; initially, people will apply for scheme membership, and their membership will be kept constantly updated thereafter. The need for multiple applications, which Michael Matheson mentioned, will no longer be there.

**Dr Richard Simpson (Mid Scotland and Fife) (Lab):** With your indulgence, Presiding Officer, I want to ask two questions. Before I do so, I declare that my wife is involved in the field and is in child protection training.

First, I return to an answer that the minister gave earlier. As I understand it, the 30 people on the temporary list are still entitled to work with children. That needs to be addressed. It is not good for them to be on the temporary list. If they are guilty, it is not good that they can work with children. If they are not guilty, they should be

taken off the list. I make that comment in passing. The minister might want to comment on it later.

Secondly, I want to address the first part of the minister's statement, which was in three parts. He announced that there will be a draft code of practice on information sharing. Will that be a substitute for the draft Children's Services (Scotland) Bill, which requires a single shared assessment with a key worker? It seems to me that a draft code of practice is not an adequate response, and it might be a fracture line that prevents all-party support.

I hope that the minister agrees that we have already undertaken an audit and review and that we have a children's charter that says that information should be shared only as necessary. We have standard 4, with seven examples of how care should be shared under the framework for standards; all those measures are backed up, as the minister said, by quality indications and rigorous inspection. What will the minister's code of practice add? It will not place on agencies the duty to share information that the Children's Services (Scotland) Bill would have laid on them.

**Adam Ingram:** Richard Simpson will recognise that there is a civil and human rights issue related to his first point. Although such people may not be barred from employment at this stage, it is obviously up to employers to act on the knowledge that they have in front of them. I assume that they will do so appropriately.

Secondly, the member mentioned the draft Children's Services (Scotland) Bill. To be frank, policy delivery is more important than legislation and much can be done under the current legislation to make improvements. It emerged from the consultation on that draft bill that several agencies are concerned by early legislation without further detailed consideration of the implications for services. Further work in pathfinder areas—the cabinet secretary and I both visited the Highlands last month in that regard—and other development work throughout Scotland will help to determine how best to improve any legislative changes that we decide will be needed in the future.

As I said, responses to the consultation on the draft bill indicated that more work needs to be done to resolve the complex issues affecting change across children's services. We need to work through those issues. However, I am pleased to say that the getting it right for every child process, which is working through the pilots, is making significant process.

**Hugh O'Donnell (Central Scotland) (LD):** I thank the minister for the statement; on first look, it certainly seems that we will be happy to support it.

I have two specific questions on the Kerelaw inquiry. First, given that for the most part we are

talking about children who are particularly vulnerable, can we ensure within the remit and resources that will be available to the inquiry that those children are supported by the provision of advocates and other necessary support to give evidence and make clear their points of view? Secondly, is it intended that the inquiry's remit will include evidence from historical cases of residential care abuse throughout Scotland in the period covered by the Shaw report?

**Adam Ingram:** I want to pursue the use of independent advocates or lay professionals to assist children. Having read the inspectorate's reports on Kerelaw and why it did not pick up the abuse, I was not entirely impressed with it, but it has assured me that independent advocates and lay professionals are now used to gather children's views in the making of such inspections. That is relevant for the independent inquiry that we are talking about, and we will bring to the inquiry chairman's attention the use of independent advocates to gather evidence from the vulnerable children.

What was the other point?

**Hugh O'Donnell:** My second point was about prior victims of abuse.

**Adam Ingram:** The historical abuse inquiry that Tom Shaw is conducting will obviously be complementary to the Kerelaw inquiry. Having spoken to Eddie Frizzell, I know that he is keen to have an early meeting with Tom Shaw as soon as is appropriate so that the two streams of knowledge and information can come together.

**Marilyn Livingstone (Kirkcaldy) (Lab):** As convener of the cross-party group in the Scottish Parliament on survivors of childhood sexual abuse, I give my thanks to the previous Administration for its support, particularly in the implementation of the survivors Scotland strategy. I hope that the new Government will continue to support that initiative.

There is no doubt that we must put the protection of today's children at the centre of any policy, but we must not forget yesterday's children. What support will the Government provide to those who have suffered systematic abuse so as to help them through the often long-term symptoms—they can range from drug and alcohol abuse to self-harm and suicide—and trauma that they and their families experience? Secondly, I welcome the fact that the cabinet secretary has given priority to the code of practice for sharing information, but how will the Government ensure that our most vulnerable children have safe space to disclose?

**Adam Ingram:** I can give the member the assurance that we are more than happy to work with the cross-party group as before.

On support for survivors of abuse, our reference group for adult survivors of childhood sexual abuse is progressing well. We have set up a historical in-care abuse sub-group to identify the specific needs of in-care abuse survivors. In-care abuse representatives sit on that group. We are developing proposals for a support framework for survivors of in-care abuse.

**Murdo Fraser (Mid Scotland and Fife) (Con):**

If I may assist the minister, I want to go back to the first question that my colleague Elizabeth Smith asked earlier. The question concerns the impact on the voluntary sector's infrastructure and budgets of dealing with the additional bureaucracy that arises from the—very necessary—administration of child protection. How will the Government try to assist the voluntary sector in dealing with those burdens, in particular any retrospective checking of staff if that is required?

**Adam Ingram:** Certainly, we are keen to assist to ensure that the voluntary sector is not disadvantaged in meeting its obligations under the legislation. As I said in my statement, we will consult the voluntary sector not just on the secondary legislation but as part of an on-going process. I cannot mention any hard-and-fast proposals at the moment, but the issue is very much on our radar.

**Gil Paterson (West of Scotland) (SNP):** I have a concern that some people who formerly worked at Kerelaw but left in advance of its closure may need to be questioned. Will the minister assure me that they will be brought into the inquiry in some form?

**Adam Ingram:** Yes, absolutely. We intend to leave no stone unturned in seeking to engage with the relevant parties who were involved in the Kerelaw situation. That includes members of staff who were not associated with any abusive situation but have been in some way tainted by association because they worked in Kerelaw. I know that that is a serious issue. Staff who are in that position will be engaged with during the inquiry, because obviously we want their assistance on the lessons to be learned.

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** As the minister is aware, along with Kathleen Marshall and Sheriff Alan Finlayson, I sat as a member of a previous inquiry into abuse in residential care in Edinburgh. From his discussions with Kathleen Marshall in her new role as Scotland's Commissioner for Children and Young People, he is also aware that that inquiry made a crucial point about the need to listen to the voices of the children. Further to the minister's comment that the need for independent advocates is an issue that he will bring to the attention of the inquiry's chair, may I respectfully suggest that something slightly stronger is needed? Will he

assure us that children's voices will be heard and that the appropriate arrangements will be put in place to ensure that the inquiry team includes someone who has direct personal experience of being in the residential care system?

The minister said, if I heard him correctly, that 10 people from Kerelaw are still on the provisional list. When will those cases be completed and dealt with?

**Adam Ingram:** I will answer the final point first: the cases are being dealt with currently. However, a problem in dealing with the aftermath of Kerelaw was the nature of the investigations and of the evidence that was compiled. That is causing some difficulty to the people who are dealing with the listing process.

Cathy Jamieson asked for a guarantee that children's voices would be heard. That is an absolute guarantee. She mentioned her experience on the Edinburgh inquiry, and I can tell her that that inquiry was the subject of my discussion this morning with Kathleen Marshall. Kathleen Marshall undertook to discuss with Eddie Frizzell exactly the point that Cathy Jamieson has raised. It is essential.

**Christina McKelvie (Central Scotland) (SNP):**

I welcome the minister's commitment to an independent inquiry into Kerelaw and I congratulate Glasgow City Council on having the foresight to commission that inquiry with the Scottish Government. Will the minister ensure that the inquiry looks closely at the role that was played by the council in the running of Kerelaw, and will he ensure that the inquiry takes evidence from the trade unions that represent the workers at Kerelaw? Some of those workers have been accused of malpractice.

This issue is an open wound for Glasgow and for Scotland, and I am pleased that the Scottish Government is ensuring that it is investigated. I ask the minister to ensure that the wound is treated properly and that the examination of what went on at Kerelaw is absolutely thorough.

**Adam Ingram:** I can give the member that assurance. As she is well aware, the trade union Unison, in representing its members, made a number of significant criticisms of the methods of the investigation—in particular, of the trawling process of looking for evidence. The nature of the investigation will be investigated by the independent inquiry. Trade union representatives and union members will have access to the inquiry and will be actively engaged by it.

**David Stewart (Highlands and Islands) (Lab):**

The minister is well aware of the horrific case of five-year-old Danielle Reid from Inverness, who was murdered and whose body was dumped in the Caledonian canal in a suitcase—an image that

shocked the nation. Does he share my view that few local authorities are of a scale that allows them to provide the highly specialised skills that are required to investigate complex child protection cases? Is there a case for a social work equivalent of the Scottish crime squad to provide—centrally—advice, guidance and assistance to all local authorities? That would better protect our vulnerable children and would ensure that cases such as that of Danielle Reid never happen again.

**Adam Ingram:** I thank the member for his question and for his early intimation of it. I very much agree with his sentiments. He will be interested to know that recommendation 27 of the Social Work Inspection Agency's Western Isles report of 2005 calls for a national, multi-agency resource, providing a research base, consultancy and co-working to support child protection professionals.

Officials have recently presented a draft proposal to the chairs of the child protection committees on how best to create a sustainable, efficient and effective national resource. We expect to consider their views before Christmas, and ministers will decide on the way forward in the new year.

## Environment and Culture

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S3M-739, in the name of Michael Russell, on the environment.

15:40

**The Minister for Environment (Michael Russell):** I wish to indicate at the outset that I regret that I cannot accept the Labour amendment. Members should know that the motion was e-mailed to spokespeople in every party a week ago, with an invitation to discuss the debate. I would have liked the opportunity to discuss the matter with representatives of the Opposition so that we might have agreed on an amendment.

I am prepared to accept the amendment in the name of Mike Rumbles. I do so because, as many people know, my wife is the headteacher of a primary school and she tells me that we should adopt an attitude of positive reinforcement towards those who are not doing very well. The amendment proves that point.

The Scottish Government has five clear strategic objectives, and I want to talk about the way in which they come together in the subject that we are debating today.

Our landscape and the cultural life that it supports have a powerful contribution to make to our strategic objectives for government. Our cultural industries are major earners and employers in their own right, and they help to support our global reputation as a nation to visit and in which to live, work and do business. Our tourism and food and drink industries in particular draw great strength from our well-deserved reputation for the beauty and grandeur of our countryside, coastlines and townscapes. The sense of identity and belonging that we derive from our land and culture supports our sense of well-being, helping to make us healthier and our communities safer and stronger.

Landscape and culture together help us to deliver our objectives for a smarter and greener Scotland. They enable us to discover and explore our history and environment, how they have made us who we are and how we and future generations depend on them. They encourage us to value and enjoy our environment and, importantly, to acknowledge our responsibilities towards it, for our own sake and for that of future generations.

Bringing together culture and environment is not abstruse, but central to achieving our strategic objectives. The work that Linda Fabiani and I hope to do on the issue demonstrates not only joined-up

government but a joint commitment to meet our strategic objectives. However, it does more than that. As I said, landscape has made us and we go on making landscape. We have interacted with what is around us in this country for at least 11,000 years, and the signs of that interaction are all around us. Who is here and what is here help us to understand why we are here and, more importantly, what we need to do to remain here and to retain an environment that is healthy and sustainable.

That is a general point, but there is a particular point to be made. I suspect that, in this debate, each one of us will reflect for a moment on what we particularly value in our culture and landscape. I pay tribute to the work that has been done on landscape issues by the Scottish landscape forum, which informs this debate.

As a child, I was much influenced by a book called "The Hill of the Red Fox". To show the co-operative nature of this debate, I freely acknowledge that its author, Allan Campbell McLean, was a chair of the Scottish Labour Party. It was an inspirational book—a spy story that took in the island of Skye. It is what first excited me, as a child growing up on the Ayrshire coast, about the Highlands and its landscape. Of course, Allan Campbell McLean had a great fondness for the Highlands and Gaelic. The book was atmospheric and had an effect on me as I grew up. Later on, I was gripped by the poetry of Sorley MacLean when learning about the Highlands and Islands as I lived in the Western Isles. I am not the only person to have been so gripped. The great poem "Hallaig" was translated by the Nobel laureate Seamus Heaney. His translation starts:

"Time, the deer, is in Hallaig Wood  
There's a board nailed across the window  
I looked through to see the west  
And my love is a birch forever  
By Hallaig Stream, at her tryst".

Sorley MacLean's poetry, never more than in "Hallaig", is a poetry of place: it places individuals in a landscape and makes them relate to it, not in the past but in the century that we live in. One can go further and look at the work of the Scottish colourists on Iona, and be inspired by their vision, the brightness of the things that they saw in Scotland and the way in which they made Scotland sing on canvas. We can look at the poetry of Duncan Ban MacIntyre, which has inspired a musical work composed by Ronald Stevenson—who will be 80 next year—that will be performed at next year's Celtic Connections festival. It will celebrate "Ben Dorain", and will truly be a landmark achievement.

I turn to the work of a failed Hebridean: James Hogg, the Ettrick shepherd, who attempted to establish a sheep farm but found the journey by

ferry so unpleasant that he never went back. He was born in the Borders landscape—I am sure that we will hear that again from Jim Hume—and he celebrated that landscape. Indeed, his first book was a treatise on the diseases of sheep. He showed contempt for the society he lived in because, having been encouraged to apply for a ticket for the coronation of George IV, he discovered that it coincided with the sheep sales at St Boswells, and as he always went to the sheep sales he went there instead of the coronation.

I could go on about individuals who have been inspired by the landscape and have reflected that inspiration. Each one of us has been moved in that way. The question is, what have we been moved to do? We have been moved to think about where we live, whether in town, city or countryside, and I hope that we have also been moved to do some other things. The modern purpose of what Linda Fabiani and I are talking about today is the urgent need for each one of us to remember our place in the world and the landscape, and to change our lives as a result. That is the imperative in this debate. We live in a world in which we face the biggest challenge that any generation has faced. If we do not care for, love and nurture the landscape, and change the way that we work within it, we will destroy our planet. Even on a small scale, unless we take action to maintain rural and urban communities in a truly sustainable way, we will have little to pass on.

As was confirmed to me last night by one of the chief environmental advisers to the United Kingdom Government, the links between biodiversity, language and culture are well understood throughout the world, and now need to be understood in this country.

The motion, which I have pleasure in moving, is about celebrating creativity, and the fact that we in Scotland have a wonderful environmental inheritance and it is our responsibility to keep it that way. If we can learn from those who have celebrated it, have made it and who go on making it, we will do well. I hope that members feel as passionate about the subject as I do, and I hope that they will support the motion and the joint working that will take place between the environment and culture departments that will lead to new things in the coming weeks and months.

I move,

That the Parliament notes the important relationships among Scotland's natural and built environment, culture and history, which together make us who we are; recognises the achievements over the centuries of artists such as Sir Walter Scott, James Hogg, Alexander Naysmith, Robin Jenkins, Sorley MacLean, Joan Eardley and Ian Hamilton Finlay and, continuing those connections today, Angus Farquhar, Alasdair Gray, Andy Scott and Frances Walker among many others; is glad that so many

artists from Scotland and from elsewhere have taken their inspiration from Scotland's people, landscape and natural resources and the ways of life which they support and continue to do so, and recognises the need for the Scottish Government to work closely with cultural and environmental organisations, local authorities, community groups and individuals to celebrate, explore and reveal the diversity and ever-changing nature of Scotland, its people and its place in the world.

15:48

**Des McNulty (Clydebank and Milngavie) (Lab):** In a week when the leading environmental scientist Professor James Lovelock said,

"We are at war with the Earth and as in a blitzkrieg, events proceed faster than we can respond",

the environment motion that is before us might be considered somewhat esoteric, even pretentious. I anticipate that the Government will bring forward as a matter of urgency its detailed proposals for reducing greenhouse gas emissions, and that reducing carbon consumption will be integral to the budget proposals that it will produce in a fortnight's time. If not, Labour will challenge the Government's priorities.

In the meantime, the minister's motion—which is most definitely not a civil service concoction—reminds us of the importance of natural landscape, not just as a resource but as an inspiration to poets, writers, musicians, dramatists, architects, planners and the many thousands of ordinary people whose enjoyment and appreciation of Scotland's landscape and natural environment is a key ingredient of their quality of life.

We are sitting in a chamber designed by Enric Miralles, the Catalan architect, who drew his inspiration from its unique setting, with the juxtaposition of the built environment at the foot of the High Street and the natural splendour of Holyrood park dominated by Arthur's Seat. He wanted our Parliament to reflect the character and aspirations of Scotland, and to be at one with the distinctive Scottish landscape.

I am sure that members will be delighted at the success enjoyed by the National Theatre of Scotland's production of "Black Watch" in New York last week. However, they may not be aware that two of the new flagship productions that are being put on this season at the New York Metropolitan Opera are Verdi's "Macbeth" and Donizetti's "Lucia di Lammermoor". Both draw on Scotland's colourful history, its distinctive buildings and, of course, its unique scenery. Walter Scott, on whose story "Lucia di Lammermoor" is based, is regarded by the great Hungarian philosopher and literary critic George Lukacs as one of the key figures in the pantheon of modern European literature. Lukacs's view is that a great work of art is derived from within man and from nature, but is

not purely reflective of that reality. Rather, the writer or artist, in capturing the essential characteristics of the world portrayed, is giving more universal expression to the relationship between man, nature and society.

Although Scott is recognised as the inventor of the historical novel, his profound contribution to Scottish culture—not least in bringing together themes of Scottish history, Scotland's landscape and the culture of its people—is nowadays not widely known. However, I am sure that Mr Russell is well aware of Sir Walter Scott's role in organising the visit of George IV to Scotland in 1822, which was extremely influential in creating and adapting symbols of a distinctive Scottish identity within the union, to which he was strongly committed.

We can, of course, all be proud of the natural and cultural heritage that we have inherited. Our wild places, our spectacular scenery, our iconic species, our literary and artistic heritage, and our regional and local differences in culture and speech are all part of our identity as Scots. The natural environment and its resources are fundamental to our social well-being and our economic success. The landscape is crucial to the success of our tourism industry.

Scotland's scenery is a splendid legacy that has been left by previous generations. It is vital that we exercise good stewardship. The previous Administration set up the Scottish landscape forum to take forward the European Landscape Convention. Although the protection of Scotland's wild landscapes—which are renowned throughout the world for their beauty—is a key aspect of the work of the forum, the European Landscape Convention is concerned with not only spectacular landscapes but all landscapes, whether in good or bad condition, in rural and urban areas.

I hope that the minister will recognise the need for continued support for Scottish Natural Heritage to protect sites of special scientific interest and nature reserves. That work requires to be properly funded. He should consider extending environmental stewardship schemes, which allow farmland to be managed in a way that adds to the diversity and beauty of the countryside.

The motion fails to recognise that too many of our people, especially in some of our older industrial areas, live in degraded environments. There is significant evidence that a poor environment affects the health of some Scottish citizens and blights the life chances of their children. Frustration is evident in many communities, where contamination, dereliction or the poor quality of housing and other infrastructure has not been rectified. Labour's amendment reflects our belief that it is vital that resources continue to be made available for upgrading urban

environments, as well as for protecting and preserving Scotland's scenic landscape. All our people are entitled, culturally and environmentally, to the best that our society can offer.

Art, architecture and design can play a crucial role in transforming places such as the Clydebank waterfront, Inverclyde and Irvine, which the previous Administration made regeneration priorities; places in Glasgow, North Lanarkshire, Dundee, West Lothian and elsewhere that benefited from the vacant and derelict land fund and the environmental justice fund; and the towns in Scotland that stood to gain from Labour's manifesto commitment to a town centres fund.

Local authorities, housing associations, Communities Scotland and local enterprise companies have in the past contributed—sometimes substantially—to upgrading dilapidated or degraded areas. Labour's commitment is to environmental justice and to a system of cultural entitlement that ensures that a quality environment and cultural excellence should be available to everybody.

Throughout Scotland, regeneration has been successful when it has been properly co-ordinated. My experience is that results are significantly better when there is an agreed master plan and significant input from artists, architects and urban or landscape designers, and when local people are properly engaged in the creative part of the process. Art, regeneration and the environment are part of everybody's entitlement in Scotland.

**Robin Harper (Lothians) (Green):** Will the member give way?

**Des McNulty:** Sorry, but I think that I am in my last couple of seconds.

**The Deputy Presiding Officer:** I will allow the intervention, provided that it is brief.

**Robin Harper:** Does the member agree that although Labour's architecture policy was welcomed when it first came out, it has not made as much progress as many people would have liked? Would he recommend it to the current Government?

**Des McNulty:** I would be very happy to recommend it and, of course, to welcome Robin Harper's support for our amendment.

We are not at odds with the minister over much of what he said, although, as I made clear at the beginning of my speech, the overriding priority for environmental policy—and not just environmental policy—is tackling climate change. However, we need to balance that with valuing and paying attention to our climate, our scenery and the urban environments in which many people live.

I move amendment S3M-739.1, to insert at end:

“further notes the involvement of artists, architects and urban designers with housing associations, local authorities and others in efforts to regenerate urban as well as rural environments; notes the importance of the Environmental Justice Fund and the Community Regeneration Fund in enabling communities that have suffered from degraded environments to gain support to regenerate their communities, and calls on the Scottish Government to do more to protect and enhance Scotland's landscapes, particularly in light of the challenges brought by climate change, and to link together cultural entitlements with environmental justice.”

15:55

**Mike Rumbles (West Aberdeenshire and Kincardine) (LD):** Unfortunately, Mike Russell has a history of using what he considers to be witty personal insults while he is addressing members, so I was not surprised by his opening comments that were directed towards me. However, I was surprised to hear that the Scottish National Party accepts my amendment, which emphasises Scotland's place within the United Kingdom and the wider world. Mike Russell sometimes surprises us all.

Scotland's diverse landscapes are celebrated around the world, and they make an important contribution to the economic and social well-being of the nation. The previous Executive led the way on protecting and enhancing Scotland's landscapes by introducing the Land Reform (Scotland) Act 2003, establishing the Scottish landscape forum, tightening up the planning system and initiating the revision of planning guidance on our natural heritage and historic environment. It also delivered successful agri-environment schemes through the Scottish rural development programme.

The Liberal Democrats believe that our landscape can be the unique responsibility of no single body, and its care can often be overlooked. We need to invest in managing our landscapes and to ensure that everyone in Scotland has access to them.

The Liberal Democrats are concerned about the way in which the Administration is causing confusion over the future of Scotland's rural and environmental agencies. The SNP manifesto pledged to merge Scottish Natural Heritage and the Scottish Environment Protection Agency, but since then the Government has been vague, to say the least, about its plans. Indeed, on 19 June, Mike Russell praised the work of the agencies and their staff. So the SNP appears to be backtracking on its manifesto pledge and will not say clearly what its plans are for both organisations. In a parliamentary answer on 7 June, Richard Lochhead said that their futures will be considered



in the context of the review of public sector delivery.

The SNP manifesto also committed the Administration to merging Historic Scotland with the Royal Commission on the Ancient and Historical Monuments of Scotland. However, it now seems to be unclear about that and admits that it might not be the best plan, as Linda Fabiani said to the Education, Lifelong Learning and Culture Committee on 27 June.

That confusion at the heart of Government is causing serious uncertainty over the future of the environmental protection and management of Scotland. The Government has to ensure that there is no diminution of environmental effort, whatever plans it finally produces for those agencies.

**Michael Russell:** It is only Mike Rumbles who is confused.

**Mike Rumbles:** The minister says, from his sedentary position, that the Government is not causing confusion, but I assure him that it most certainly is. Many representations have been made to me and others on the very issue.

The SNP has asked nine environmental organisations that work on rural affairs and the environment to draw up proposals to deliver a single rural and environmental service within a year. Is the Government really asking those bodies to streamline themselves? Is it abdicating responsibility for Scotland's natural resources?

**Michael Russell:** Will the member take an intervention?

**Mike Rumbles:** I will in a moment. I have a lot of questions for the minister. I hope that he can answer them.

How is the Government going to ensure that there no loss of environmental effort when those disparate organisations are merged?

**Michael Russell:** In the spirit of co-operation, I am sure that Mr Rumbles will be pleased to know that the chairs and chief executives of those organisations are happy with the arrangements. I have chaired two meetings with them and they are very happy with how well things are going. Given those circumstances, I am sure that he will welcome the efficient delivery that is going to take place.

**The Deputy Presiding Officer:** Mr Rumbles, you are into your last minute.

**Mike Rumbles:** Oh, right. Was that three and a half minutes?

Turning to tourism, in a statement on the enterprise networks on 26 September, John Swinney announced that he intends to cut the

number of VisitScotland hubs to just six, thereby renewing concerns about the loss of local control. There has been no genuine consultation with the tourism industry. Jim Mather admitted that the only members of the tourism community who were invited to discuss the proposals were those who put themselves forward. Does the Government realise the value of Scotland's landscape to the tourism industry? It does not seem so.

Rather than waxing lyrical about our natural and built environment and our cultural history, as Mike Russell has done, I take this opportunity to outline some of the many concerns facing our communities.

The Liberal Democrats will support the motion, but it can be improved. I must therefore take the opportunity to address the straightforward amendment in my name. I could not agree more with the terms of the motion. It is fine, and there is certainly a real

"need for the Scottish Government to work closely with cultural and environmental organisations, local authorities"

and the rest, to explore the real

"diversity and ever-changing nature of Scotland, its people and its place"

not only in the world but, as my amendment states,

"within the United Kingdom and the wider world".

I am pleased that the SNP has decided to accept the place of Scotland within the United Kingdom. The Liberal Democrat amendment is entirely within the spirit of the motion, and simply recognises the reality, as I can hear Mike Russell acknowledging from his sedentary position. We are a nation within the nations of the United Kingdom, and we are, of course, part of the wider world community.

I move amendment S3M-739.2, to leave out "in the world" and insert:

"within the United Kingdom and the wider world".

16:01

**Nanette Milne (North East Scotland) (Con):** The broad terms of the motion allow us to examine some key aspects of our heritage and our future, but, when many serious issues threaten our natural and built environments and those who work to preserve them, I think that our fellow countrymen would probably prefer us to address some of their immediate concerns, rather than spend our parliamentary time on a debate such as this. That said, I cannot disagree with the terms of the motion.

We live in a country that is renowned throughout the world for its beauty. Its coastline, its mountains, its rural landscape and much of its built

environment have inspired the arts over centuries, and people from across the globe come to experience and enjoy their beauty.

I feel particularly privileged to have spent my life in the north-east of Scotland, with its rich mix of rural, urban and coastal landscape, and its heritage of farming, fishing, educational excellence and, more recently, the development and global export of ground-breaking technologies, following on from the discovery of North Sea oil and gas and evolving now into expertise and innovation in the emerging field of renewable technology.

Lewis Grassic Gibbon's "Sunset Song" gave us an unforgettable portrait of bygone rural life in the Mearns. Landseer's paintings captured the beauty of some of our iconic wildlife. Joseph Farquharson depicted the essence of Deeside, and Eric Auld is still producing fascinating work showing the granite city and rural Aberdeenshire. George Washington Wilson has left us a wonderful photographic record of 19<sup>th</sup> century life in the north-east, and musicians such as Mary Garden, Evelyn Glennie, Annie Lennox and Lisa Milne have developed and exported their talents from a north-east background.

If we have a fault in the north-east, it is that we are too reticent about our heritage and achievements. We do not talk enough about our castles, our golf courses, our excellent local produce, our festivals and much else. For instance, I have drawn the Parliament's attention to the unique Aberdeen international youth festival, in which I have an interest as a trustee and friend. However, after 33 years, the festival still has to find its place on the national stage. I ask Linda Fabiani to help us with that.

Early next year, I hope to bring a taste of Grampian's produce to the garden lobby, because we need to broadcast our culture and our food. We need to bring more UK, as well as international, tourists to our region.

However, we also need to ensure that we do not lose the very environment that is so important to our heritage. We must not blight our landscape with inappropriate and unsustainable development, be it housing, industry or wind farms. We must protect our rural communities by encouraging the development of affordable housing, and we must support bodies such as the National Trust for Scotland in their efforts to preserve our best buildings and estates, such as Mar Lodge in the Cairngorms national park.

The bureaucracy and red tape that currently cripple rural businesses must be tackled, and organisations such as SEPA and SNH need to be thoroughly reviewed to ensure that they are genuinely working in the interests of the people whom they exist to serve, as we proposed in our manifesto.

Our farmers, many of whom are struggling for survival because of high feed prices, low farm-gate prices and the knock-on effects of foot-and-mouth disease and BSE, need help. Well-thought-out agri-environment schemes that help to support our farming industry and to secure the rural environment for the public to enjoy must be properly funded—now, before good work that has already been done is lost through lack of appropriate finance. In addition, as we said in a recent debate, resources must be available to tackle crime against our wildlife.

To sum up, I quote directly from the RSPB Scotland briefing for today's debate:

"Scotland's environment has an inherent value to us all that cannot be measured or under-estimated. The Scottish Government must work with farmers, crofters and conservationists to ensure that the landscapes, habitats and species that have served as such an inspiration in the past are available to benefit future generations. Rhetoric must be supported with action, resources and funding."

**The Deputy Presiding Officer (Alasdair Morgan):** We move to the open debate. Speeches should be of four minutes.

16:05

**Roseanna Cunningham (Perth) (SNP):** I assume that you were as dismayed as I was, Presiding Officer, by Nanette Milne's expression of Conservative philistinism at the outset of her remarks, which I found rather unfortunate. It contrasted with some of the other speeches that we have heard today and on previous occasions.

I was struck by comments that Sarah Boyack made in the debate on wildlife crime a few weeks ago. She said:

"Biodiversity is good for our environment and our tourism industry and it is part of what defines our country—it is part of our culture."—[*Official Report*, 4 October 2007; c 2499.]

Not to put words into her mouth, I say that it is also part of who we are. Who we are is about a great deal else—it is about our land, our history, what we see around us in our towns and cities, the backdrop to our lives that we so often take for granted, the animals and birds that we are so proud of, the inventions, the sea and so on.

I notice that, in its briefing, RSPB Scotland rose to the spirit of the motion by resorting to poetry. That was fantastic and I hope that its authors enjoyed producing it. Many of us could doubtless do the same. Sir Walter Scott's poetry enthused me when I was still a child and helped me to develop a crystal-clear identity as a Scot, even though I was 12,000 miles away from Scotland. Scott describes Scotland as a

"Land of brown heath and shaggy wood,  
Land of the mountain and the flood,  
Land of my sires!"

Even when he was writing those words, they probably offered a fairly romanticised view but, nevertheless, as a writer, he had an enormous influence on how Scots saw themselves and how people in England, the rest of the UK and the rest of the world saw Scotland. For me, being Scottish came to be about the physical fabric of the land itself.

Land is important, but there are other factors. I have mentioned Sir Walter Scott, who is obviously key. Other poets and writers are important, as is our music, some of which works best when one hears it outside, in the environment. The desk and floor in my office are littered with pieces of information—I guess that all members are in the same position—but if we want examples of the interaction between environment, history and culture, some of those pieces of information are highly relevant.

For example, some members might have noticed the leaflets that the SCAPE Trust issued a week or two ago, which highlight the significant losses that will occur if we do not deal with the problem of coastal erosion. Those losses would result in the disappearance forever of ancient settlements and the interaction of environment with history in ways that we would not want to continue.

**Michael Russell:** People from SCAPE have been giving evidence to a variety of bodies. The coast at Baile Sear is retreating by 5m a year, with the result that much of the ancient heritage of that place and other places is being destroyed. It is absolutely right that we should be concerned that action be taken quickly. I commend the member's concern and hope that it is shared by members of all parties.

**The Deputy Presiding Officer:** You have one minute left.

**Roseanna Cunningham:** I draw the Presiding Officer's attention to his predecessor's willingness to add time on for interventions.

**The Deputy Presiding Officer:** You have one minute left.

**Roseanna Cunningham:** Closer to home for me is the Roman fort at Ardoch, which is just outside Braco in my constituency. I have mentioned it before and there continue to be problems with the site. An uncontrolled rabbit population poses dangers for ancient monuments because their tunnelling causes significant damage. That is another example of environment and history interacting in ways that we do not want.

However, there are many examples of positive interaction. Crieff's annual walking festival, which is based on the droving history of the area,

accesses the beauty of the whole of Strathearn. Money is brought into the town from the combination of history and the landscape—one would not have the same impact without the other. It is also possible to do a William Soutar walk in Perth: the life of a locally born poet provides the inspiration for experiencing the city in a way that combines appreciation of literature and the environment.

If all that is too high-flown, what about the artworks in the grounds of the community school of Auchterarder? With the help of national lottery money, play areas were designed by artists. The works that were produced are not surrounded by "Keep Out" notices; instead, the children play in, around and on them. Art has become part of the environment for a generation of children in Auchterarder.

I could go on for another 30 minutes—

**The Deputy Presiding Officer:** I would not, if I were you.

**Roseanna Cunningham:**—but I have cut back my speech to fit the time available. I hope that we debate the issue again.

16:09

**Peter Peacock (Highlands and Islands) (Lab):** As Mike Russell said, the motion is rather unusual and Des McNulty was right to say that it was clearly not drafted by civil servants. The motion reflects Mike Russell's artistic and theatrical side. At one level, that is entirely unexceptionable.

I happened to spend last weekend in the Borders, where I was brought up. I took my now elderly parents to Scott's View, in Jeremy Purvis's constituency, the outlook from which—down to Ruberslaw and the Minto hills, with the Eildons before us and the Tweed meandering its way below us—was simply stunning. As a boy from Hawick, it is difficult for me to allow my gaze to dwell on Galashiels at any time, but it is a magnificent environment. On an autumn day, with the trees turning, one can see how it inspires and shapes people. Not far from there, in the hills that I walked as a boy, is the monument to the Ettrick shepherd. One can see how that inspires, influences and shapes all of us.

People have often regarded the Gaels as not respecting their environment, but in significant part ancient Gaelic writings are a celebration of the environment and of interaction with the wild creatures of the area.

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** I hate to interrupt such an excellent advertorial on my constituency, but I would like to cheer up the member, who is originally from Hawick. He will be aware that a couple of weeks ago Hawick beat Melrose 30-22.

**Peter Peacock:** Our dominance is maintained.

The motion is unexceptionable in what it says about the visual arts. We have spent all of humankind's time bringing the external environment into our homes. That is true of both comparatively modern landscape painting and of the first paintings by cave dwellers, which portrayed our environment and the wild creatures in it.

Although the motion is unexceptionable in many ways, it falls into a number of traps. First, it states the obvious. Art in all its forms is the expression of our relationship and interaction with the environment. Without that relationship, there is no art. That is true not only of Scotland, but of all nations. Each nation draws inspiration from its environment, in various ways. We should be very proud that Scotland has some of the key creative exponents of that process, a number of whom are listed in the motion.

Secondly, the motion is in some ways invidious, because it mentions some artists but, inevitably, cannot mention most of them. I was puzzled that Mike Russell did not pick people from my part of the world such as Hugh Miller, George Mackay Brown, Peter Maxwell Davies or his old sparring partner from the Uists, Angus Peter Campbell, who is now one of the foremost Gaelic poets and writers.

The third trap into which the motion falls is that it is largely a rural description of Scotland, although our urban environment is crucial to the mass of our people. It also inspires architecture, the people and the condition of the people in urban communities. The motion reflects a largely romantic view of the landscape and environment, but the reality for too many Scots in their communities is unromantic. Des McNulty made points about our degraded communities, which do not have access to a good pristine environment or to the arts. Those communities require environmental and artistic justice. The motion fails to see them, let alone to recognise that, which is why the Labour amendment is so important. People in such communities require not theatrical parliamentary motions but access, equity, action and entitlements to arts experiences, as Des McNulty set out.

Scotland's artistic community needs help to develop the arts in all our communities. As well as the artistic elite, rural Scotland—the part of the world that I represent is Scotland's largest rural area—needs particular support. [*Interruption.*] Presiding Officer, if you are telling me to be quiet, I will be quiet. Like Roseanna Cunningham, I could talk for many more minutes on the issue, but I will defer to your authority.

**The Deputy Presiding Officer:** Thank you.

16:14

**Rob Gibson (Highlands and Islands) (SNP):** I want to concentrate on one important aspect of the motion. There is a real environmental need to reunite our urban population with a love and knowledge of the rest of Scotland, their country. Matt McGinn's 1960s song "I Have Seen the Highlands" makes my point:

"I was born in dear old Glasgow, in a Gallowgate tenement,  
When people spoke of my bonny land I didn't know what they meant.  
But then I took to travel, I moved far and wide,  
Now when I speak of my native land I speak with loving pride:  
For I hae seen the Hieland's, I hae seen the Low,  
And I will brag o' my native land wherever I may go."

He, like many urban people, had not experienced what the rest of his country was like. I will argue that that is often still the case today.

**Johann Lamont (Glasgow Pollok) (Lab):** Will the member take an intervention?

**Rob Gibson:** No, I would rather make some headway.

In a *Herald* article in 1999, Kenneth Steven urged our young Parliament to address the situation that I just described. He cited how Norwegians who live in towns are far more in tune with Norway's coasts, mountains and wild places than Scots are with those parts of their country, which should not be the case. He suggested that the disparate parts of Norway are welded into a nation by Norwegians' love of their land and the practical developments that have been undertaken through such organisations as folk high schools, which acquaint young people from the towns with countryside living and skills. There is also the involvement of many young Norwegians in skiing, sailing and walking, which are far more widely practised in Norway than they are in Scotland.

The average Scot regards a holiday as being a short budget flight to the sun. They turn their backs on the wealth and wonder of our rural and island places. Considering Scotland's tragic history of rural clearances and self-eviction in the pursuit of progress, it is little wonder that the alienation of most urbanites came about. Underlying that outlook is the stark fact that "we", the vast majority, live in towns, while "they", the vast minority, own the countryside; 1,250 people own two thirds of the privately owned rural land—it is "them and us".

The Scottish view of the countryside, therefore, is weakened through a lack of family connection with it, in contrast with the situation in, for example, France, Italy or Norway. However, this environment debate allows us to place the emphasis on the cultural inspiration of our landscape and its scattered communities, and it is

a great chance to celebrate our huge output in the arts and in traditional music and song, whose riches are of world stature.

Bagpipes, which have been mentioned already, may be seen by some as an instrument best suited to the outdoors. Ironically, bagpipe music gained its popularity through pipe bands, which developed in our towns and cities, with their large populations. Anyone who has heard a pipe band playing in the street cannot but be moved. The world pipe band championships that take place on Glasgow green in August take rural and urban folk music on to an international plain.

Some of our finest examples of artistic inspiration involve humans in the landscape. Norman MacCaig's poem "A Man in Assynt" is a classic of the kind, which all Scots should read, then visit the places that MacCaig wrote about.

The motion allows us only a little time to debate great details, but it opens the account and tries to dig beneath arguments about regeneration funds and about whether we should be thinking about British literature, song, painting or whatever, which is a spurious concept.

At the heart of the motion is the idea of our rural and urban areas coming together in the imagination, so that old and new experiences of our shared Scottish environment can be tapped into by this generation.

16:18

**Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab):** As Peter Peacock said, the law of unintended consequences means, by definition, that when we list who is in, we imply who is out. I appreciate that it is not possible to list in any motion all Scotland's important artists and literary figures. However, I am a wee bit surprised, if not astonished, that there is no mention in the motion of Burns. Andrew Cooper, the secretary of the Mauchline Burns Club, said to me this morning that we can walk down any street in any city of the world and we will find someone who can quote at least a couple of lines from Burns's works.

I can give more examples of important Scottish artistic and literary figures, but I will restrict myself to a couple of contemporary favourites. There is Andy Goldsworthy who, like Mr Russell, was born across the border but who has nonetheless made Scotland his home. His work takes its inspiration, quite literally, from our landscapes because he uses the natural materials that he finds there to create new ways of looking at our environment. There is also the present-day poet, Rab Wilson, who worked with me on the Holyrood poetry link scheme, whose work in the Scots language follows in the tradition of Burns in drawing inspiration from people and places in his native

Ayrshire. I am sure that everybody has their own favourite examples of such artistic and literary figures.

I want to concentrate on what the Labour amendment refers to, particularly on how public art can and does play a role in community regeneration. Members may have seen images this week on the BBC and STV of parts of my constituency in which derelict buildings were left to rot by their owners, who did not care about the local communities. Members will understand therefore why environmental justice is so important. The people who walked away from those buildings left communities feeling embarrassed that visitors should have to see derelict sites.

Members are welcome to come to Carrick, Cumnock and Doon Valley. I can put them on one of our excellent Coalfield Community Transport buses and take them on a tour of villages in the constituency, which would show them very different sights. Sometimes they would see—on the same streets that contain derelict buildings—high-quality public art, which was commissioned by the community to reflect its proud heritage. Members could start their tour with the Benno Schotz bust of Keir Hardie in Cumnock. They could look at the first statue of Jean Armour, in Mauchline. They could see the clock in Auchinleck that was designed to reflect the village's mining heritage, and they could see a memorial to miners in Drongan. They could see the larger-than-life statue of a miner in Muirkirk by accomplished sculptor Kirti Mandir. The unveiling of the statue by Jack McConnell, when he was First Minister, brought out one of the biggest crowds in Muirkirk in many a year. The initiative had been taken forward by the local enterprise company.

Members could see the gateway to Dalmellington, where a large artwork reflects local history as well as the village's more recent connections as a book town. They could see the gateway to Girvan—the red sandstone puffer sculpture, which has been controversial but has certainly attracted attention. The tour could move on to Dailly, the scene of perhaps one of the most graphic images in the BBC coverage, where the bridge at the end of the street was commissioned by the community council from internationally-renowned sculptor Steve Dilworth.

The important point is that such projects were community-led. People acknowledged that public art has a role to play in improving the local environment and in raising aspirations and expectations. It is perhaps no coincidence that the projects developed against the backdrop of industrial decline and dereliction, because in many ways they demonstrate how communities fought back and took control: they said, "We matter. We

deserve better and we will make it happen.” That is why funding for community regeneration and environmental justice is so important.

Many members quoted from songs and poems. I will finish with a line that my colleagues on the Labour benches will understand, which applies to communities who say that they want not just action on derelict buildings but public artworks:

“We want bread, but we want roses too!”

16:22

**Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD):** It is important that the member of the Scottish Parliament for Scott should follow the MSP for Burns. I am delighted that the Government has brought a debate that acknowledges the connection between land and people, past and future, and I am pleased that the motion headlines Scott and Hogg—two erstwhile constituents of mine, to whom I am sure my colleague Jim Hume, given his close family and historical connections, will refer.

My constituency also includes Melrose abbey, Thirlstane castle, Abbotsford house, Neidpath castle, and Glencorse kirkyard, where Burke and Hare found a good supply of bodies. It includes the High mill in Galashiels, which is to be reopened as the textile and design centre of Scotland and will buzz with students from every continent, who will want to come to the Borders and work in a mill that dates from the industrial revolution and was made famous by Bernat Klein and other designers. All those places are part of the warp and weft of the culture of the Borders—past and future. The castles represent a violent past, the abbeys represent our impact on faith and trade and the mills represent our industrial past, which is being brought to life through design and fashion. They are also part of the Borders’ future in tourism.

At the heart of Borders culture is Abbotsford, the home of Walter Scott and the first stately home to be opened to the public, because of the sheer number of visitors who were keen to see that supporter of literature’s home. In 1877 President Ulysses S Grant visited Melrose by train and went to Abbotsford. I am delighted that the United States ambassador has accepted an invitation from my colleague Michael Moore to retrace President Grant’s steps and visit the house in two weeks’ time—I regret that he will come by car, but the transport situation is one that we will rectify.

I support the trustees of Abbotsford house in their ambition to make the house a world centre for literature and I am delighted that the Minister for Europe, External Affairs and Culture has agreed to meet me and the trustees to discuss the matter. We need only approximately £10 million

from the spending review. I see that the minister is nodding—that is a mere drop in the ocean. When I saw the motion, with the theme of our history and future, I thought that there could be parallels with today’s political world in Scott and Hogg. The irony of nationalists paying tribute to Scott in such glowing terms is not lost. When the First Minister claimed credit for abolishing several quangos that had already been abolished, I thought of Scott’s “Marmion”, which states:

“O, what a tangled web we weave,  
When first we practice to deceive!”

When I heard that the First Minister had written to the generals and dictators of the world’s unsavoury nations, I recalled a literary description of Hogg’s “The Private Memoirs and Confessions of a Justified Sinner”, which called it

“A psychological case study of an unreliable narrator, and an examination of totalitarian thought”.

I think that it was on the First Minister’s reading list during the recess.

We should be wary about taking ownership of location. Scott and his counterparts in the Edinburgh enlightenment took elocution lessons so that they could sound less Scottish. Then, Scotland was North Britain. When Gladstone campaigned in Stow in my constituency in 1879 to 4,000 people—a sum that I tried, but failed slightly, to match during the recent elections—the reports stated that he spoke in Edinburghshire. Today, we have Scotland and we have the Borders. Scott played his part in recovering the honours of Scotland. In the Borders, we have the honours of Scotland—we rely on them for our culture, but also for our tourism industry and our future. As I said, the sum needed is only £10 million, which is a mere drop in the ocean.

16:26

**Christopher Harvie (Mid Scotland and Fife) (SNP):** Mike Russell chided me by saying:

“You usually twist economics into culture, Chris, and now you’re twisting culture into economics.”

That could perhaps be used against Nanette Milne’s comments that culture and the environment are somewhat marginal to our main concerns. “Environment” is an unfortunate long French word, with too many syllables for *Daily Record* journalists. The Germans use “Umwelt”, which is a handy and snappy word meaning “world around” and any primary school kid can understand it.

We are not very good at the environment, although the concept was coined by two Victorian Scots, Thomas Carlyle and John Ruskin, and broadcast worldwide by two other Scots, John Muir, in America, and Patrick Geddes, in all the

bits that are not America, and in America, too. Geddes came up with the evolutionary sequence of man in what he called the carbon age, which goes from the polis, to the technopolis, to the megalopolis and, ultimately, if we do not look out, the necropolis. That is pretty well where we are headed now—Alasdair Gray's "Lanark" ends at Glasgow's necropolis for good reasons.

The threat of environmental deterioration that is before us can terrify. Nicholas Stern told us how much coping with that deterioration would cost, but he was not encouraged by the Treasury and went back to academic life. We have not got much time, but there are encouraging signs and they are, largely, here in Scotland. When I was on the Economy, Energy and Tourism Committee's visit to Inverness, I had my C P Snow moment of understanding how a process works and how it can benefit us—I saw how wave power is actually air power, as it deals principally with compressing air to act in turbines. Air is far more steerable and storable than water. A product prototype is slated for Siadar in the Western Isles, which has, I noticed almost immediately, the power of the Voith Siemens company behind it. In other words, we are in the European big league on that. Once we grasp that and the illimitable swell surge of the Atlantic, we will see that the potential is as great as North Sea oil's and that it will stay.

Scotland also stands well on coping with greenhouse gases. We now know that the capacity of the sea to absorb the CO<sub>2</sub> with which we are poisoning ourselves is less than we had assumed. We need carbon capture, which involves burying CO<sub>2</sub> and using it to force out more oil and gas. The process was being mooted back in 1992, when I was working on the book "Fool's Gold: The Story of North Sea Oil"—which is still, I think, the only major study of North Sea oil—but it has so far only been carried out by the Norwegians in the Sleipner field. The process enables the Norwegians to bury a million tonnes of the stuff a year. We could bury as much as the 15 million tonnes of CO<sub>2</sub> that come from Scotland's three carbon-burning stations, so the sooner the Peterhead-Miller field scheme is up, reanimated and running, the better.

The CO<sub>2</sub> traffic can be separated from power station discharges. We can find out what the building of new pipes will cost and, because Europe is desperate to get rid of the stuff, we can make money out of carbon capture. The equivalent of about 1 billion tonnes of oil has been taken out per decade—that is where we can put the stuff. We need a North Sea energy and environment policy. We need partnership investment on behalf of the Scottish people—a renewables equivalent of Norway's Statoil. We need specialised manufacturing and training provision. I am a natural pessimist of the Private

Frazer sort, but since that Tuesday, watching the waves in an Inverness laboratory, I have become an optimist.

16:30

**Helen Eadie (Dunfermline East) (Lab):** I echo Cathy Jamieson and Peter Peacock's comments when I say that I will support Des McNulty's amendment.

Bonarty, in Dunfermline East, is a fine example of regeneration funds transforming a pit bing from one of Scotland's worst scars, from an era long past, into the amazing Lochore meadows, which has become a tourist attraction, a site for bird observation and a source of education for the many schoolchildren who visit it.

I have the privilege of being the member whose constituency contains the north landfall of the two bridges—the Forth rail bridge and the Forth road bridge. We all know the great works both written and painted that have been inspired by those iconic pieces of our landscape, or seascape.

**Alasdair Allan (Western Isles) (SNP):** The member refers to the iconic Forth bridges. Am I being unfair, or do I recall that she called for one of those bridges to be knocked down because the paint was coming off?

**Helen Eadie:** That report was totally wrong; the member is being mischievous in what is an otherwise relatively friendly debate. That is a misrepresentation of what I actually said. Journalists will report anything. We report the facts; they report the fiction.

The regeneration at Lochore is a consequence of Labour's environmental justice agenda and the determination, skills and commitment of the politicians and officials at the former Labour-led Fife Regional Council. It has inspired local artists such as Jim Douglas, who has written eminent works on the human condition in mining communities and whose paintings hang in Buckingham palace. I hope that the new Government will accept that that justice work is vital and must continue. I also hope that the minister will commit his Government to transforming Westfield, which is the biggest blot on the European Union's industrial landscape.

There are other notable places in Fife where our heritage has been protected by the previous, Labour-led council, such as the Wemyss caves. Labour injected more than £6 million into protecting those special caves from the worst ravages of coastal erosion, and I am delighted that they have been protected.

We all accept that there has been a growing focus on the value of certain landscapes and the potential impacts on those landscapes; there has

also been discussion of what constitutes appropriate development. As a result, landscape management methods are coming under increasing scrutiny. I welcome the fact that throughout the EU, the spatial planning agenda strives to secure co-operation from member states and achieve strategies and agreements that will result in firm action being taken by the most appropriate levels of government to secure the protection of those parts of our heritage that most need it.

In a recent report in the *Sunday Herald*, its environment editor, Rob Edwards, advises us that more than 10,000 of the most important ancient and historical sites around Scotland's coastline are at risk of being destroyed by climate change. On occasion, man-made developments on our coastlines have the impact of a scouring action. According to the article,

"New surveys for Historic Scotland reveal that the remains of communities up to 9000 years old could be lost for ever due to accelerating coastal erosion."

I hope that the minister will take particular note of the Crown Estate's exhibition in the garden lobby. It explains the marine stewardship fund, which is funding development of a new coastal defence system to protect against erosion. The system is being trialled at Dunwich in Suffolk. I hope that the minister will take an interest in that, because it will benefit the people of Scotland.

16:35

**Bill Wilson (West of Scotland) (SNP):** Most of us live in cities and many of us have little contact with nature. That isolation from the natural world has occurred only recently in evolutionary terms as technology has advanced. The close awareness of nature that earlier generations of Scots enjoyed is reflected in our rich linguistic and literary heritage, as a couple of Scottish sayings might suffice to illustrate. "He never lies but whan the holly's green," was said of an habitual liar, while, "Ye wad wheedle a laverock frae the lift," was said of somebody who was particularly charming and persuasive. One might think that some of these phrases could be revived for certain political use.

As climate change looms, we might ask whether the technology that distances us from nature is now bringing us face to face with our dependence on the natural environment. The importance of the natural environment is not limited to climate change. There is wide acknowledgement of the health, welfare and law and order benefits of introducing more nature into our lives.

**Johann Lamont:** Will Bill Wilson give way?

**Bill Wilson:** No, I am sorry.

Greenspace Scotland quotes a police officer as saying that

"quality community greenspace has a real role to play in ... creating a safer and stronger community"

and that it is

"the latest weapon in the fight against crime!"

The appropriately named Dr William Bird, Natural England's health expert, says:

"The evidence that regular contact with the natural environment improves health and wellbeing is overwhelming particularly for children, the elderly and those living in deprived areas."

On that point, I congratulate Architecture and Design Scotland on recognising the importance of integrating nature and the built environment. Riverside Inverclyde—one of the key regeneration projects in which ADS is involved—will consider opportunities to reuse vacant or derelict land. Importantly, the options explicitly include the creation of natural or green spaces.

Having admitted that contact with nature is good for us, we are encouraging it back into the urban environment. Should we also change our attitude to nature in rural areas? We have channelled rivers, drained marshes and felled forests. Thankfully, we are now starting to reverse some of the damage that we have caused. For example, we have reintroduced capercaillies and sea eagles and established SSSIs.

Perhaps we should consider other reintroductions and changes of approach. The European beaver is listed in the European Community habitats directive and is recognised as a keystone species in the ecology of woodland and freshwater systems. According to Trees for Life, the European beaver builds fewer dams than the North American beaver. Its dams are usually breached by flood waters each year and do not normally pose obstacles to brown trout and salmon.

Given the difference in behaviour between the European and the North American beaver, reintroduction of the European beaver to Scotland would not cause a disaster of the sort that the North American beaver caused in Tierra del Fuego. In other words, there would be no need to introduce new beaver recipes.

**Robin Harper:** Bill Wilson will be aware that the whole of the Highlands was once covered by the great Caledonian forest, which was removed by man's activities over 6,000 years. Does he agree—

**The Deputy Presiding Officer:** Quickly, Mr Harper.

**Robin Harper:** Does Bill Wilson agree that, if one puts aside the romantic view of the north of



Scotland and sees it as a scene of utter devastation and desolation, there is a lesson to be learned from our own landscape for the future where climate change is concerned?

**Bill Wilson:** Yes.

I had better accelerate as I can see that I have little time. Presiding Officer, do I have a few seconds left? Am I in my last minute?

**The Deputy Presiding Officer:** Well, you have a few seconds less every time you ask.

**Bill Wilson:** In that case, I will skip the next section of my speech and go quickly to my closing remarks. I noticed a request for Burns, so it would be a pity if I missed out my final section, which includes a short quote from him.

Robert Burns wrote in his poem "To a Mountain Daisy, On turning one down, with the Plough, in April—1786":

"Wee, modest, crimson-tipped flow'r,  
Thou's met me in an evil hour;  
For I maun crush amang the stoure  
Thy slender stem:  
To spare thee now is past my pow'r,  
Thou bonie gem."

It is not too late for us to spare the wonderful natural heritage that we have in our beautiful country. We can and must heal many of the wounds that we have inflicted. After all, is it not the duty of each generation to pass Scotland on to the next generation in a better state than that in which it found her?

16:40

**Jim Hume (South of Scotland) (LD):** I welcome the chance to sum up on behalf of the Liberal Democrats. I congratulate Michael Russell on his motion, and I congratulate him even more on supporting the Lib Dem amendment.

My area—the Scottish Borders and, more widely, the south of Scotland—has long been a place of inspiration, not only because of its natural landscape but because of its passionate and, at times, fierce history. I come from one of its reiver families. Old habits die hard.

Hogg, the Ettrick shepherd, has been mentioned. He might have failed in the Hebrides but he farmed more successfully at my neighbouring farm in Yarrow—Altrieve, which is now known as Eldinhope. He received little acclaim for his book on sheep diseases but, as Jeremy Purvis said, he received great acclaim for his publication "The Private Memoirs and Confessions of a Justified Sinner".

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** It is very good.

**Jim Hume:** Yes, it is.

The main character is a doppelgänger, as the minister will know, which is a shape-shifting devil. There is some irony there—perhaps that Gothic novel is a wee bit like the SNP manifesto. Anyway, Hogg surely took inspiration from the Borders for his novel.

Sir Walter Scott, whom Des McNulty mentioned, is also linked with Yarrow. The last time Scott met Hogg, he stayed in my farmhouse in the Yarrow valley.

**Linda Fabiani:** Are you that old?

**Jim Hume:** I am getting hassle from the minister. [*Laughter.*]

Scott inspired Wordsworth to write three poems about Yarrow: "Yarrow Unvisited", "Yarrow Visited" and "Yarrow Revisited". Scott went on to strengthen the union by hosting the kilted King George IV here in Edinburgh. It was the first royal visit to Scotland for 172 years.

Liberal Democrats have always been at the fore of promoting the protection of the historic environment. Ross Finnie was the environment minister for an unequalled two sessions. We recognise the importance of nurturing people's appreciation and enjoyment of our historic environment, which is particularly important to the tourism industry. It plays a huge role in attracting tourists to the south of Scotland and Scotland as a whole.

However, perhaps we need to improve the ways in which we promote what Scotland has on offer. Recently, I was in Wigtown, which is home to the now well-known Wigtown book festival, of which you will be well aware, Presiding Officer. The festival has been immensely successful and has done much to regenerate the town recently—for example, by using the old county buildings to explain the town's history using original artefacts. The nearby Baldoon castle is said to be haunted by the ghost of Janet Dalrymple. The events surrounding her death, which remain unclear to this day, are immortalised in the unionist Sir Walter Scott's "The Bride of Lammermoor".

It is vital that we identify our untapped potential for tourism and work to develop further the excellent sites that we already have in Scotland. I hope that the shake-ups of VisitScotland and Scottish Enterprise do not result in Scotland losing out, particularly regarding local tourism initiatives. I am also anxious about the SNP's intention to review the make-up of agencies such as SNH and SEPA. The position is unclear and it is creating serious uncertainty about the future of environmental protection and management in Scotland.

Nanette Milne mentioned agri-environment schemes. I hope that the Scottish Government will

provide a continuation scheme as a matter of urgency, as the previous Liberal Democrat minister did.

We all agree that Scotland's excellent and historic built and natural environments are a massive boon because they provide both a good quality of life for those who live here and a valuable economic resource. The previous Executive made great strides in protecting and enhancing Scotland's landscape. I sincerely hope that the Scottish Government will follow that good example.

16:44

**Ted Brocklebank (Mid Scotland and Fife) (Con):** I enjoyed Peter Peacock's description of his day out in the Borders. I defy anybody who has viewed the Black Cuillin from Elgol in Skye not to have longed to be a painter, a poet, or at least a half-decent photographer. If ever a wind farm is allowed to intrude on that sublime view, Byron, Burns and the rest will all be birling in their graves—and no, Robin Harper, I have no time for any of your interventions. [*Laughter.*]

With so few big political ideas around, it is all the more important that we should try to identify what really motivates those who elect us. Bill Clinton was only partly right when he said, "It's the economy, stupid." Of course we all want to be better off, but even if Alex Salmond turned Scotland into the sixth—or is it the third?—richest nation in the world, would we really be that much happier?

Earlier this week, the Presiding Officer reminded the Commonwealth Parliamentary Association seminar that Andrew Carnegie, the then richest man in the world, said:

"No man can be truly rich unless he first enriches others."

We have been debating today what ultimately enriches us: our cultural inheritance—including the built environment that Des McNulty refers to in his amendment—linked with and inspired by our remarkable landscapes and seascapes.

Environment influences the cultures of all countries, but it seems to me that the culture of Scotland is uniquely shaped by its history and topography. The peoples of many European countries were forced into exile in the 19<sup>th</sup> century but, uniquely, the Highland clearances produced an outpouring of song and literature that is disproportionate when compared with that of countries where there were even greater diasporas. In the far corners of the world, the Gaelic word "cianalas"—longing for the homeland—is a powerful cultural driver to this day, and that has played a considerable part in the renaissance of the modern Highlands.

Today's debate has given contributors, not least Mike Russell, an opportunity to strut their cultural cred. My own literary icons, like Cathy Jamieson's, include Burns and Lewis Grassie Gibbon, who, as Nanette Milne pointed out, brought the speak of the Mearns to an astonished wider world. Even in translation, Sorley MacLean's poetry reminds us why exiled Gaels, though divided by "waste of seas", still in their dreams "behold the Hebrides".

Urban Scotland has been an equally important cultural driver, as Des McNulty and Peter Peacock reminded us. Before she produced her celebrated Catterline seascapes, Joan Eardley's reputation was already assured through her haunting paintings of Glasgow's slum bairns.

While we strut our cultural cred, however, we must avoid cultural cringe. Our environmental and cultural heritage is too rich and diverse to be viewed through tartan-tinted spectacles, if I can use that expression. The motion rightly talks about celebrating Scotland's place in the world, and Mike Rumbles's amendment sensibly talks about the UK and the wider world.

We have all heard Alex Salmond talking about the cultural cringe engendered by slogans such as "the best small country in the world", but equally cringe-making are attempts to impose a Scottish pastiche on our culture and artistes. We are at our best when viewed in a world context. As Burns wrote,

"From Scenes like these, old Scotia's grandeur springs,  
That makes her lov'd at home, rever'd abroad".

That was as true for Robbie Burns as it is for Robbie Coltrane today.

Edinburgh is home to the world's greatest arts festival. There could be no better example of culture formed from a uniquely Scottish environment. Scots are a gifted, out-going people; we thrive on competition. All that we seek is an even playing field; all that our renowned artistic companies seek is parity with their counterparts elsewhere in the world.

I look to Linda Fabiani—even in these fraught financial times—not to fall into the trap of settling back into a cultural kailyard. I look to her to honour her Government's commitment at least to retaining the current level of expenditure on the world-class arts here in Scotland.

16:48

**Malcolm Chisholm (Edinburgh North and Leith) (Lab):** This is an excellent motion from Mike Russell, and I commend him on lodging it, but it cries out for addition.

First, I have a minor point. Although delighted with the artists who have been mentioned, we all want to add one or two more. Cathy Jamieson

understandably mentioned Burns and, echoing Nanette Milne and Ted Brocklebank, I will throw in Lewis Grassie Gibbon. More than any other Scottish writer, he evoked the power of the land as an almost animistic force.

More substantially, we could add that culture is not just about celebration but is an agent of change. Similarly, the environment is not always something to be celebrated and can be in drastic need of change. Both culture and the environment lend themselves to the concept of entitlement, which is no threat whatsoever to the highest cultural and environmental standards.

I enjoyed Mike Russell's speech. I agreed with what he said and liked his quotations from Sorley MacLean, James Hogg and others. He paid tribute to the Scottish landscape forum, which was set up by the previous Administration. I point out to him that it reported earlier this year, with 21 recommendations. Perhaps, in summing up, the minister can tell us when the Government will respond to and act on those recommendations.

Peter Peacock, who has the most beautiful constituency in Scotland—apart from Edinburgh North and Leith—

**Jackie Baillie (Dumbarton) (Lab):** Will the member take an intervention?

**Malcolm Chisholm:** No, because I know what the member will say.

Peter Peacock pointed out that the motion was entirely unexceptionable but then proceeded to make several objections to it, including that it was largely about rural artists—

**Michael Russell:** Will the member give way?

**Malcolm Chisholm:** In a moment.

However, that is not entirely true. For example, the motion mentions Alasdair Gray, whose latest book I happened to read in the October recess. Although he votes SNP, I do not hold that against him and I can certainly recommend "Old Men in Love", which will appeal not just to old men, whether in or out of love.

**Michael Russell:** I fear that this is a singularly inappropriate moment for me to intervene. [*Laughter.*]

Every Labour member has said that the motion does not address urban Scotland, but it contains a number of names that do. For example, the books of Robin Jenkins deal strongly with the urban environment and the problems that arise there. Urban Scotland has not been neglected in the motion.

**Malcolm Chisholm:** I actually agree with the minister and was trying to make that very point to Peter Peacock, but I thank the minister for

reinforcing the point. Alasdair Gray also has a strong sense of place—in his case, the west end of Glasgow.

We are very lucky, of course, to have with us as distinguished a cultural historian as Christopher Harvie. He gave us an historical perspective, from the sociology of Patrick Geddes to John Muir, Thomas Carlyle and John Ruskin. Mid-way, he turned to his C P Snow moment, which involved wave power and carbon capture. We all agree that those are vital technologies that we must develop to combat climate change. I remind members—if I may have my C P Snow moment—that the Scottish scientist Joseph Black isolated and identified the properties of carbon dioxide.

Cathy Jamieson showed her expertise on artists. She emphasised environmental justice with a specific example relevant to her constituency and gave examples of modern art in Ayrshire, which is often community led. The Andy Scott who is referred to in the motion is such an artist, known for his "Easterhouse Phoenix".

The justice aspect was also emphasised by Helen Eadie. In addition, she mentioned coastal erosion, which is clearly an issue on which we must take action.

Roseanna Cunningham gave an excellent speech that highlighted the importance of Walter Scott and the enormous influence that he had on how Scots saw themselves and how others saw them. He was also mentioned by Jeremy Purvis and Des McNulty. Scott is an important example of how someone can be a cultural nationalist as well as a political unionist.

I was delighted to hear Ted Brocklebank begin his speech with a reference to the view of the Black Cuillin from Elgol, which is indeed the most superb view in Scotland and was, I think, captured in one of Sorley MacLean's poems.

I will not say too much today about cultural entitlements as we will have a statement on the issue next week, but I flag up our concern if that crucial concept is no longer to be central to culture policy. Environmental justice is conceptually similar to cultural entitlements, as it involves the right to live in a good environment. That is why we have emphasised that point in our amendment.

Clearly, the emphasis in today's debate has been on the beautiful landscapes of Scotland, but we must also emphasise how we will support and protect them. For example, will the Government implement the national scenic areas legislation that is contained in the Planning etc (Scotland) Act 2006?

Finally, we need to ensure that everyone has access to the beautiful environments of Scotland. That issue is partly about the access legislation

that, as Sarah Boyack argued, badly needs to be strengthened. However, given the number of people in urban Scotland who—it saddens me—never see those beautiful places, there is also an issue about public transport and the provision of information. That is partly a personal plea to Stewart Stevenson—if he is present—from someone who has spent every summer visiting the north-west Highlands by public transport.

**The Deputy Presiding Officer:** I call Linda Fabiani to wind up the debate.

16:54

**The Minister for Europe, External Affairs and Culture (Linda Fabiani):** It seems to me that Malcolm Chisholm has done my job for me, so I can just talk about what I want.

It was clear from the debate that some members well appreciate how important the connections are between the quality of life in our beautiful country and the natural and cultural resources that we enjoy. It was also plain that some members have a great love for their own part of the country: Nanette Milne for the north-east, Roseanna Cunningham for Perthshire, Jeremy Purvis for the Borders and Jim Hume for the south-east of Scotland. Helen Eadie, too, never wastes an opportunity to tell us how much she loves Fife—including the bridges—so I thank her for that.

**Johann Lamont:** Will the minister take an intervention?

**Linda Fabiani:** That was very quick.

**Johann Lamont:** First time lucky.

It would be helpful if the minister would outline why she will not support the Labour amendment. She will be aware of the concern—I say this as a Hebridean who was brought up in inner-city Glasgow—that our environmental approach disregards the urban environment. I therefore ask the Scottish Government to consider looking again at the dilution of Scottish planning policy 11 on open space, which is under way. Will the Government also consider looking again at the merging of SNH and SEPA into a rural service agency, which the First Minister spoke about during First Minister's questions? Clearly, there needs to be a strong message about urban—

**The Deputy Presiding Officer:** I think we have got the point.

**Linda Fabiani:** I thought that Johann Lamont would rise to the occasion, but sadly I was wrong.

Des McNulty's speech included wonderful artistic examples of mankind, nature and society. Most of the speech was very much in the spirit of the debate that we proposed, but his amendment did not reflect that.

Next, we come to Mike Rumbles's amendment. We are, currently, in the legal reality of the UK—we accept that, which is why we are accepting the amendment. However, as internationalists in both politics and the arts—Mr Brocklebank will be pleased to know that—we recognise that when Scotland is no longer in the UK, we will still have some common heritage that can be celebrated with the rest of it.

We are a privileged people indeed. As the motion suggests, we are especially enriched in Scotland by the wonderful works of art—music, literature, painting, film, dance and every other art form—through which talented men and women across the centuries have sought to interpret for themselves and for us the reaction, emotion and sheer amazement that Scotland's scenery and environment have inspired in them.

Peter Peacock said that the motion states the obvious; in that case, I have to ask why so many of his colleagues misunderstood it. It was wrong to suggest, even for a minute, that the motion does not reflect urban Scotland, when it names people such as Alasdair Gray. Chris Harvie spoke about Alasdair Gray's wonderful work in Glasgow where, after the city's decline as a big industrial city, he led a revival of writing. The motion also mentions Andy Scott, who has put urban art all over the place.

Cathy Jamieson and Roseanna Cunningham have a particular interest in public art. The Scottish Arts Council is exploring how to maximise the value to community life of public art works, which are a tangible expression of identity and belonging. Scotland's urban places are remarkable, too. They are cityscapes with their own beauty, grandeur and world-renowned centres of creativity. Artists have always played an important part in reconnecting people with their environment, giving us a sense of place and identity. Roseanna Cunningham understood that very well.

It has been said that it is a bit invidious to single out certain individuals as we do in the motion. However, the motion is an expression of celebration and profound pride in the people that it names and the many others whom they represent. The motion mentions the creative legacy that influences how we relate to the landscape today. The landscape of Scotland bears the marks of every generation, as shown by its sites, its buildings and its impressive evidence of prehistory in the form of earthworks and standing stones.

We are celebrating something vital that all places—unspoiled countryside, which many members mentioned, or the gritty urban landscapes of Peter Howson and film-maker Peter Mullan—have in common; I refer to the communities that inhabit them. Rob Gibson, Ted

Brocklebank and Bill Wilson all talked about how Scotland as a land is uniquely shaped. Rob Gibson also said that there was little time to debate in great detail what we would be doing.

I ask everyone in the chamber to take what we are doing today as a start. It is a celebration of creativity and of our people and our land—the wonderful environment that surrounds us. Let us rise to the occasion and say that the motion is pretty good. Let us celebrate it and agree to it today.

## Decision Time

17:00

### **The Presiding Officer (Alex Fergusson):**

There are four questions to be put as a result of today's business. The first question is, that motion S3M-738, on alternative dispute resolution, be agreed to.

#### *Motion agreed to.*

That the Parliament recognises the need to develop a broad range of appropriate dispute resolution schemes, as alternatives to the formal court system, which can offer more flexibility, quicker resolution, less stress and reduced expense for citizens.

**The Presiding Officer:** The second question is, that amendment S3M-739.1, in the name of Des McNulty, which seeks to amend motion S3M-739, in the name of Michael Russell, on the environment, be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

### **For**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Claire (Mid Scotland and Fife) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Margaret (Glasgow Baillieston) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Foulkes, George (Lothians) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Charlie (Glasgow Cathcart) (Lab)  
 Gray, Iain (East Lothian) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Hume, Jim (South of Scotland) (LD)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Kelly, James (Glasgow Rutherglen) (Lab)  
 Kerr, Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McArthur, Liam (Orkney) (LD)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Tom (Hamilton South) (Lab)  
 McConnell, Jack (Motherwell and Wishaw) (Lab)  
 McInnes, Alison (North East Scotland) (LD)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mulligan, Mary (Linlithgow) (Lab)  
 Murray, Elaine (Dumfries) (Lab)  
 O'Donnell, Hugh (Central Scotland) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Park, John (Mid Scotland and Fife) (Lab)

Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stewart, David (Highlands and Islands) (Lab)  
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tolson, Jim (Dunfermline West) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Whitton, David (Strathkelvin and Bearsden) (Lab)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Ahmad, Bashir (Glasgow) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Allan, Alasdair (Western Isles) (SNP)  
 Brocklebank, Ted (Mid Scotland and Fife) (Con)  
 Brown, Gavin (Lothians) (Con)  
 Brown, Keith (Ochil) (SNP)  
 Brownlee, Derek (South of Scotland) (Con)  
 Campbell, Aileen (South of Scotland) (SNP)  
 Carlaw, Jackson (West of Scotland) (Con)  
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)  
 Crawford, Bruce (Stirling) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Don, Nigel (North East Scotland) (SNP)  
 Doris, Bob (Glasgow) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 FitzPatrick, Joe (Dundee West) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gibson, Kenneth (Cunninghame North) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Goldie, Annabel (West of Scotland) (Con)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Christopher (Mid Scotland and Fife) (SNP)  
 Harvie, Patrick (Glasgow) (Green)  
 Hepburn, Jamie (Central Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kidd, Bill (Glasgow) (SNP)  
 Lamont, John (Roxburgh and Berwickshire) (Con)  
 Lochhead, Richard (Moray) (SNP)  
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)  
 Marwick, Tricia (Central Fife) (SNP)  
 Mather, Jim (Argyll and Bute) (SNP)  
 Matheson, Michael (Falkirk West) (SNP)  
 Maxwell, Stewart (West of Scotland) (SNP)  
 McGrigor, Jamie (Highlands and Islands) (Con)  
 McKee, Ian (Lothians) (SNP)  
 McKelvie, Christina (Central Scotland) (SNP)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMillan, Stuart (West of Scotland) (SNP)  
 Milne, Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Gil (West of Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Salmond, Alex (Gordon) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Elizabeth (Mid Scotland and Fife) (Con)  
 Somerville, Shirley-Anne (Lothians) (SNP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)

Sturgeon, Nicola (Glasgow Govan) (SNP)  
 Swinney, John (North Tayside) (SNP)  
 Thompson, Dave (Highlands and Islands) (SNP)  
 Watt, Maureen (North East Scotland) (SNP)  
 Welsh, Andrew (Angus) (SNP)  
 White, Sandra (Glasgow) (SNP)  
 Wilson, Bill (West of Scotland) (SNP)  
 Wilson, John (Central Scotland) (SNP)

**The Presiding Officer:** The result of the division is: For 54, Against 63, Abstentions 0.

*Amendment disagreed to.*

**The Presiding Officer:** The third question is, that amendment S3M-739.2, in the name of Mike Rumbles, which seeks to amend motion S3M-739, in the name of Michael Russell, on the environment, be agreed to.

*Amendment agreed to.*

**The Presiding Officer:** The fourth question is, that motion S3M-739, in the name of Michael Russell, on the environment, as amended, be agreed to.

*Motion, as amended, agreed to.*

*Resolved,*

That the Parliament notes the important relationships among Scotland's natural and built environment, culture and history, which together make us who we are; recognises the achievements over the centuries of artists such as Sir Walter Scott, James Hogg, Alexander Naysmith, Robin Jenkins, Sorley MacLean, Joan Eardley and Ian Hamilton Finlay and, continuing those connections today, Angus Farquhar, Alasdair Gray, Andy Scott and Frances Walker among many others; is glad that so many artists from Scotland and from elsewhere have taken their inspiration from Scotland's people, landscape and natural resources and the ways of life which they support and continue to do so, and recognises the need for the Scottish Government to work closely with cultural and environmental organisations, local authorities, community groups and individuals to celebrate, explore and reveal the diversity and ever-changing nature of Scotland, its people and its place within the United Kingdom and the wider world.

## Crown Estate (Taxation on Harbour Developments)

**The Deputy Presiding Officer (Alasdair Morgan):** The final item of business is a members' business debate on motion S3M-568, in the name of Tavish Scott, on Crown Estate taxation on harbour developments. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament notes the vital importance to island and coastal communities of their ports and harbours which serve lifeline transport links and, by supporting such industries as fishing, aquaculture, offshore oil, tourism and renewable energy, provide major employment opportunities; further notes that ports and harbours in the Highlands and Islands are largely owned by local authorities, trusts or other public bodies that operate for the benefit of the communities they serve and reinvest any profits in these communities; views with concern the charges such ports and harbour owners have to pay to the Crown Estate for the rental of areas of seabed; further views with concern the royalty charges imposed by the Crown Estate when material dredged from the seabed to assist navigation is used productively by harbour owners for land reclamation rather than being wastefully dumped at sea, and believes that serious consideration should be given as to how the Parliament's powers to legislate over the property rights of the Crown in Scotland, as outlined in the December 2006 report of the Crown Estate Review Working Group, could be used to lift this unjustifiable burden of Crown Estate taxation from ports and harbour operators.

17:03

**Tavish Scott (Shetland) (LD):** Looking round the chamber, I am tempted to say,

"Wherever two or three are gathered together".

Scotland's national portrait gallery currently features an exhibition called "Telford: Father of Modern Engineering". Thomas Telford designed, upgraded and built many Scottish ports. Today's ports and harbours play an essential role in Scotland's life. The sea provides transport, fishing and, in modern times, energy. Harbours are economic cornerstones of this country.

In Shetland, Lerwick harbour and the council's ports and harbours, including the Sullom Voe oil terminal, are vital to island life. Some 80 per cent of Scottish ports have either trust status, like Lerwick, or are owned by public bodies, such as councils. They are all run to benefit the communities that they serve. Many are successful commercial businesses, such as Lerwick Port Authority, whose profits are reinvested in improved harbour facilities and in businesses, to benefit the wider community. Others can never be a commercial proposition. Ferry terminals or piers on small islands such as Foula can never make a profit, but they serve the people of those islands in a vital way.

Investment must continue, whether the harbour was designed by Thomas Telford in the 1800s or by firms such as Arch Henderson today. No harbour can stand still as ships get larger and need greater quays and deeper water. This week, Aberdeen Harbour Board announced a £20 million investment programme. Peterhead, in the minister's constituency, is doing much the same thing, as is Scrabster. In Shetland, buoyed by the intensely competitive marketplace for the decommissioning of oil rigs, Lerwick is looking to expand. I hope that the enormous oil jacket at the Gremista industrial estate that is being dismantled by international consortia will be the first of many.

The debate is about the barriers to and the costs of investment. Ports face a series of charges that are imposed on them by the Crown Estate: for the leasing of the sea bed below their piers; for purchasing the sea bed for land reclamation projects; and for consents to dredge in areas where the Crown sea bed gets in the way of safe navigation. A harbour that defrays the dredging costs by using the material to build quays is charged a royalty on every tonne used. On land, landfill taxes give developers an incentive to reuse excavated material on their sites. At sea, the Crown Estate's royalty on reused dredged material has precisely the opposite effect.

In Shetland, the Crown Estate collects more than £75,000 a year in lease charges from the council and the port authority. Over the past 10 years, those bodies have together paid nearly £900,000 to the Crown Estate. Lerwick Port Authority is about to embark on a major port development project to improve its competitiveness for the oil industry. The port authority will, despite comments suggesting the contrary, have to pay the Crown Estate in excess of £600,000 for that project. If the project expands—I hope that it will—those charges will rise. That money could and should be spent on investing in the ports and harbours of the constituency that I represent: in the future of the islands' economy and in the people.

I acknowledge that the Crown Estate's marine policy has changed. It no longer just taxes—it now wishes to invest. There are, however, some profound questions about the Crown Estate's role. If it invests in one port and not others, the Crown Estate potentially distorts the marketplace, which in this area is highly competitive. What investment appraisal system can, after all, explain why the Crown Estate invested in Peterhead, but not in Aberdeen or Lerwick? How would the competition authorities consider such a role, and where does that leave Government guidance, which states that port investment must make a commercial return? It cannot be argued that Peterhead, Aberdeen or Lerwick has failed to invest and gain investor confidence in the past.

The question must be whether the Crown Estate's role, and the income from the charges that it receives as a landlord, is compatible with an investment strategy that raises profound questions of which port and why. Those assets are being developed by successful harbour businesses, and every penny that is earned goes back into the business. Why should the Crown Estate charge on an asset that could be managed professionally over the long term by the ports themselves? That is the business outcome that I want to see.

There are other areas of concern. Salmon farmers in my constituency still question what they get from the charge that they pay to the Crown Estate—the same applies to boat owners and community marina operators. The new telecom cable from Faroe to Shetland and onwards—I am pleased to note that it has been welcomed by the minister's colleague, Mr Mather—incur additional costs. The enormous potential of green energy, not just in my constituency but in those of Liam McArthur and Alasdair Allan, and that energy's transmission to the marketplace are all affected by the current regime.

The Scottish National Party Government has said much about reducing regulation, and Jim Mather has argued for lower business taxes. I agree, but the Crown Estate's presence in the Parliament this week, sponsored by Jamie McGrigor—I congratulate him on that effort—is positive. So, too, was the Crown Estate's appearance before the Rural Affairs and Environment Committee, and its commitment, as I understand it, to some form of increased dialogue and collaboration with Parliament through reports.

I will support the Government and the minister, if he is prepared to look at reform. Liberal Democrat MPs at Westminster hope to use the much-delayed United Kingdom marine bill to drive change in this area, and I hope that the minister will support that work. The Crown Estate review working group, which has in many ways initiated a healthy debate in this area, shows that Parliament can use existing devolved powers.

The SNP has had a Government conference on Trident—so what about action on the Crown Estate? The Scotland Act 1998 states:

“The Scottish Parliament will, however, be able to legislate to affect the Crown Estate”.

As a minister, I initiated consideration within Government on reform. Such issues are complex—I am sure that Mr Stevenson would tell me that. There is and there was—I make no bones about it—institutional reluctance to rock the boat, but that boat must firmly be rocked.

Scotland's ports need investment—Telford would have argued for that, and I do too. However, as businesses they need to be freed of additional

taxes and charges that potentially slow and blunt their competitiveness. That is why I have brought the debate to Parliament.

17:10

**Alasdair Allan (Western Isles) (SNP):** I commend Tavish Scott for the motion.

The charges that are levied by the Crown Estate on harbours affect many communities in Scotland, not least in my own in the Western Isles and the others that have been mentioned. I realise that, as has been said, the Crown Estate is in many ways doing its best to engage with the public and with parliamentarians, or at least to engage better than it has done in the past, but I am afraid that for many people it remains a pretty opaque organisation.

The Crown Estate is accountable to the Crown and its ministers but not, at least as far as its revenues are concerned, to either the United Kingdom or Scottish Parliaments. Although I do not want to take away from the various works that the Crown Estate does in research and investment, it is ultimately an institution that raises £14 million annually for the Treasury in London. Although that money is raised in Scotland, it is not completely—indeed, not anything like completely—returned to Scotland, far less to the communities from which the moneys are generally levied.

I am afraid that many people seriously question what the Crown Estate is all about. I am sure that Parliament wants to work constructively with the Crown Estate for as long as it exists, despite the lack of any direct parliamentary accountability that it enjoys. I am sure that the Crown Estate will likewise be thick-skinned enough to accept that it is not a popular organisation in many parts of Scotland.

I will give an example of what I mean. Stornoway Port Authority is among a number of organisations in my constituency that have to deal regularly with the Crown Estate. The authority and its predecessor organisations have been investing continuously in their harbour for a century and a half, yet it still has to lease the seabed underneath it from the Crown. That means that it has to provide the Crown with a payment for every leisure craft that uses the harbour—a cost that it would be impracticable to try to pass on, even if the port authority believed that that was in the island's economic interest.

As has been mentioned in respect of other places, Stornoway Port Authority has to lease the foreshore on which its piers are built and on which its own linkspan is built. In 2006 alone, the authority had to pay more than £16,000 in such



rentals to the Crown Estate—the community in Lewis must wonder to what end.

The Western Isles is, like other island communities, in urgent need of economic renewal, and the cost that its communities incur from the Crown Estate has to be passed on to someone—inevitably, that means the people who use the services and, therefore, in large part, the fragile fishing industry. The justification for the situation is, as far as I can see, that the foreshore just belongs to the Crown—except in parts of Uist where the chiefs of Clanranald ingeniously managed to appropriate it a couple of hundred years ago. The reasoning is that the Crown is therefore entitled to expect payments in return for its trouble, but the question is: for what trouble?

Why is the Crown Estate not accountable to this Parliament? Why is the Crown Estate land not subject to the same principles of land reform as other parts of the land in Scotland? Stornoway is one community among many where people struggle to see why, in the modern age, the Crown can charge communities for use of the sea. As one person locally put it to me, “They might as well charge for use of fresh air, and it would make about as much sense.”

I appreciate that all those questions may tend towards dangerous conclusions as far as the Crown Estate is concerned, but they are questions that Scotland’s coastal communities are asking. I commend Tavish Scott for asking them, too.

17:14

**Jamie McGrigor (Highlands and Islands) (Con):** I, too, congratulate Tavish Scott on securing a debate on a subject that is very important for my region of the Highlands and Islands. I also want to put on record that, purely by coincidence, I acted as sponsor to the Crown Estate for its exhibition at the Parliament. I am pleased to note that, as a result, many MSPs were able to put their views and concerns directly to senior Crown Estate management.

I know that Tavish Scott has specific concerns with regard to Lerwick harbour. Of course, it is his right and duty as member for Shetland to raise any concerns that exist in the local community. I am also one of their MSPs and am well aware of the problems that have existed in relation to Lerwick Port Authority and Shetland Islands Council reaching agreement on the way forward for development at Lerwick harbour.

However, it is worth putting on record the fact that the Crown Estate continues to say that if a way forward can be found, it is willing to be involved in Lerwick harbour’s development, and its investment in that could be many millions of pounds—something we would all want—so that

Lerwick harbour could benefit from potential decommissioning activity from the oil and gas sector.

Furthermore, on the specific issue of the cost of the dredge material for reclaiming land from the harbour, it must be pointed out that the Crown Estate will charge Lerwick Port Authority about 60p per cubic metre. That compares with a typical cost in the marketplace of up to £8 per cubic metre, which is massive difference.

Moving on from Lerwick, last week, I was pleased to receive a press release from Tarbert (Loch Fyne) Harbour Authority in my native Argyll about a joint venture for development of the harbour with the Crown Estate. The plans are for additional berthing at the north pontoons together with improved shore-side facilities. The possibility of additional facilities within the development, such as a boatyard, a heritage centre, a chandlery and other retail outlets, will also be looked into. The Crown Estate is also part-sponsoring the Bell Lawrie Scottish series 2008 at Tarbert, which is of great importance to the local economy.

That joint working at Tarbert comes on top of the successful work that has been achieved in partnership between the Crown Estate and Tobermory Harbour Association: the Crown Estate has invested £300,000 in building extra pontoons at Tobermory that will provide more berths for the summer sailing season, and help to reinforce Tobermory’s reputation as one of our premier sailing destinations.

**Alasdair Allan:** The member lists some very worthy projects that the Crown Estate undertakes. However, will he concede that, in many places where there is no such investment, it is only too obvious that the Crown Estate is ultimately a revenue-raising organisation for the Treasury?

**Jamie McGrigor:** I take the member’s point, but we are all taxpayers. The Crown Estate is extremely efficient and businesslike in what it does.

I also want to touch briefly on the Crown Estate’s important role in the aquaculture sector, which is important as an employment source in some of the Highlands and Islands’ most fragile and remote communities. The Crown Estate owns 930 aquaculture sites. It has pledged that supporting the fish farm industry will continue to be one of its priorities and it has committed to investing in priority research and development projects.

I acknowledge some of the concerns that Tavish Scott and other members have expressed today, but I hope that all those who have concerns will engage directly with the Crown Estate to see whether ways forward can be found. The Crown Estate is willing to address concerns that have

been expressed, and wants to work constructively with port authorities and local authorities wherever possible.

We should also recognise the significant investment that the Crown Estate makes in Scotland every year, and the very real skills and expertise that exist within the Crown Estate's workforce. It manages in the public interest what was traditionally the personal property of the Crown, thus generating a return for local communities and the taxpayer. I hope that those factors will be given full consideration in any further reviews of the Crown Estate's functions.

17:18

**Liam McArthur (Orkney) (LD):** I welcome tonight's debate and add my congratulations to Tavish Scott on securing it. As two of the very few members, along with Alasdair Allan, who are unable to get back to their constituencies after voting on a Thursday evening, if nothing else, the debate provides us with a good opportunity to put to productive use the enforced extension of our time away from the islands.

As the motion makes clear, and as Tavish Scott highlighted in his remarks, the importance of ports and harbours to the island communities that I represent cannot be overstated. That is reflected in the fact that all but one of Orkney's ports is owned by the local authority, which recognises the fundamental importance of those assets to the economic and social well-being of the islands.

As other members have made clear, development of those assets involves negotiation with a monopoly owner—the Crown Estate. I wish to associate myself with the sentiments that are expressed in the motion, that Parliament should have more say in and control over how the Crown's assets in Scotland are managed and how they benefit communities across Scotland. That is the firm recommendation of the Crown Estate review working group, which was mentioned, and I hope that the minister will be willing to work constructively with the Government in Westminster and the cross-party group of MPs to explore ways of changing the structure of the Crown Estate.

I acknowledge that, in recent times, the Crown Estate has adopted a change in tone and has shown more willingness to consider seriously investment opportunities that would serve Orkney's long-term interests. It is, however, fair to say that it has not to date delivered much by way of tangible benefits on the ground, but it would be churlish not to at least acknowledge the welcome, if belated, recognition of the need to exploit Crown marine assets for the benefit of the communities that are so reliant on them. I know that the Crown Estate takes violent exception to the Callander

report's recommendations, but it is perhaps interesting to observe the coincidence that exists in the review group undertaking its work and the Crown Estate's change in approach, to which I have referred.

I want to look ahead and leave aside the structural and constitutional changes that we want. I want to draw members' attention to three issues in my constituency in respect of which the Crown Estate has an opportunity to deliver on its stated good intentions and make a positive contribution.

On harbour developments, the minister will be well aware from his recent visit to Orkney that Orkney Islands Council recently carried out a Scottish transport appraisal guidance appraisal of future internal transport needs. The process identified that significant investment will be needed not only in new ferries, but in substantially upgraded harbours and even, potentially, in new harbours. I hope that the Crown Estate recognises the importance of that investment to the future success and sustainability of some of our most remote and fragile communities, and the need to avoid adding to the overall costs of that vital work to the local council and the Scottish Government. I also hope that it recognises that my constituents and I will be watching very closely over the coming months to find out whether the new rhetoric is matched by a new more enlightened approach in practice.

It is not only local harbour developments that are key to Orkney's future success. Orkney is leading the way for Scotland in developing a trans-shipment container hub at Lyness. It is still early days, but potential operators of such a facility have already shown firm interest in it. The potential benefits not only to Orkney but to port facilities and communities from Caithness south are particularly exciting. From meetings that I held recently with Scrabster Harbour Trust and Wick Harbour Authority, I know that they fully recognise that potential, but Invergordon and Inverness also stand to benefit directly. As I said, the project is still at an early stage of development, but it is encouraging that the Crown Estate is engaged in supporting work on the business case for the Scapa hub as well as the essential environmental impact assessment work. I hope that the minister will offer his support to those of us who are encouraging the Crown Estate to capitalise on that constructive beginning and to work co-operatively to progress the Scapa hub project.

Members may be tiring of my constant references in the six short months that I have been an MSP to the marine energy potential in and around my Orkney constituency. However, that is another matter about which the Crown Estate has made positive noises recently, not just in respect of supporting research but—more important—in

respect of helping to address the fundamental issue of an interconnector linking the resources of the islands to demand further south. There are, however, issues to do with the Crown Estate's decommissioning approach.

I welcome the opportunity that I have been given to participate in this debate, which has touched on issues that have, and will continue to have, an important bearing on my constituency. Again, I congratulate Tavish Scott on securing the debate and on his long-standing commitment to arguing for changes so that we prevent the leakage of revenue from areas—such as Orkney and Shetland—in which it is raised.

17:23

**Rob Gibson (Highlands and Islands) (SNP):** We must all acknowledge that there has been a long-standing debate on the Crown Estate. Indeed, it has taken the 10 years since a Labour Government came in, in which time devolution has been introduced, to take control of salmon farm leases out of the hands of the Crown Estate and put it into the planning process. Progress has been far too slow.

Anyone who reads the *Official Report* of the proceedings of the Rural Affairs and Environment Committee will recognise a perfectly clear Westminster orientation in the answers that members of the Crown Estate have given. They simply do not get the Scottish outlook. The Crown Estate craves continued life, but it has no credibility with most of the communities that I represent. It takes out of Scotland four or five times what it puts back. Such behaviour inhibits economic development and must be addressed seriously. It should not simply be scrutinised by a parliamentary committee—the Government should take over some of the regulatory and other powers of the Crown Estate for the Scottish Parliament.

I commend the Callander report, as I did during the debate on the Scottish National Party's legislative programme earlier this session. The point is that we can manage Scotland's sea bed and foreshore as a marine estate, just as Scotland's national forest estate is managed. The Government could ensure that very quickly.

The plight of harbours, whereby those that are good for business incur greater levies, is a nonsense. Scrabster harbour has just paid £90,000 to the Crown Estate. Many other commercial ports, including the ports at Invergordon on the Cromarty Firth and at Lerwick, are similarly burdened. We should think about what such sums could do for local development, in contrast to the pittance that is received back from the Crown Estate.

Choices for investment must be made by local people, rather than by people who have been

hand-picked for publicity purposes by the Crown Estate. A recent advertisement for a senior renewables project manager in the Pentland Firth area said:

“in conjunction with the Nuclear Decommissioning Authority, Highlands and Islands Enterprise and the Highland Council, The Crown Estate wishes to appoint an experienced project manager”.

It is time that our ministers took a lead by telling our agencies in Scotland to have nothing to do with the Crown Estate and stating their intention to take over its powers to ensure that they are exercised democratically, as Tavish Scott mentioned.

**The Deputy Presiding Officer:** You have one minute left.

**Jamie McGrigor:** Will the member give way?

**Rob Gibson:** I am sorry, but I do not have time.

It is important that such a lead be given because the great prize that is before us is the potential to integrate property rights over Scotland's sea bed with the Scottish Government's existing marine responsibilities, which offers considerable scope for improvements in policy delivery and consequent benefits. Therefore, I hope that the minister will give us a hint that progress will be made on that after so many years.

I thank Tavish Scott for securing the debate. Let us hope that the Scottish Government now takes the initiative.

17:27

**The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson):** This evening's debate has provided a welcome and well-timed opportunity to discuss an issue that I know Tavish Scott took a keen interest in when he was the Minister for Transport. He mentioned Telford, who built harbours; I remind him that it took a Stevenson to build the lighthouses.

I am highly appreciative of the speeches that have been made by the other participants in the debate—I listened to those of Liam McArthur and Alasdair Allan, as island representatives, with particular interest because the island communities are most affected by imperfections in ports and harbours. I share the interest in harbours, which play an important role in my constituency, just as they do for island communities.

The debate is well timed because, as members know, the Rural Affairs and Environment Committee is examining the role of the Crown Estate in Scotland and, in particular, the recent report of the Crown Estate review working group. As part of that work, it heard from the Crown Estate on 24 October. On behalf of the

Government, I welcome the committee's interest, which allows the views of all parties, including the Crown Estate, to be aired and placed in the public domain and—importantly—enables Parliament to fully debate the issues. The Government will consider carefully the outcome of the committee's deliberations and what members have said in tonight's debate. We await that outcome with interest, especially given the wide range of evidence and views that have already been presented to the committee.

I am aware of the view that is held widely in parts of the Highlands and Islands and in other parts of rural Scotland that, as a landlord, the Crown Estate raises significant amounts of rental income from the sea bed in particular, but offers very little benefit to the people of Scotland and the communities from which that income is derived. Many of those communities have few other assets that can deliver the regular income stream that the sea bed provides.

There is a broad grouping of local authorities that believe that the Crown Estate charges rents that are too high and that it fails to invest enough in marine infrastructure, such as harbours. I am also aware that some—although by no means all—members of the port sector believe that the Crown Estate takes from Scotland, but does not give back, with the money simply going to the Treasury. I certainly sympathise, to a degree, with those views.

The Scottish Government is already engaging positively with the Crown Estate on a range of marine developments. I hope that that addresses the wish that Liam McArthur expressed in his speech.

**Tavish Scott:** I take the point that the minister makes about lighthouses—in the coming weeks I will look more closely at those in my constituency.

The minister referred to the Government's work with the Crown Estate. Is he able tonight to say how he views that fact that although, as a landlord, the Crown Estate takes charges for its ownership of the sea bed, it now wishes to invest in port facilities at one port, but possibly not at others?

**Stewart Stevenson:** It is important to encourage the Crown Estate to recycle the money into investment in our ports. The *Official Report* of the meeting of the Rural Affairs and Environment Committee of 24 October suggests—I base my comments on that source only—that there may be substantial investment in Lerwick, to take forward that port's interests. If the money were always to be returned to each port when it was raised, it would not make a substantial contribution to major projects. We should consider the approach that I have outlined: over the piece and over the calendar ports should be dealt with equitably. The

bottom line is that we want more investment in our ports and harbours, and we want the Crown Estate to pay a significant role in that.

**Jamie McGrigor:** I take the points that the minister makes. The Crown Estate commissioners to whom I spoke made clear that they are open to applications for funding for projects, but that such applications have not been made. However, they are pursuing a number of projects, which is most encouraging for the future.

**Stewart Stevenson:** That is a useful observation. I suspect that at least three or four members in the chamber will encourage people to come forward with projects. I hope that the Crown Estate will respond positively to those, because harbours and ports are vital parts of many fragile local economies. When it comes to lifeline services, harbours are as important as ships and crews are.

The Crown Estate has expressed willingness to work collaboratively with us for the benefit of the Scottish marine estate, albeit that it operates within guidelines that the Treasury has set for it. Those guidelines include the stipulation that it must make a financial return on its estate.

The Crown Estate has made some progress as a partner in the development of infrastructure for renewable energy. At the end of the day, the basic legal position is clear: management of the Crown Estate is reserved to Westminster. However, the Scottish Parliament may legislate on devolved matters such as planning and the environment—planning is my responsibility, whereas the environment is the responsibility of my colleague Mr Russell—that affect the Crown Estate's activities in Scotland. The deliberations of the Rural Affairs and Environment Committee on the subject will be very relevant to our considerations.

I am grateful for the opportunity to highlight in the chamber the important role of ports and harbours. We place great importance on the port sector's economic contribution locally and nationally. Ports contribute to the health of our economy, not just by providing employment opportunities but indirectly, through related services. They make possible connections with Scotland's dispersed and remote communities, as well as with the international world, creating new business opportunities and links; I refer to the proposals for Scapa Flow. Efficient transport of goods and passengers, supporting Scotland's fishermen, the seafood industries, the energy sector and tourism, and regenerating and supporting local areas and communities are all part of the essential and economically significant role that our ports play.

The Scottish Government will do all that it can to support a constructive relationship with the Crown

Estate as we move forward, but I say to Mr Scott that, if necessary, we will rock the boat. My colleague the Minister for Environment will have primary responsibility for developing our relationship with the Crown Estate, but I will work with him in relation to ports and harbours.

I thank Tavish Scott for securing this useful debate, which is an important contribution to where we will go from here.

*Meeting closed at 17:35.*



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