



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Tuesday 17 November 2015

Session 4

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## Scottish Parliament

*Tuesday 17 November 2015*

*[The Presiding Officer opened the meeting at 14:00]*

### Time for Reflection

**The Presiding Officer (Tricia Marwick):** Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader today is Sister Christiana Mickwee of the Dominican Sisters of Saint Cecilia in Elgin.

**Sister Christiana Mickwee OP (Dominican Sisters of St Cecilia, Elgin):** Good afternoon. Upon arriving in Scotland in August 2013, my companions and I were driven along the winding road from Aberdeen to Elgin. At once, we were struck by the beauty of Scotland—the rolling hills, the glistening water, the open fields at harvest time, and the clear and sweeping sky that seemed to reach on endlessly in the distance. It was breathtaking—and it was not raining.

We continued down the A96, eventually travelling through the small town of Keith just as school was letting out. I will never forget that new moment of joy and the faces of those beautiful Scottish children, who in all their simplicity far overtook the natural beauties of northern Scotland. Some were on their scooters, some were hand-in-hand with their mums and some were in a pack of friends. A number were smiling and skipping, while others were clearly tired or grumpy. It did not matter; those few moments of driving through Keith somehow reaffirmed for us the beauty and power of life. Life is good in all its simplicity, and it is worth celebrating.

Human beings were made to celebrate; we were made to rejoice in all that is good. We can find countless reasons to celebrate, be it a beautiful day, a good job, our cultural heritage or the fulfilment of our hopes.

No matter what joy such realities bring, none surpasses the moment when new life comes into the world. It is a sacred and unrepeatably moment. At such a moment, the world itself is changed and filled with a delight that reaches up and touches the eternal.

Christians look forward to the coming weeks of Advent as a time of preparation for the greatest gift of life ever to come to earth. We celebrate that wee babe, Jesus Christ, who was born to a simple couple in a small remote village, probably not unlike Keith. As with all children, his arrival brought joy and hope and forever changed the world in which he lived.

Christians celebrate this wee child as coming to give us new life. No longer need we walk in darkness, for Christ has come. He is the true light of the world.

We are grateful to be here in Scotland, living our religious life and sharing the message of the wee infant Jesus Christ, who came that we might have life and have it to the full.

Thank you.

## Business Motion

14:03

**The Presiding Officer (Tricia Marwick):** The next item of business is consideration of business motion S4M-14856, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to the business programme for today.

*Motion moved,*

That the Parliament agrees to the following revision to the programme of business for Tuesday 17 November 2015—

after

2.00 pm            Time for Reflection – Sister Christiana  
Mickwee OP, Dominican Sisters of St.  
Cecilia, Elgin

*followed by*      Parliamentary Bureau Motions

insert

*followed by*      Motion of Condolence: Paris, 13  
November 2015—[*Joe FitzPatrick.*]

*Motion agreed to.*

## Motion of Condolence

14:04

**The Presiding Officer (Tricia Marwick):** The next item of business is motion S4M-14848, in the name of Nicola Sturgeon, on a motion of condolence for Paris 13 November 2015.

I am pleased that we are joined in the gallery for the motion of condolence by the French Deputy Consul Emeline Javierre, who is accompanied by representatives from the French community in Scotland and staff of French origin who are working in the Parliament.

Le parlement écossais voudrait exprimer sa profonde sympathie et solidarité avec les habitants de Paris et le peuple français.

The Scottish Parliament is united in our sympathy and solidarity with the people of Paris and France.

Before we turn to party leaders, I also want to let you know that after today's motion of condolence I will write to Monsieur Claude Bartolone and Monsieur Gérard Larcher, who are presidents of the National Assembly and Senate of France, informing them of the support that is being offered here today and expressing our condolences from all across Parliament.

A book of condolence was opened to the public yesterday in our main hall, and the hall is today lit up in the colours of the French tricolour. The book was signed earlier this afternoon by the party leaders; I invite members to join them and the public in doing so.

I call Nicola Sturgeon to speak to and move the motion.

14:05

**The First Minister (Nicola Sturgeon):** Presiding Officer and Deputy Consul, it is with great sadness that I rise to move the motion.

The terrorist attacks in Paris on Friday night have caused shock and grief right around the world. Today, we mourn the innocent victims—there are at least 129—who lost their lives. We hope for the recovery of all those who were injured, and we send our thoughts, prayers and condolences to all those who are affected. In doing so, this Parliament—and, indeed, all of the people of Scotland—say unequivocally that we stand in solidarity with France and with the French people.

On Saturday, I met the French Consul General to convey that message of solidarity; it is a message that has been echoed many times over

by people from right across our country. Expressions of sympathy have poured into the French consulate and have been widely shared on social media. Landmarks across the country, including our Parliament, have been lit in the colours of the French flag. Yesterday's one-minute silence was widely observed in Scotland, as it was across the whole of Europe. People across Scotland have sent the clearest possible message that we stand as one with France in their condemnation of terror and in their grief for its victims.

As well as making that fundamental and heartfelt statement of solidarity, the Scottish Government has also considered what steps need to be taken as a result of the attacks in Paris. Over the past three days, I have chaired three meetings of the Scottish Government's resilience committee. The Scottish Government has also been in close and regular contact with United Kingdom Government ministers and officials, and I have participated in two meetings of the COBRA committee.

An important initial focus has been on ensuring that we provide assistance and support to anyone who needs it. Police Scotland and the Scottish Ambulance Service, for example, have been deploying teams to meet incoming flights from Paris.

We have also reflected on security here in Scotland. The overall threat level in the UK is classified as "severe"; however, people in Scotland are safe to go about their day-to-day business and should continue to do so. Police Scotland is advising people to be vigilant and alert, but not alarmed.

I assure Parliament that we will, working closely with Police Scotland and with UK Government colleagues, continue to reflect carefully on the security position, and take all necessary and proportionate steps to ensure that people and communities here at home are as safe and as well protected as possible.

One important part of doing that is to reaffirm Parliament's commitment to a diverse and multicultural society. I observed the one-minute silence yesterday at Glasgow central mosque. On Sunday, John Swinney attended a service at St Giles' cathedral here in Edinburgh. Michael Matheson is meeting the Scottish Council of Jewish Communities this afternoon.

What is very clear is that the reaction to the events in Paris—the shock, sorrow, anger and fear—is shared by people of all faiths and none, just as it is shared throughout this chamber, and in every community across Scotland and around the world. The terrorists who committed the atrocities in Paris claim to be Muslims, but in truth, terrorism

has no religion. The evil actions of those terrorists do not speak for Islam; rather, they are a perversion of that faith and a deep insult to the millions across the world who adhere peacefully to its values.

The attacks in Paris, like all acts of terrorism, were intended to spread fear and to undermine our way of life. They were also meant to be divisive—to drive a wedge into communities and societies and to turn neighbour against neighbour.

It is, of course, a normal and entirely understandable human instinct to be anxious and fearful in the light of what happened on Friday night. We all feel it. Governments must recognise and address the concerns, and I give a commitment today that this Government will do so. However, we must also, together as a society, resist the instinct to retreat or to turn on each other. If we are determined—as we must be—that the terrorists will not prevail, difficult and challenging though it undoubtedly will be, our response must be defiance and solidarity, not fear and division. The actions of the few must not be allowed to undermine the values, the freedoms and the way of life of the many.

Today, Scotland is welcoming refugees from Syria, and other parts of the United Kingdom will do likewise over the next few weeks. Let me be clear: people across Scotland and the UK have every right to seek and receive assurances from their Governments that robust security checks are being carried out and that public safety is not being compromised. However, here in Scotland and across the UK, we should also feel proud that we are providing refuge for some of the most vulnerable individuals who are fleeing for safety from the type of people who carried out the attacks in Paris on Friday night. We should be confident that Scotland will benefit from their presence, just as we have benefited so often in the past when we have welcomed people from around the world, and we should reflect once again that diversity is not a weakness but is one of modern Scotland's great strengths.

Today is an opportunity for Parliament to support that diversity and to demonstrate wider solidarity. We grieve deeply for those in Paris who lost their lives, and we stand shoulder to shoulder with our friends in France. We remember, too, the people who have been the victims of terror elsewhere, including the 224 people who died when a Russian airliner was brought down in Egypt last month. Today, we reaffirm our unshakeable commitment to a peaceful, secure, multicultural and tolerant Scotland—the kind of society that the terrorists want to destroy but that we are determined to uphold, cherish and protect.

I move,

That the Parliament extends its solidarity and that of the people of Scotland to the people of France and offers its condolences to all those affected by the appalling terrorist attacks in Paris on 13 November 2015; reaffirms its commitment to a diverse and multicultural society, and calls on people across Scotland to unite as one community, both here at home and in solidarity with France, to make clear that acts of terrorism will not succeed in dividing us or destroying the freedoms and way of life that are valued so highly.

14:12

**Kezia Dugdale (Lothian) (Lab):** I thank the First Minister for her words and associate myself with them in their entirety. On behalf of the Scottish Labour Party, I also send my condolences, thoughts and prayers to those who were caught in the attacks on Paris and to the people of France.

On Friday evening, people across that city set out to enjoy the ordinary freedom of their weekend in restaurants and bars, at sporting events and at music concerts, just as we did in Edinburgh and Glasgow, and just as others did in towns and cities around the world. What happened on Friday night was not just an attack on the people of Paris; it was an attack on the way of life of those of us who want to live in a world that is marked by the values of freedom and tolerance. We share the grief of the people of Paris, and the world stands with them as they take their first tentative steps on the road to recovery.

There are lots of views about how the world should respond to the attacks, and in this place we can influence how we respond as a society. The French Nobel prize-winning philosopher Albert Camus summed it up well when he wrote:

“The only way to deal with an unfree world is to become so absolutely free that your very existence is an act of rebellion.”

Earlier today, I read the story of a Frenchman whose wife was killed in the attacks. He writes about how he and his 17-month-old son will remain defiant in the face of terror. He says:

“We are only two, my son and I, but we are more powerful than all the world’s armies ... every day of his life this little boy will insult you with his happiness and freedom.”

The death and destruction—the senseless acts of terror and violence—have one ultimate goal, which is to fundamentally change our society, transforming us from a society that values tolerance, integration, solidarity and freedom into one that rejects all those things. We are a nation that considers all people to be born equal and deserving of respect, regardless of sexuality, gender, race, faith and disability. So, when the first of the refugees from Syria arrive in Glasgow today, let us welcome them with open and loving arms. Let us look at them just as we do those

Parisians who fled the violence on Friday evening. They are people like you and me, who do not want to live in constant fear of violence—they are families who just want to get on with their lives. They have travelled halfway across the world to get away from terrorists in their own land, often driven, by the fear that lies behind them, over the road ahead. From this chamber to those refugees who are arriving today, let the message ring out: “You will find friendship in your new home here in Scotland. Please know that you are very, very welcome.”

14:15

**Ruth Davidson (Glasgow) (Con):** Presiding Officer, Deputy Consul, may I extend my condolences and the condolences of my party to the families of those who died or were injured on Friday night. Our prayers are with them today.

We stand in solidarity with all the people of Paris. We share their disgust at what were acts of cowardice and evil, and we share their fear, too, because we know that it could have been us, eating a meal at a restaurant, enjoying a night at a concert or watching a game of football. If ever we needed one, Friday’s events were a reminder that this conflict is not one that we choose to take part in, but one that is upon us whether we wish it or not.

The motion calls on us to unite in the wake of the attacks. Indeed, that is the vital task that we face in the coming weeks, not just here in Scotland but across the civilised world. We face an extremist ideology that hopes to divide us—Muslim from non-Muslim; secular from religious—in the hope that the gap becomes so wide that conflict is the only response.

We cannot and must not let the extremists win. Rather, we must confront them and show that those very freedoms that they wish to crush—to wipe from our lives and from our world—are freedoms that we will not give up willingly. The plurality, diversity and creativity of free nations stand in stark contrast to those who would murder aid workers, throw gay men from buildings or stone women in the public square.

Our resolve must be to use hard and soft power to protect those freedoms. Both will be vital in showing that we have it within us to take on extremism and the extremists who would export it to our shores. However, as the Prime Minister said last night, military power and counter-terrorism will only ever get us so far, vital as they are. More important is to understand and address the hatred that underpinned Friday’s attacks and others like them.

We should not kid ourselves or, worse, seek to blame ourselves for what is behind this new threat.



Indeed, it is simple: it is an ideology driven to crush the values of freedom, liberty and equality, which all of us in the chamber hold dear. The motion, which I am proud to support, calls on us to ensure

“that acts of terrorism will not succeed in dividing us or destroying the freedoms”.

It must be our response to show that all of us—Muslim and non-Muslim; secular and religious—stand resolute in exposing this poisonous ideology for what it is: a sham cult that preys on immature young, with minds designed only to sow hatred and shed blood. We must confront all those who seek to embed its poison in our society and, as the First Minister said, we must encourage moderate Muslim voices in Scotland and abroad to show the world that it is not the extremists who have ownership of their faith, but them.

For all of us, the message is clear: to sit out this conflict by failing to stand up for our values is to fail—it is to fail ourselves and every other human who looks to the freedoms that we enjoy with longing and hope for their own lives. We will not be cowed, nor will we limit ourselves in the joys that they seek to curb. No matter how many more attacks take place, we will conduct ourselves with confidence, vigour and boldness in our free worship and our free will, at our football matches and concerts and in our restaurants. We stand united, always.

14:18

**Willie Rennie (Mid Scotland and Fife) (LD):** The city of love is wounded by hate. Today, to Paris we send our love to help it heal.

Of course we are afraid. We saw the fear of people in Paris on Friday, so we can imagine the fear of the refugees who are fleeing the barbarity of those same killers back home.

Of course we must tread with care across the world, yet western Governments did not have it coming. Nothing justifies what happened.

Of course there is no “them”. These killers do not represent the Muslim faith, Muslim countries or Muslim people, or anything else good and noble; these killers represent only themselves.

Of course something must be done, yet we must protect what we cherish most and what they detest most: our freedom. We must nurture our progressive, liberal, free society.

This is no time for haste, revenge, insularity or generalisations. We must be resolute. This is a time to grieve, to heal, to plan, to solve and to unite.

14:20

**Patrick Harvie (Glasgow) (Green):** May I extend the support of the Green and Independent group for the motion of condolence today?

Every single one of us will have felt the shock as the news was announced on Friday evening, but also the wave of empathy across Europe and the world in the wake of these terrible events. We mourn with those who have lost people close to them; we express our concern for those critically injured and still fighting for their lives; we extend our solidarity with Paris and Parisians; and we oppose not only the criminals responsible for this latest atrocity but the twisted ideology that they follow.

The 129 deaths in Paris add to the gruesome tally of atrocities committed in the name of that ideology, not least the series of attacks in France in January, including on the *Charlie Hebdo* office; the countless deaths in Syria and the wider region; the sexual violence on a mass scale, with unknown thousands of women and girls abducted into sexual slavery; the torture, mutilation and summary executions, often most noticed when perpetrated against western victims or used as propaganda weapons but, in truth, happening on a vast scale; and the mass murder, including on grounds of religion.

The Paris attacks came in the same week as reports of yet another mass grave of Yazidi women in Sinjar and just a day after 41 people were killed in a double suicide bombing in Beirut. Every single one of those lives matters. Today’s motion offers our condolences but also our solidarity—that is critical. These attacks are designed to strike not just at individuals but at the very nature of our societies. They are designed to provoke a backlash, to provoke the mindless reaction that we have tragically already seen in parts of Scotland and to drive more disaffected and angry young people who experience anti-Islamic prejudice every day of their lives into the arms of the terrorists. We must deny them the backlash that they seek.

Liberty, equality and fraternity: those are the values that should be at the heart of European society, and they are under direct attack. They are values that must be protected and extended. As we prepare to welcome those who have been forced to flee this violence, and in memory of those who have been lost in the attacks in Paris, we must live by those values as never before.

14:23

**Christian Allard (North East Scotland) (SNP):** Thank you very much for letting me say a few words, Presiding Officer. The few words will be a thank you to the chamber, to everybody who has

spoken already and to all the communities in Scotland and all the Scottish people who assembled in Aberdeen, Glasgow and Edinburgh and all across the country in support of a community that is very close to me as a French citizen: the French community living here in Scotland. Some of them are working here in Parliament.

I just want to convey how much we appreciate your support. Your heartfelt support at the beginning of the year and your support now, and particularly this weekend, is very much appreciated. From the bottom of my heart, for all French citizens living in Scotland, I say merci.

**The Presiding Officer:** I will now allow a brief suspension before we move to the next item of business.

14:24

*Meeting suspended.*

14:35

*On resuming—*

## **“Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations”**

**The Presiding Officer (Tricia Marwick):** The next item of business is a debate on S4M-14820, in the name of Bruce Crawford, on “Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations”. Members who wish to take part in the debate should press their request-to-speak button now. I call Bruce Crawford to speak to and move the motion on behalf of the Devolution (Further Powers) Committee.

14:35

**Bruce Crawford (Stirling) (SNP):** When the Smith commission’s report was published, I noted Lord Smith’s comments on intergovernmental relations in his foreword. I did not anticipate that intergovernmental relations would form such a significant strand of the Devolution (Further Powers) Committee’s workload: I was wrong not to.

I thank the clerks—in particular Stephen Imrie and Stephen Herbert—for all the work that they have contributed to the committee’s report.

It is worth repeating Lord Smith’s comments:

“Throughout the course of the Commission, the issue of weak inter-governmental working was repeatedly raised as a problem. That current situation coupled with what will be a stronger Scottish Parliament and a more complex devolution settlement means the problem needs to be fixed. Both Governments need to work together to create a more productive, robust, visible and transparent relationship.”

The need for a more “visible and transparent relationship” has been a recurring theme in the evidence that we have received on the committee’s consideration for further devolution.

The committee’s report “New Powers for Scotland: An Interim Report on the Smith Commission and the UK Government’s Proposals” on the then draft clauses agreed with Lord Smith’s view that the largely non-statutory machinery governing intergovernmental relations in the United Kingdom needed significant reform. We also highlighted that the committee intended to undertake further work on how Parliaments can scrutinise the arrangements that are reached between Governments in that sphere.

In order to gain a better understanding of the issue, the committee commissioned external

research on how such scrutiny is undertaken in other countries. The academic research was led by Professor Nicola McEwen at the Economic and Social Research Council funded Scottish centre on constitutional change, which is based at the University of Edinburgh. Scrutiny practices in a number of countries—including Belgium, Canada, Germany, the United States of America, Spain and Switzerland—were considered.

The research reached two broad conclusions. First, that intergovernmental relations are—as we would expect—dominated by Governments, with the opportunities for Parliaments and parliamentarians to engage in scrutiny of the processes being relatively limited. Secondly, it was found that despite the dominance of Governments, Parliaments in almost every country that was examined have a bit more of a role in scrutinising intergovernmental relations than the Parliaments here in the UK do.

I want to thank Professor McEwen, who is also the committee's adviser on intergovernmental relations, as well as Dr Bettina Petersohn and Coree Brown Swan, for their work in producing an excellent research report in such a short time.

Throughout the course of taking evidence on parliamentary scrutiny of IGR, we received some fairly depressing messages from our witnesses. I would like to share some of that evidence with Parliament. First, in response to a question about whether there are any countries that provide a good example of parliamentary scrutiny of IGR, Professor Michael Keating commented:

“No, but there are a lot of bad examples.”—[*Official Report, Devolution (Further Powers) Committee*, 11 December 2014; c 20.]

Secondly, Professor Bart Maddens, from the University of Leuven, said that intergovernmental relations are

“so complex and technical that the involvement of politicians in Parliament is doomed to be marginal.”—[*Official Report, Devolution (Further Powers) Committee*, 17 September 2014; c 20.]

That was a good start, was it not?

We on the Devolution (Further Powers) Committee are made of stern stuff. [*Interruption.*] I am sorry, Presiding Officer, but I can hear giggling going on behind me. They obviously do not recognise the term “stern”.

**The Presiding Officer:** I recognise it. Just continue.

**Bruce Crawford:** We were not deterred and we have sought in our report to make a range of recommendations that seek to improve parliamentary scrutiny of IGR.

Other members of the committee will no doubt want to discuss in more detail the

recommendations that we unanimously agreed; I am interested to hear the views of members who do not sit on the committee on our suggestions.

Before I consider the committee's recommendations, I stress that the report is called “Changing Relationships” for a reason. As the former Cabinet Secretary for Parliamentary Business and Government Strategy, I say that, without greater willingness on the part of all Governments across the UK to be more open and transparent about intergovernmental working, parliamentary scrutiny will not improve. We require a significant culture change on the part of all Governments in terms of how they view the role of parliamentarians in this sphere.

The Deputy First Minister reflected that perspective when he said:

“One of my criticisms of intergovernmental mechanisms is that they have been rather rigid and scripted and not particularly relevant. I hope that we can improve them.”—[*Official Report, Finance Committee*, 2 September 2015; c 18.]

I believe that we as parliamentarians have, similarly, to be honest about our role. We need to ask whether, in the 16 years since the Scottish Parliament was established, we have taken sufficient interest in how Governments work together, and in what we can do to improve our scrutiny practices.

The evidence that we received from Professor Aileen McHarg should provide us all with food for thought. She said that

“parliamentary scrutiny has been one of the areas in which the current system has not worked. Neither the Scottish Parliament nor the UK Parliament has taken any consistent interest in scrutiny of intergovernmental relations. There have been some ad hoc inquiries, but that is all.”—[*Official Report, Devolution (Further Powers) Committee*, 19 March 2015; c 10.]

In that regard, relationships have to change within Governments and Parliaments as well as between them. The committee's report seeks to begin that process of change.

We recommend that two guiding principles inform the process. The new structure of intergovernmental working, which is currently being reformed through work that is being led by the UK Government Cabinet Office, will be critical to the success or otherwise of the proposals for further devolution. In the committee's view, the impact of IGR will be most critical to the operation of powers in the areas of taxation and the fiscal framework, as well as more generally in the implementation of welfare powers and European Union decision making.

Accordingly, if this Parliament and Parliaments across the UK are to be able to scrutinise the actions of their respective Governments, that new

structure of intergovernmental working must be more transparent. That must involve transparency on the policy objectives that Governments are seeking to achieve, the agreements that are reached between Governments and the decisions that are made.

Secondly, the relationships must be accountable. In our view, that means that agreements that are reached between Governments must be subjected to scrutiny, and that clear mechanisms be developed for that scrutiny. To enable that, the principles of transparency and accountability must be included in the memorandum of understanding that governs IGR across the UK. In the words of no less a statesman than President Obama,

“A democracy requires accountability, and accountability requires transparency.”

In order to embed those principles of transparency and accountability, which in the committee's view should underpin the operation of intergovernmental relations from the outset, the committee recommended that they be placed in statute through the Scotland Bill.

The committee recognises that the process of revising the memorandum of understanding impacts on all four legislatures across the UK. In our view, in the Scottish context, we consider that a new written agreement between the Scottish Government and the Scottish Parliament should be reached. The agreement should cover the detail of the information with which the Scottish Government will provide the Scottish Parliament on formal meetings and agreements that are part of IGR.

Let me make it clear, however, that what matters is that relationships change. The way in which that is achieved—whether by placing principles in statute, revising the memorandum of understanding or creating a new written agreement between the Scottish Parliament and the Government—will not in itself effect change. What is required is a significant culture change in the relationships between legislatures and executives across the UK in respect of transparency around intergovernmental relations.

The committee recognises the need for Governments to have a private space in which negotiations can take place and agreements can be reached. In that regard, the committee respects the need for there not to be a running commentary in relation to the current intergovernmental discussions. Nevertheless, committee members are unanimous in our view that improved transparency must be put in place around those processes, so we have sought to establish a means for achieving that.

As I said, changing relationships in intergovernmental relations is not only about Governments changing their approach but is also, critically, about Parliament reforming its scrutiny structures in order to be more effective. To improve Parliament's scrutiny of IGR, the committee recommended that, in the next session of Parliament, the Parliamentary Bureau give careful consideration either to establishing a specific parliamentary committee to be tasked with scrutinising IGR, or to providing an existing committee with that role.

The approach of establishing a specific committee that is tasked with scrutinising intergovernmental relations is common among Canadian provincial legislatures, Belgian regions and communities and some of the Spanish autonomous parliaments. We recommend that such a committee should report to Parliament on any intergovernmental agreement into which the Scottish Government enters. In addition, it should take evidence from the Scottish Government prior to and following formal intergovernmental meetings.

It is not for the Devolution (Further Powers) Committee to decide whether to form a new committee or to alter the remits of existing committees. The committee's role will cease at the end of this parliamentary session and it will be for the new Parliament to consider how best to ensure that appropriate scrutiny mechanisms are put in place. However, the current quadrilateral negotiations regarding revision of the memorandum of understanding and the bilateral negotiations regarding the fiscal framework are critical to the committee's work. Therefore, I again put on record the committee's view that we will require adequate time to scrutinise both those agreements in detail. As we all know, the fiscal framework in particular is absolutely critical to our understanding of the Scotland Bill and its subsequent implementation.

I emphasise that the subject of intergovernmental relations may appear to some—or even many—people to be obscure, technocratic and of little relevance to the real issues with which we all have to deal as elected representatives. To be honest, I may even have shared that view at the beginning of our considerations, but my view has changed. The proposals in the Scotland Bill for new powers on tax and welfare will make the operation of intergovernmental relations the most critical aspect of the proposed new arrangements. The current negotiations on the fiscal framework provide us with our first indication of that point as we shift from a reserved-powers model to a shared-powers model of devolution. As a Parliament, and as parliamentarians, we have to be able to respond to that shift.

In that vein, our ideas make a contribution to the reforms of the Scottish Parliament and its committees that you, Presiding Officer, have championed. Our report is not just about the current parliamentary session: it is about our experience as parliamentarians across all four sessions since 1999 and how we shape our experience in the future. Because of that hinterland, all members can make a significant contribution to the next session of Parliament, as new parliamentarians come to the chamber to do their work.

Our ideas for reform would affect not only my committee but all committees. Accordingly, I will be interested to hear the views of members of other committees. I thank my fellow committee members for agreeing unanimously our view on how that change can take place.

I move,

That the Parliament notes the 8th Report, 2015 (Session 4) of the Devolution (Further Powers) Committee, *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations* (SP Paper 809 (Web)), including its recommendations to the Scottish and UK governments.

14:49

**The Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy (John Swinney):** I thank the Devolution and Further Powers Committee for the presentation of the committee's report this afternoon.

Mr Crawford served, as he said in his speech, as a cabinet secretary with responsibility for IGR. He brings a valuable insight to the debate through the combination of that experience and the role of convening the Devolution (Further Powers) Committee, which has given such detailed scrutiny to the next stage in the devolution journey through its scrutiny of the Scotland Bill and the associated proceedings that have taken place in the course of the past year or so.

I thank the committee for bringing the issue to Parliament today. I have read the committee's report with interest and have already provided an initial response that welcomes the recommendations, which I hope the committee found helpful.

My perspective on the discussion is largely formed by my experience over the past eight and a half years of being involved in many discussions between ministers in the Scottish and United Kingdom Governments on bilateral and multilateral issues.

Certainly in relation to my specific responsibilities as the cabinet secretary for finance, I have valued the opportunity in intergovernmental discussions to make

representations to the UK Government, in partnership with my colleagues from Wales and Northern Ireland. On certain occasions, we have been successful in advancing the perspectives that are largely shared by the devolved Administrations, and in changing the perspective of the UK Government.

My perspective has also been informed by my participation in the Smith commission, which spent a great deal of time discussing IGR. The nature of those discussions had such an effect on the proceedings that it led Lord Smith to remark in his commentary on the need to improve those relationships and how they operate.

I agree very much with Mr Crawford that IGR is an area that is constantly evolving. The devolution settlement has changed significantly from what was originally legislated for in the contents of the Scotland Act 1998. We must acknowledge the importance of changing the nature of the relationships between the Administrations of the UK to reflect that changing settlement over the course of, now, 16 years and four Parliamentary sessions.

Mr Crawford said that we are now in a space in which we are more habitually sharing powers with the UK Government. That brings a challenging set of issues around IGR because that also requires changing mindsets and ways of undertaking intergovernmental business that may be different to how the Administrations have been accustomed to exercising those responsibilities. I confirm on behalf of the Scottish Government our willingness to be part of addressing how that change in culture and mood may be taken forward.

The Scottish Government is committed to openness and transparency in our joint working both bilaterally with the UK Government and, on a wider basis, with the UK Government and the other devolved Administrations. We are committed to working with other parties across the chamber to ensure that Parliament has strong working relationships with our sister institutions across the UK. The Government is committed to ensuring that this Parliament plays a proper part in shaping the formal agreements that we enter into, and in holding us to account for our conduct of business with the other Administrations. In that respect, as I highlighted in my response to the committee's report, it is not the proper role of Government to specify how Parliament should exercise those responsibilities, other than to signal the willingness of the Government to respond to the demands of Parliament for effective and transparent scrutiny of this area of activity.

Against that backdrop, I assure Parliament that the committee's recommendations and the points that will be made in the debate today will be fully taken into account in our discussions about

development of intergovernmental working, as we seek to continue to improve those arrangements.

I would like to acknowledge the need for change in those relationships. I am sure that all members will agree with the conclusions in the Smith agreement that the additional powers that we hope will come to this Parliament as a result of its successful implementation will require change in our intergovernmental machinery. The Scottish Government will play its part in making that happen. We recognise our duty to the people of Scotland to do so and we hope and expect to see that same approach on the part of the UK Government. Although we are keen to strengthen our working arrangements with the UK Government, we should acknowledge that the formal liaison machinery is based on agreements across all devolved Administrations and the UK Government.

We are not alone in gearing up for significant change. Similarly to Smith, the Silk commission called for

“enhancement of existing mechanisms for improving relations”

between the Welsh and UK Governments. The draft Wales bill promises significant changes in the Welsh devolution settlement. Our friends in the Northern Ireland Executive face a distinct set of circumstances, which inevitably shape how they approach the agenda.

Our current intergovernmental processes need to be understood against that backdrop. This Parliament, quite rightly, will wish to see the current liaison arrangements strengthened, and to hold the Government to account. We are moving into substantially more complex territory compared to when the machinery for intergovernmental relations was established. Our arrangements must evolve with the times, but they must also be negotiated with our partners and meet our collective interests.

There are clear political differences between the Administrations. However, through the Edinburgh agreement, we have previously demonstrated how we can put those to one side to enable progress when it is right and necessary to do so. Against that backdrop, I remain hopeful that we will be able to secure the changes that this Parliament expects.

I have referred to the growing complexity of the devolution settlement in Scotland. As more powers, especially around tax and welfare, are devolved, so it will be important that there is seamless joint working across the border to ensure that the different policies and priorities that this Government and this Parliament will pursue in relation to those powers, and the different services that are, accordingly, put in place, are

implemented and operate effectively alongside continuing services provided by the UK Government.

That will put an onus on the Scottish Government to be willing to discuss our proposals and delivery plans openly. I can assure Parliament that we will do so, through existing liaison machinery and by establishing new arrangements where necessary. We are taking forward some of that work through the joint ministerial committee on welfare, for example.

This is a two-way street, however, and we must see similar willingness on the part of the UK to discuss proposals with and to be prepared to listen to the alternative perspective of the Scottish Government.

There are few, if any, areas of policy in which the Scottish Government does not now have a legitimate interest. Our expectation is that our views will be taken into account in that process. Recent events suggest that there is still some way to go before we can be confident that we genuinely have a partnership-based approach and willingness on the part of the UK Government to respond to distinctive Scottish concerns.

As Parliament is aware, the Scotland Bill completed its House of Commons stages on 9 November and will now be considered by the House of Lords. I acknowledge the work of the Devolution (Further Powers) Committee in scrutinising the bill. I agree whole-heartedly with the conclusions in the convener’s recent letter to the Secretary of State for Scotland. Improvements have been made to the bill but there are still significant shortfalls in the drafting, which we will continue to press the UK Government to address.

The substantive changes that we saw at Commons report stage—devolution of the power to create new benefits, an equalities provision that will allow us to set gender quotas for public boards, and some progress in ensuring the permanence of this Parliament—are in no small measure the result of the representations that were made by the Scottish Government and the committee.

This Government will continue to work with the UK Government to secure further improvements to the bill with the aim of being able to recommend it to Parliament. However, as I and the First Minister have made clear, we will support a legislative consent motion only if a satisfactory and fair fiscal framework is agreed between the Scottish and UK Governments. To that end, I will continue to meet the Chief Secretary of the Treasury to discuss the transfer of fiscal levers that will allow this Parliament to use responsibly the new powers that have been promised to us. That will have to be done with consideration of the

UK spending review later this month, and the subsequent Scottish budget.

Governments agreed at the commencement of the discussions that the details of the fiscal framework would not be announced until they are finalised. However, with the aim of creating transparency and accountability where reasonable, topics that are discussed are published after each meeting. Once negotiations are complete, the details of that agreement will be laid before Parliament as a legislative consent memorandum. I recognise the point that has been made today and previously by the convener and others about the need for proper parliamentary scrutiny of the fiscal framework. I commit myself once again to ensuring that Parliament is properly convinced that effective parliamentary scrutiny has been exercised in the discussions that are taking place at intergovernmental level.

As I noted in my opening remarks, I have provided an initial written response to the committee expressing my broad support for the recommendations in its report, subject to our being able to make them work effectively. Consideration of those recommendations will form a key element of the review of the formal intergovernmental machinery, which was commissioned by the joint ministerial committee last December in response to the report of the Smith commission.

The Government is determined to work constructively through the joint ministerial committee review, with the objective of ensuring that we have in place arrangements that enhance intergovernmental working and ensure that Parliament can be satisfied that effective parliamentary scrutiny has been applied in this and other cases.

15:00

**Claire Baker (Mid Scotland and Fife) (Lab):** I thank the committee members for their work in producing the report.

Our politics and our Parliament are changing. We are about to increase the powers of the Parliament, not just to make decisions alone but to enter more frequently into relationships of partnership and negotiation with the UK Government. We need to devolve power and decision making, too, because the new powers that are coming to Scotland are not the exclusive domain of politics, Government or Parliament.

Since 1999, there has been a working relationship between the UK Government and the Scottish Government. The report recognises that it was mainly informal and founded on good communication, goodwill and mutual trust. There are examples of how it operated. I am currently a member of the Scottish Government's working

group on post-work study visas, the forerunner of which—the fresh talent scheme—was created through a series of negotiations and compromises between the then Scottish Executive and the Home Office. That is an example of intergovernmental relationships in action.

However, no one would now argue that the current largely informal relationships that we are used to are capable of addressing the key issues around overlaps in responsibility for policy and common challenges or preventing or resolving disputes in a way that is fit for current or future Governments.

The new powers that are coming to the Parliament will require a greater amount of power sharing between the two Governments and the two Parliaments, as well as with the electorate, particularly in social security and welfare. As Lord Smith said,

“a more productive, robust, visible and transparent set of relationships”

is required.

However, we have to guard against creating a further democratic deficit. While the Governments agree a new memorandum of understanding between the UK Government and the devolved Administrations, we as parliamentarians have to be able to scrutinise decision making. The structures might be more formal, but that does not mean that we will necessarily make any progress in relation to what are seen as Government-to-Government deals.

A brief example of that is the current discussion on the fiscal framework. I appreciate that the negotiations can be difficult—even delicate—but, outside that process, everyone else has only the reporting or interpretation from each partner to rely on. That might be fine when there is agreement, but if there is conflict it is difficult for others to form a view of a process that has been exclusive. Even when there is agreement, we are presented with a done deal, which allows for little scrutiny. I appreciate that the Deputy First Minister has recently shared the detail of discussions with some members, but I would like to see greater transparency in the process. As he recognised, the committee report raises that issue. I welcome the committee's call for scrutiny of the revised memorandum of understanding and the fiscal framework.

In its report, the committee explores how, once those processes are finished, parliamentary scrutiny of intergovernmental relationships can be exercised. It recognises that we are weak in that area and identifies that a whole range of policy areas are rarely questioned.

Professor Michael Keating said:

“Whenever there is intergovernmental working, things disappear into rather opaque arenas. ... We have very poor parliamentary scrutiny of intergovernmental relations.”—*[Official Report, Devolution (Further Powers) Committee, 19 March 2015; c 12.]*

The committee report is useful in exploring some of the ways in which the Parliament can respond to the challenges that it faces when providing scrutiny. It considers what kind of information would be required from the Government for effective scrutiny to take place and sets out a number of statutory and non-statutory options. It provides a good basis for consideration of how the Parliament can maintain a healthy, open and transparent democracy.

The Deputy First Minister’s comments on the devolution of land and buildings transaction tax were illuminating. Although he outlined a process between officials, he also said:

“ultimately, however, the resolution came down to a 15-minute conversation between the Chief Secretary to the Treasury and me. Such questions will be resolved politically by ministers, as long as there is willingness to do that.”—*[Official Report, Devolution (Further Powers) Committee, 12 March 2015; c 12.]*

Greater parliamentary scrutiny will not necessarily change that situation.

The European and international examples in the report might reveal greater parliamentary scrutiny of Government relationships, including the provision of mandates for positions, but it appears to remain the case that those are ultimately executive decisions. Even in Belgium, where Parliament can have a more formal role and the capacity to reject or accept, that role is still seen as very limited. There is clearly a difficult and complex balance to be struck to determine the level of the Parliament’s influence and its involvement in or even knowledge of negotiations between two Governments.

However, as Bruce Crawford said, we should not be deterred. Scotland is so far behind our European partners and we are starting from such a low point of engagement that there is space for us to develop greater scrutiny and transparency. We need to consider the most effective ways of achieving that, and the committee considered three options: debates involving the entire Parliament on agreements; a specific parliamentary committee that could scrutinise the relationship; and mainstreaming scrutiny across different subject committees in the Parliament.

The report recognises that relevant information must be shared. For scrutiny to be effective and have a purpose, there must be the political incentive and will to undertake it. It is as much up to us as a Parliament as it is up to the Government to respond to those challenges and maintain our status as a transparent and open Parliament.

Yesterday I took part in a Scotland’s Futures Forum discussion that was led by Scottish Council for Voluntary Organisations and the what works Scotland initiative. We considered the potential for participatory budgeting and greater involvement in national decision making. We often reflect in here that the past year or so in politics has enlivened, and even generated, political awareness and debate in our country. How we effectively scrutinise the future of intergovernmental relationships is part of that agenda.

The new powers that are coming to the Parliament will bring new challenges. We may have a more engaged electorate and we should involve people in the debate and in understanding the new powers. The committee report is right to say:

“the role of legislatures in scrutinising these relationships will be critical to public understanding of the proposals for further devolution.”

Reflecting on international examples, the committee says:

“Increased scrutiny of inter-governmental relations was considered as being beneficial in terms of raising general public awareness of, and debate regarding, inter-governmental decision-making.”

Let us ensure that the Parliament matures in both the extent of our powers and our relationship with the UK Government and the UK Parliament, and that we develop high standards of transparency, scrutiny and public engagement.

15:07

**Annabel Goldie (West Scotland) (Con):** This may not seem the juiciest morsel that the chamber has ever delighted in chewing over, but, as is often the case with plain fare, it matters—not that I would ever describe John Swinney or Bruce Crawford as plain fare.

**Jim Eadie (Edinburgh Southern) (SNP):** They are not as juicy as you.

**Annabel Goldie:** We had a sedentary intervention there.

I thank the Devolution (Further Powers) Committee for its hard work and its recent report, which has enabled this important debate to take place.

I will focus my remarks on the arena of intergovernmental relationships. Those relationships matter because without some framework to structure the engagement between Westminster and devolved Governments—in our case, the engagement between Westminster and the Scottish Government—all Governments are the poorer. It seems that the framework should be both sufficiently robust and sufficiently resilient that it can accommodate Administrations of



different political beliefs. Indeed, that is almost the default test by which it should be measured—an ethos not dissimilar to that of the civil service.

I will not dwell on what has happened over the past 16 years, other than to observe that the framework seems to have operated spasmodically. The starting point for this debate should be the Smith agreement and the Devolution (Further Powers) Committee report of 6 October.

As members will know, I was a member of the Smith commission. Interestingly, that commission was itself a good model of how people with very different political perspectives can have intelligent, informed and respectful discussions. Indeed, the commission got to the heart of the matter when it stated—Bruce Crawford has already referred to this—that

“Throughout the course of the Commission, the issue of weak inter-governmental working was repeatedly raised as a problem.”

That was raised not by commission members but by those who made submissions to us. The commission went on to say:

“That current situation coupled with what will be a stronger Scottish Parliament and a more complex devolution settlement means the problem needs to be fixed. Both Governments need to work together to create a more productive, robust, visible and transparent relationship. There also needs to be greater respect between them.”

When he stated recently that the Scotland Bill honoured the Smith agreement, Lord Smith of Kelvin commented on intergovernmental relations. He said that

“it’s never been good enough, there’s really a lot more that could be done there”,

and that what was needed was

“At government level, ministerial level, respecting each other”.

To be fair, Mr Swinney’s contribution this afternoon was very encouraging in that respect.

At present, we have the memorandum of understanding, which since 1999 has underpinned, in writing, intergovernmental relations in the UK—between the UK Government and all the devolved Administrations. The current version of the MOU was agreed in 2013. We also have the joint ministerial committees.

The MOU is currently the subject of a quadrilateral review—the review is not just between us and the UK Government but involves the other devolved Administrations. I will not detail the existing structures and their bodies, but there are various quadrilateral groups as well as some bilateral groups that comprise just the UK and Scotland.

However, what is important is not what is there at present. Before we contemplate specific proposals or changes, we should be clear about the purpose that the intergovernmental dialogue is meant to serve. There should be a two-way—and, within the UK, sometimes a four-way—flow of information. For example, if Westminster proposes any changes that affect Scotland, the Scottish Government is entitled to know what those changes are. In turn, the Scottish Government should be able to feed in its responses, suggestions and counterproposals, and there needs to be a framework and a process to facilitate that.

Importantly, the Scottish Government may be able to contribute research data, information and experience in relation to a variety of policy areas and Government responsibilities that may positively inform Westminster. Likewise, Westminster may be able to do the same. That all needs a transparent, visible structure.

We need to strike a balance in ensuring that the structure serves an identified purpose and is not just a cosmetic box-ticking exercise. Westminster and Scottish Government ministers alike are busy with their own responsibilities, so we must prevent them from being distracted by the process while ensuring that their involvement adds value to it.

The debate has ranged over questions of formal versus informal and statutory versus non-statutory. John Swinney made an insightful contribution to the committee when he pointed out with some authority that, while structures have their place, his particular experience with regard to the land and buildings transaction tax arrangements depended ultimately on a resolution arising from a 15-minute conversation between him and the Chief Secretary to the Treasury. That illustrates that we need both the formal and the informal. The nature of politics is such that politicians can strike up relationships with other parties and Governments.

**John Swinney:** The example that Ms Goldie cited is instructive with regard to the importance of the willingness to find some basis of understanding, given the motivations and concerns within the devolved Administration in trying to advance its arguments and have them heard by the UK Government.

**Annabel Goldie:** I would not disagree with that. That is why it is so important that, as we contemplate significant new powers, we begin to open up those avenues of dialogue. As Lord Smith said, we do so under an umbrella of mutual respect.

Although it is universally recognised that we need to improve intergovernmental relationships and the flow of information and create a visible structure, there is still a journey to travel to

develop the shape of the structure. I have two anxieties about the statutory road. The first is a practical issue: at present we do not have a coherent shape that we could commit to statute. Of course, that structure is not just Scotland and the UK: it is also England, Wales and Northern Ireland.

Secondly, and perhaps more importantly, resilience and flexibility are not the realm of statute. I remember learning that lesson clearly as a law student when I studied constitutional law, so I counsel caution before we go down that road. However, the committee has identified five useful areas to investigate, and I hope that we can take forward the discussions in a constructive manner.

**The Deputy Presiding Officer (Elaine Smith):** We move to the open debate. Speeches of six minutes, please. There is not a lot of time in hand.

15:14

**Mark McDonald (Aberdeen Donside) (SNP):** More than one member has said today that the subject that we are debating is, on the face of it, technocratic and dry, and all about process. However, process is important, particularly when we are looking at the devolution process and its underpinnings.

We are entering a critical phase in intergovernmental relations because, as the Deputy First Minister outlined, many powers will operate on a shared basis, and a much more complex series of interactions between Governments will be required in comparison with the situation in previous years under devolution. That will certainly be true in relation to financial decision making around the fiscal framework and how money beyond the money that we will be responsible for raising is allocated to the Parliament.

That has raised some questions for the committee about how to scrutinise in those areas. There have been difficulties for the committee with that process. From Nicola McEwen's paper and from the committee report, it is apparent that the first difficulty is the lack of directly analogous examples. That was evidenced in the submissions that we received and the research that we commissioned, and was borne out when we looked for an example that could be lifted as a whole and applied to Scotland. That presents a challenge because, as the convener noted, Michael Keating's evidence was that while there are plenty of bad examples out there, he could not identify a good one. At the same time, it also presents an opportunity—I will come back to that.

The other challenge is that a lot of the evidence that we received about other areas where intergovernmental relations were being examined

showed that such relationships can often be tokenistic. There was a feeling that the mechanisms that are used to facilitate those relations are often flimsy and can be easily and readily disregarded, often—depending on the example explored—by the central or federal Government. That tended to be a consistent theme of the evidence that the committee took, so we need to guard against it.

To that end, the committee sought to balance the need for discussions to take place with a degree of confidentiality. We accept that some of the discussions that take place between Governments need to be confidential. At the same time, there is an expectation that Parliament should be able to take more of a role in scrutinising discussions versus outcomes and, most important, the impact of the outcomes on the Parliament's ability to deliver policy and operate within its financial capabilities.

There is an opportunity, however. Although we face a difficulty in not having a directly analogous example that we can lift and plant into Scotland, we have the opportunity to develop our own unique model that might avoid some of the difficulties and pitfalls that have been faced in other areas and allow us to shape something perhaps a little bit more dynamic.

The other difficulty that the committee has faced is that, during our deliberations and discussions, there has often been a lack of clarity and definition about what exactly is to be scrutinised. The subject of intergovernmental relations in and of itself covers a multitude of areas, and a multitude of discussions take place between Governments. The committee has tried to get a clearer understanding of what is to be scrutinised and how best it can be scrutinised. There is still interesting work to be done in that respect.

We have had a response from the Scottish Government in which it outlines its thoughts on the matter. As for the UK Government's position, it seems to be saying, "We are currently thinking about this in relation to the overall UK devolution framework." We will need to see a little bit more of the UK Government's thinking, because, obviously, there is more than one player in the discussions. That will be a challenge to those who are tasked with the scrutiny role, should the recommendation of either establishing a new committee or expanding the remit of an existing committee be taken forward by Parliament. What is to be scrutinised will need to be examined in that committee.

The first key challenge will be around the fiscal framework. There is undoubtedly a need to protect the confidentiality of negotiating positions in relation to the fiscal framework and to ensure that those discussions can take place. The Deputy

First Minister has been very clear to committees and to the chamber that Parliament will have a scrutiny role. It is on the scrutiny and analysis that will take place that much of what we are discussing today will either stand or fall.

15:20

**Malcolm Chisholm (Edinburgh Northern and Leith) (Lab):** I think that it is fair to say that intergovernmental relations have been important ever since the advent of devolution, but that they are about to get a whole lot more important, particularly with the new tax and social security powers that are coming to this Parliament.

That was recognised by Lord Smith in the course of his commission. In a sense, the starting point for today's debate is Lord Smith's words that have been quoted already. He said:

"the issue of weak inter-governmental working was repeatedly raised as a problem."

The fundamental answer to that, as Bruce Crawford emphasised, is culture change on the part of both Governments. Bruce Crawford also made a very interesting point: we, as parliamentarians, need to take more interest in this as well. I have to say that I agree with Annabel Goldie—I have never regarded IGR as a particularly juicy morsel. In fact, I make the shocking confession that I am speaking in this debate out of a sense of duty rather than pleasure.

It may be that that is because I was immersed in the bad old ways as a minister, although there were many useful relationships between Governments in those days. I remember, for example, meetings that we used to have of all the health ministers from the four UK countries. Although we had very different health systems, those meetings were very useful. That is just one example.

I was more surprised when Ken Thomson, the lead civil servant on IGR matters, came to the Devolution (Further Powers) Committee and said that even now it is the informal meetings between officials and ministers that really matter. I suppose that I should have been pleased that ministers are still having those meetings. Of course, it was much easier in the old days, when we had ministers of the same party here and in the UK Parliament.

Interestingly, in the external research that has been referred to, by Nicola McEwan and others, it was pointed out that in fact it is very common in European countries to have informal networks within political parties, when those operate at the central and substate level. That is what we are trying to move beyond, although there is no harm in that in itself.

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** Briefly, and actually, seriously, is it not more difficult to disagree with colleagues than with opponents?

**Malcolm Chisholm:** I certainly disagreed with the English health minister on many occasions.

Nicola McEwan's research came up with two central conclusions, as well as lots of detail. First, it concluded that other countries' intergovernmental relations are also dominated by the executives, but also, crucially, that every country that the research examined allowed Parliament a greater role in scrutiny. That is the challenge for us.

Three forms of scrutiny were highlighted in the research: debates in the whole Parliament, specific committees, and mainstreaming with all the committees. The research also identified five key issues for consideration: timing and access for information; setting up a committee on IGR; hearings and evidence sessions; consent votes by the whole Parliament, which have not come up very much today but I think that that will be particularly important with the fiscal framework; and transparency.

Of course, it was the principles of transparency and accountability that were up in flashing lights as the central recommendation for the Devolution (Further Powers) Committee—in fact, it recommended that that should be in statute. That cannot happen now, unless Baroness Goldie goes down to the House of Lords and moves an amendment that the principles of transparency and accountability should be in statute.

There were several other recommendations in the committee's report. They were mainly for the Government, but there were two that were not. We cannot be quite so firm when our recommendations are only to the Parliament, but we suggested that the Parliament should give "careful consideration"—we were not so gentle with the Government—to establishing a special committee, which I am sure that the Parliament will do. The report also said that:

"greater inter-parliamentary cooperation ... would be beneficial."

When I was convener of the European and External Relations Committee we had useful meetings of all the European committees of the four nations. I do not know whether that still happens. That is an important suggestion as well.

The harder recommendations are those that are for the Government. The next two are central. There should be a written agreement on the oversight of IGR that would provide the detail of what information should be given and how the views of Parliament should be incorporated.

Crucially, scrutiny should happen before intergovernmental meetings as well as afterwards, probably in the form of taking evidence from the Government. That may be harder for the Government to accept, but, as Michael Keating said:

“All the arguments about not showing your hand or about confidentiality are just special pleading by Governments that do not want to be held accountable.”—[*Official Report, Devolution (Further Powers) Committee*, 11 December 2014; c 20.]

The immediate issues before us are the fiscal framework and the memorandum of understanding. I have said that I hope that there will be a vote of the whole Parliament on the fiscal framework, and I also hope that the Government will consult us on that before it is formally agreed. I can see that there will have to be an interim agreement, but the fiscal framework should not be formally agreed until the Parliament has been involved. There must also be adequate time for scrutiny of the memorandum of understanding. We believe that there must be a specific section on parliamentary oversight in the memorandum of understanding, but, unfortunately, it seems that old habits die hard. Professor Aileen McHarg has written that, once again, it is

“being treated as a matter for negotiation between officials, rather than something in which there is a legitimate parliamentary and public concern.”

We have not really moved forward any distance over the past 16 years, so this is an important report saying that now is the time to take a significant step forward. Having spoken for six minutes, I have become quite interested in the subject, and I will follow it with interest.

15:26

**Rob Gibson (Caithness, Sutherland and Ross) (SNP):** We all understand, from the speeches that we have heard so far, that the powers that are promised through the Scotland Bill are increased and far more complex. Therefore, scrutiny of the processes and the relationships between our two Governments—indeed, between the four Governments of the family of nations of the United Kingdom—becomes all the more critical if each member is to prosper and if each of the Governments is to feel that it is being dealt with fairly.

The partial devolution to Scotland of the Crown Estate’s assets is an example of a transfer of powers that contains certain vetoes, particularly by the Secretary of State for Defence. Delicate discussions will be required on the memorandum of understanding that will contain the Ministry of Defence’s powers to overrule Scottish policies. If the name of national security is to be upheld and believed in by people, the practical implications of

that must be discussed at a local level, too. I will give an example to show why that is essential.

Last week, at Kyle of Lochalsh, my colleague Ian Blackford MP, who represents both Skye, which is in Dave Thompson’s constituency, and Applecross, which is in mine, met the MOD to discuss proposals to quadruple the size of the torpedo range there. He was accompanied by local fishermen who were seeking a change of behaviour from the MOD. In “Scotland’s National Marine Plan: A Single Framework for Managing Our Seas”, we are told that the MOD can use

“exemptions in planning law for the purposes of national security”

and that it retains

“the statutory right to close areas in internal waters and create bylaws for complete closures and exclusions.”

In this day and age, if such powers are going to be adopted and continued, we will have to change the way in which we discuss them, because it is possible that much of the livelihood of those 70 fishermen, especially in winter, could be destroyed if the MOD’s proposal is taken forward.

At that meeting, it was agreed that the MOD would, over a period of time, do what the Scottish Government does on any proposal—consult people about the social and economic impact of decisions of Government. The situation is complicated by the fact that it is not the Scottish Government but the UK Secretary of State for Defence who is closing those waters.

In the event, the MOD has partially agreed to change its behaviour rather than make the decision by diktat. To me, that is an indication that, when we approach the issue of intergovernmental relations, we are looking for the kind of openness that allows for such matters to be dealt with at a decision-making level in such a way that the Government of Scotland has a part in the process. The Secretary of State for Defence has absolute power over certain of Scotland’s air, sea and land assets, but it is important that discussions can take place between the relevant Scottish ministry and the MOD to ensure that Scotland’s fishermen are not materially affected by an arbitrary decision.

When Enoch Powell said that

“Power devolved is power retained”,

that was an indication of the way in which the UK saw the partial devolution of powers when it discussed things back in the 1970s. Intergovernmental relations must develop from Enoch Powell’s truism so that we have the kind of transparency and democratic scrutiny that involve people being treated as equals and partners rather than as the ruled and the rulers.

The example that I gave suggests that, before we decide whether to pass the draft statutory instruments that will invite us to accept the terms of the transfer of powers relating to the Crown Estate, the vetoes that the Secretary of State for Defence has over parts of the assets in question will have to be discussed in this Parliament. That example illustrates why I believe that it is essential for us to treat this subject as more than one of mere dry constitution making—it affects people's lives and jobs, and that is why it is so important that we get it right. That is why I gave the example that I gave.

15:32

**Tavish Scott (Shetland Islands) (LD):** To paraphrase Annabel Goldie, the subject of intergovernmental relations is hardly a whirlwind of excitement, although the description of John Swinney and Bruce Crawford as tasty morsels brought a certain frisson to this afternoon's proceedings.

The convener of the Devolution (Further Powers) Committee confirmed that, in the committee's early discussions, he hardly saw the issue of intergovernmental relations as a political whirlwind, either, but I suppose that Duncan McNeil and I take a bit of credit—if that is the right word—for boring our colleagues into submission on it. It matters because, as the Deputy First Minister mentioned, the discussions in the Smith commission were underpinned throughout the process by how Governments talk to, respect and relate to one another.

I noticed that, at the start of the debate, there were 23 members in the chamber, of whom 11 were either current or former ministers. There is a smattering of them across the parties. The ones who should speak in the debate are probably not those who have been ministers, because those of us who have done that job—Malcolm Chisholm was quite open about this—probably remember some of the tricks of the trade. Of course, the current ministers would never use such mechanisms to stop Parliament seeing what is going on.

The reality is that such practices go on. Ken Thomson and Philip Rycroft were quite open about that in what was the most illuminating evidence that the committee took. I respect both men considerably—they are very able civil servants—but, in effect, they both said that what is there is fine. They were not trying to say how Parliament should scrutinise these things—the Deputy First Minister rightly did not do that, either—but as the committee now knows from having gone into the matter in some detail, what is there is not fine because, as the Deputy First Minister rightly said, the whole arrangement is changing and evolving.

There is no better example of that than the financial system that will allow the Scottish Government and the UK, Welsh and Northern Irish Governments to deliver on their policies and programmes within the resources available. As a Parliament, we will deal with the fiscal framework at some stage, but the point that Duncan McNeil consistently makes in committee—he is right to, and I agree with him on this—is that, in many ways, the fiscal framework is a striking current example of whether we have begun to even think about how Parliament can scrutinise adequately Mr Swinney's deliberations with his colleagues in different jurisdictions, in this context in the UK Government.

Things are a bit messy. Mr Crawford was absolutely right to say that ministers must have the space in which to consider such issues. However, we as a Parliament have to think about the way in which we have intergovernmental relations. As Malcolm Chisholm illustrated, we have taken a pretty transient view since 1999 on how Governments talk to each other, and that has not worked as openly and accountably as our committee now says that it needs to.

Lord Smith said last week on ITV Border's "Representing Border" programme—I hope that I have got the words roughly right—that the Governments must co-operate and make IGR work in good spirit. I think that he also said that the Governments will need to keep doing that for years and years to come—I believe that that is so. Incidentally, he said some other things about decentralising power within Scotland that I was very attracted to, but I will leave that aside for today.

IGR matters because, as the Deputy First Minister said in his remarks, we are now in substantially more complex territory. That is true, and even more so not just because of what is happening between Edinburgh and Cardiff and Belfast, but because of what is happening in Manchester, Newcastle, Liverpool or the west country of England. The Institute for Public Policy Research—that august research organisation—produced a report this week on empowering counties. I know that there is not a lot of interest in that in this place, but there should be because changes are starting to happen in England that I think will lead in time to fundamental changes for the UK as a whole.

I am not naive enough to think that we are suddenly about to have a quasi-federal UK, much as I think that that is the intellectual answer to most of the challenges that we deal with day to day. Nevertheless, because of the changes that are now happening south of the border—it is very important that they are driven not by centralised Government in Whitehall but by a process from

beneath—I believe that some profound changes will happen across the country as a whole. Those changes will lead us to realise, as the Deputy First Minister pointed out, that IGR is a messy process that has to constantly evolve and, indeed, be refined.

**Stewart Stevenson:** I wonder whether the word “beneath” is itself an issue. It is perhaps more about co-decision making than a hierarchy of decision making.

**Tavish Scott:** I hope that Mr Stevenson might understand that I was describing what I think is going on in England at this time, although Scottish local government might take his point on the meaning of the word “beneath”. If we put aside politics for the moment and look at the matter in the context of the kind of changes that we believe are right for Scotland, I think that that is a fair point about the relationship between local and central Government in Scotland as well.

I have two final points, the first of which is on the new Prime Minister of Canada, who could have been the star at the G20 in Turkey over the weekend but obviously was not because of what had happened in Paris. However, some interesting things are happening in Canada now and the new Prime Minister is leading a very different Administration compared with the Harper Government over the past 10 years, in terms of the provincial and federal relationship. I think that that is worth looking at.

Finally, I will finish on this point because I think that it was a good indication that things are clearly moving in the right direction. In the First Minister’s speech about Paris just an hour or so ago, she mentioned that she had been involved in COBRA meetings over the weekend. I took that to be a very appropriate and good sign that Scotland’s First Minister, and presumably others, too, were involved in a meeting with the Prime Minister—or perhaps the Home Secretary, given the Prime Minister’s absence overseas—in what must have been, and continue to be, fundamentally important discussions. That is an illustration—is it not?—that some work in which we have all played a small part is showing some fruits of success. That is the challenge that we all have, particularly in a parliamentary context.

15:38

**Stuart McMillan (West Scotland) (SNP):** Intergovernmental relations are essential to all political systems with multilevel government—that message has come across strongly today—but they come in various forms, as our report and the paper that our committee commissioned indicate. However, one thing is clear: there is no panacea when it comes to intergovernmental relations.

Indeed, as our committee convener said, if we are all made of “stern stuff”—which we are—and if we can use that, we can help to create something that could be ground breaking and world leading in terms of IGR.

Because intergovernmental relations involve the interplay of high politics, they are, as I am sure we all agree, particularly charged if the Governments that are involved are formed by different and competing parties. Inevitably, high politics plays a major role, but the underlying interests of particular units of Government often mean that their approaches to IGR processes remain similar over time, even as Governments change. We must ensure that all aspects of IGR benefit the nation and are not merely reflections of party politics.

The Smith commission called for the existing intergovernmental machinery to be reformed as a matter of urgency in order to enable more effective collaboration between the Scottish and UK Governments. However, academics have suggested that, to be effective, intergovernmental relations require basic equality of status between the participants. Earlier this year, Professor Nicola McEwen was quoted in *The Herald* as saying that

“Unless such joint working can be conducted on the basis of equality of status and mutual respect, the complexities and interdependencies are likely to create new sources of tension and dissatisfaction, and lead to growing pressure for a further revision of the devolution settlement”.

The complexity of the new funding model as a result of the Scotland Bill means that there is a fundamental need for as much transparency as possible.

The sad and shocking events in Paris last Friday night highlight the importance of security. In his response to the committee’s report, the Deputy First Minister highlighted that it would be impossible to publish some information in relation to the British-Irish Council due to security requirements. I am sure that we all agree that no one wants to place others in harm’s way.

A second point regarding IGR that is crucial to making progress and improving working relationships concerns the Scottish block grant, which will change as a result of the tax changes that are proposed in the Scotland Bill. The financial framework that underpins the bill is crucial to its progress. As has been said, discussions on the financial framework are still under way and it is not yet clear how the adjustment to the block grant will take place.

The Royal Society of Edinburgh and the British Academy have identified a number of issues around the Barnett formula that they consider require clarification, including the way in which

reductions in the block grant will be determined. They said:

“It is, in our opinion, essential to the enduring character of the settlement that the future of the block grant is fully resolved. This must take into account the nature and scope of the new devolved powers, the on-going mechanism for calculation of changes to the block grant, related to the ‘no detriment’ proposition, and the way in which decisions by either Government will be reflected in future changes to the grant.”

Also on the future of the Barnett formula and clarity about its operation, Professor Michael Keating commented:

“It is difficult to see how you can talk about assigning and devolving taxes to Scotland and then not look at the other side of the equation, which is how the Barnett formula works out. That is a matter of principle, but it is also very important when you work out the details, because there is a lot of money involved there. There are a lot of questions simply unanswered about how Barnett is going to work in the future and how the income tax base is going to be calculated.”

He added that

“in a federal system normally you would have some place where there is a trusted source of calculations. You may not agree on the policies, but at least you will agree about the basic facts and the basic statistics.”

He said that in evidence to a House of Commons committee.

Another element is the no-detriment principle. That is outlined in the Smith commission report, which says that exercise of the new powers for Scotland should

“not cause detriment to the UK as a whole nor to any of its constituent parts.”

As has been discussed on many occasions—certainly in this Parliament—the principle has two applications: that the Scottish and UK Government budgets should be unchanged as a result of the decision to devolve further powers to the Scottish Parliament, and that there should be no detriment as a result of UK or Scottish Government policy decisions post devolution.

Arguably, the first application of the no-detriment principle is straightforward in that it applies when a power is devolved. The second application is potentially more problematic, as it would apply on an on-going basis to all policy decisions that affect tax receipts or expenditure. Professor Keating has highlighted some concerns about the principle. Writing for the centre on constitutional change, he stated:

“While fair in principle, it is a minefield.”

He further stated:

“Determining what should count as ‘detriment’ will remain politically contentious and technically complex.”

In his evidence to the House of Commons committee, he explained:

“The notion of detriment, which is a novel constitutional idea—the idea that if one Parliament does something that imposes a cost on the other Parliament there should be compensation—potentially could be very wide-ranging indeed. It is nowhere defined and it is nowhere limited.”

In conclusion, the effectiveness of parliamentary scrutiny of IGR will depend in part on the ability to be informed on the subject matter, on the timetable for the discussions and on the good will between the Governments.

I welcome the debate and hope that it will assist in the delivery of an improved set of working arrangements between the four Governments in the UK, as well as between the Scottish Parliament and the Scottish Government.

15:45

**Lewis Macdonald (North East Scotland) (Lab):** Thank you very much, Presiding Officer.

“At present, systematic and sustained parliamentary scrutiny of inter-governmental relations by legislatures in the United Kingdom is notable by its absence.”

That comment in the committee’s report neatly summarises where we are now, and the democratic deficit that is an unintended consequence of the evolution of devolved Governments and Parliaments in the United Kingdom.

The committee report is welcome in looking at the Scottish Parliament’s experience and the Scottish Government’s accountability not just in one wider context, but in two contexts. First, there is the context of the devolution of executive powers and legislative responsibilities to three of the four countries of the United Kingdom since 1997. Scotland’s experience of devolution may be unique, but it does not stand alone. The second context is our seeking to learn lessons from a number of other countries in Europe and North America where powers are shared between different tiers of Government and similar issues of scrutiny and accountability arise.

The growth in the responsibilities of the Scottish Parliament has not been accompanied by a growth in the accountability of the Scottish ministers—at least, not as far as their engagement with the UK Government or the devolved Administrations of Wales and Northern Ireland is concerned. As has been said, that issue becomes all the more important now because of the Smith agreement and the new Scotland Bill.

I served on the Devolution (Further Powers) Committee when the Smith agreement was signed and came to the committee for scrutiny. I think that all members agreed that the new devolved and shared powers demanded a new machinery of scrutiny and accountability. What exists now is not fit for purpose. As the committee’s interim report

on new powers concluded, reforming that system is the most urgent

“challenge to be addressed in implementing the Smith Commission recommendations.”

It is significant that the need for increased scrutiny is felt at Westminster as well as here. A year ago, I gave evidence to the Political and Constitutional Reform Committee of the House of Commons as MPs sought to understand the implications of change in Scotland for the wider UK. Philip Rycroft of the UK Cabinet Office has predicted that there will be from relevant committees of both the House of Commons and the House of Lords

“increased scrutiny on intergovernmental relations in the months and years ahead.”—[*Official Report, Devolution (Further Powers) Committee*, 17 September 2015; c 23.]

I have no doubt that he is right about that.

That desire for increased scrutiny will apply not just to engagement between the Scottish and UK ministers. Devolution in Wales and Northern Ireland is also a dynamic process, as John Swinney has said, and its success also depends on the engagement between devolved and union Governments. Scrutiny will be vital there, too. We have also heard this afternoon that the devolution of greater powers and responsibilities to cities and other authorities in England will raise similar issues there.

The potential mechanisms for increased scrutiny are summed up neatly in the external research that the committee commissioned from Professor Nicola McEwen and her colleagues at the University of Edinburgh’s centre on constitutional change. Some of those prospective mechanisms build on structures or approaches that are already in place, such as publishing minutes, debating outcomes in Parliament, and calling ministers to account for agreements that have been made, or not made, with other Administrations. Others will require further debate, such as the formal role of legislatures in endorsing or rejecting intergovernmental agreements that have been placed before them by the Executives, and whether a legislature should have a dedicated committee for dealing with such issues and constitutional issues more generally.

The Constitution Committee of the House of Lords summed up what is needed, and it was quoted directly in the report. It said:

“Effective scrutiny of inter-governmental relations requires both greater transparency than currently exists, and the necessary structures and desire in Parliament and the devolved legislatures to scrutinise those relationships.”

The Devolution (Further Powers) Committee was right to endorse that summary, because it is not a matter only of structures or even openness, although it is important to get both of those right; it

is also a matter of political will. The desire for scrutiny has to exist as well as the means to achieve it. The best institutional arrangements in the world will count for nothing if a majority in the legislature sees its right of scrutiny as simply another way to endorse the decisions of the Executive.

Relations between Governments must necessarily involve decisions on policy, agreements and disagreements, disputes and compromises. Effective scrutiny will be measured by how often ministers in the respective Governments are held to account for things that they do, or fail to do, in those negotiations.

The limitations of structural reform alone are brought out well in the evidence that was gathered by the committee and in the research that was reported by Professor McEwen. The Belgium example has been cited: it has highly devolved structures of government, scrutiny of intergovernmental relations is on a statutory basis, and the Belgian Parliament has a formal role in accepting or rejecting intergovernmental agreements. However, Professor Maddens of the University of Leuven said that he does not know

“of any instances where Parliament has ever disagreed”—[*Official Report, Devolution (Further Powers) Committee*, 17 September; c 3.]

with an intergovernmental agreement, while the disengagement of substate legislatures from the centre

“tends to result in a lack of political will to scrutinise inter-governmental relations.”

That, in turn, creates what he describes as Belgium’s “democratic deficit.”

Statutory requirements for scrutiny and transparent processes are not enough on their own. Just as sharing and decentralising power can work only if we want it to, so effective parliamentary scrutiny of intergovernmental relations requires all parties to sign up to make it work.

**Stewart Stevenson:** I have been thinking about Parliaments agreeing or disagreeing with international agreements that Governments negotiate. I wonder whether Ireland’s having voted against one of the European treaties—which one escapes me—is an example of that. There are one or two other examples, particularly in European domains, where what Tavish Scott has described as the bottom has disagreed with the top, perhaps to good effect.

**Lewis Macdonald:** The point is well made that Parliaments can, indeed, pass judgment and do so effectively. My point is that simply having the institutional machinery there is not enough in itself.



We should welcome the committee's report, but recognise that it is a work in progress rather than a final plan for future scrutiny. Like devolution itself, parliamentary scrutiny of intergovernmental relations can work if we want it to, but in the final analysis, its success will be down to political will.

15:52

**Stewart Maxwell (West Scotland) (SNP):** As we have heard, the Devolution (Further Powers) Committee has dedicated a considerable part of its work programme to intergovernmental relations. Although I suspect that the finer details of the processes of intergovernmental relations are unlikely to spark passionate debate in homes, pubs and cafes across the country, it is nonetheless an important issue and one that I am pleased to have the opportunity to discuss today.

The conclusions that are outlined in the committee's report draw from an extensive evidence base. The research that was undertaken by Professor McEwen and her colleagues at the centre on constitutional change has been very useful in informing the committee's work on the complex issue of IGR, as has the written and oral evidence that was provided by a range of international experts.

The committee has undertaken to learn from the processes and principles that underpin the scrutiny of IGR in other jurisdictions. The research on international comparators suggests that there are limited opportunities for effective scrutiny of IGR by Parliaments. However, the report also highlighted that the level of scrutiny in the majority of other countries is significantly greater than that in the UK, which demonstrates that there is room for improvement, from a UK perspective. That has been a recurring theme in the evidence and it was also recognised in Lord Smith's report as an area that is in need of substantial reform—especially because the further devolution of powers will create a number of overlapping areas of responsibility, as a number of other members have indicated.

Of course, we need to remember that the whole point of devolution is to allow different Administrations to pursue different policies. In evidence to the House of Lords Constitution Committee, Professor Michael Keating of the University of Aberdeen made the point that not everything has to be "joined up", and that good IGR should mean differences in policy being made through the active choices of Government, rather than their being due to lack of consultation or communication.

The Scottish Government has been working in conjunction with the UK Government to improve the Scotland Bill and to ensure that the Smith

commission recommendations are delivered in full. However, the bill still falls short on a number of areas, including on improving transparency in IGR.

The committee made clear in its letter last week to the Secretary of State for Scotland that there is still work to be done. I strongly urge the UK Government to pay careful attention to the conclusions that are outlined in the committee's report as the bill progresses to its final stages.

During the committee's oral evidence session in September, my colleague Linda Fabiani made an interesting point about how poorly the joint ministerial committees have served Scotland in the past. As she said, issues concerning Scotland were previously categorised under the heading "Any other competent business", although perhaps we should be grateful that it was competent business. As Linda Fabiani highlighted, it was not too long ago that the Scottish Parliament had to ask parliamentary questions just to find out the date of a JMC meeting. Things have clearly improved since then, but that is a reminder of how lacking relations have at times been between UK Government ministers and Scotland's elected representatives.

I am sure that members from across the chamber will, like me, have experienced difficulties when trying to contact certain UK Government departments on behalf of constituents. To be informed that a department will deal only with issues that are raised by MPs and not MSPs is certainly not in the best interests of a desperate constituent who needs urgent assistance. It is important that we have mutual respect and good communication between central and devolved Governments, but if we are serious about strengthening the role of Parliaments, we also need greater respect for the representatives who are elected to serve in those Parliaments.

It is unfortunate that Tavish Scott has left, because I was interested in his comment about there being 11 former ministers in the chamber. He questioned whether they are the best members to speak in the debate. Not everyone has spoken yet, but I think that we will end up with seven former ministers speaking in it. I understand Tavish Scott's argument, but I disagree with him because I think that former ministers are perhaps ideally placed to see both sides of the argument. I understand and agree with the arguments that the committee made about strengthening IGR and the important role of parliamentarians, but I also understand the difficulties and the requirement for Governments to talk in a private space and to have that room for discussion.

I was interested in Ken Thomson's suggestion in oral evidence that it was the election of the SNP to Government in 2007 that really brought into focus the need for improved IGR. Previously, of course,

the Labour Party had been in power at Holyrood and Westminster, and it appears that most discussions took place through party-political channels rather than through formal structures of intergovernmental relations. Times have indeed changed.

There is undoubtedly a need for greater openness and transparency in IGR. The committee's evidence gathering suggests that much of the current collaboration between Administrations in the UK is carried out in an ad hoc and unstructured manner. That situation must be improved, although a balance needs to be struck between enhancing transparency and allowing space for free and frank private discussions between Governments.

Philip Rycroft, who represented the UK Government at a committee evidence session, accepted that there are advantages from the public gaining greater insight into the depth and range of discussions between the UK Government and the devolved Administrations. Parliament has a key part to play in improving transparency. It seems to me that enabling the public to have a greater understanding of the processes that are involved in IGR would also facilitate better public understanding of the devolution settlement and the areas over which Holyrood and Westminster have control.

As members have said, the devolution package is changing—although perhaps not to the extent that many of us had hoped. I believe that when the people of Scotland voted no in last year's referendum, they voted to give the UK one last chance. If the Westminster Government is serious about making devolution work, it needs to demonstrate that it is treating its devolved legislatures fairly. Better intergovernmental relations and better scrutiny and public understanding of what goes on in those discussions are important parts of ensuring that devolution works not only for Scotland but for the rest of the UK.

15:59

**Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** In this week of all weeks, we know that Governments in these islands can and do work together. Tavish Scott talked about the First Minister's reference to participating in COBRA meetings. I did that when I was a minister—certainly on one occasion and, I think, more than that. I still have the UK transport minister's mobile number in my mobile telephone from when I was transport minister here. In practice, co-working is perfectly possible and is perhaps a little more common than is sometimes imagined. Sometimes, ministers are happy to bypass the civil servants to

make things move that little bit faster than others might want.

Some co-decision making is already embedded in law. The former British Waterways Board was a cross-border authority that required Scottish and UK ministers to sign off decisions that ministers were required to make. Thus, when I was responsible for canals, I found myself signing of a decision that related entirely to a transaction in Birmingham. The deal was that I would do what the UK minister wanted to do in England and he would sign off anything that we wanted in Scotland. Crucially, that co-decision making enabled us to protect canals in the public sector in Scotland when, south of the border, the authorities wanted to travel in a fundamentally different direction. That shows that it can be done.

Similarly, appointments to the United Kingdom Committee on Climate Change are jointly made by the Northern Irish, Welsh, Scottish and UK ministers and require unanimity. On one occasion, when there was a serious discussion on the matter, I conducted the interviews with the candidates for a vacancy on the committee and, thereafter, we were able to achieve the unanimity that had not initially existed.

There are already some legislated areas of co-decision making. They are tiny, but the point is that they show that we have already accepted the principle of legislating for co-decision making. Practical experience shows that it can be done.

On finance, it would be particularly dangerous to imagine that there is no scope for legally embedding co-decision making, but equally, as others have said, there needs to be respect between individuals of different political parties, Parliaments and Governments who carry different objectives.

Baroness Goldie is correct in saying that one cannot legislate for everything, but there are some things that we could do differently unilaterally that would deliver shared benefit. There has been reference made to that already. The Government that most promptly publishes details of intergovernmental meetings and the subjects that are discussed will create the opportunity for both Parliaments to engage in their proper process of oversight. The laggard loses: that is a message to the Governments in Edinburgh and London. Neither Government is, perhaps, as rapid as it could be in publishing such information. Indeed, that is a message to those in Belfast and Cardiff as well.

I note from the report that Professor McHarg said that

"parliamentary scrutiny has been one of the areas in which the current system has not worked."

That must be corrected. A shared acceptance of the need to legislate on intergovernmental relations is vital; we cannot simply leave it to a memorandum of understanding. There are old arguments that flexibility delivers benefit. It does, but I suggest that it provides substantially less flexibility to Governments.

Professor McEwen floats the idea of an additional parliamentary committee on intergovernmental relations. Others have made other suggestions for new parliamentary committees. Also, the Standards, Procedures and Public Appointments Committee's inquiry into our committee structures has almost universally attracted comments to the effect that we have too many committees and that too many members are on too many committees: some are on three committees. Who knows? The Standards, Procedures and Public Appointments Committee might suggest that MSPs should be members of only a single permanent committee. Note that there is a little weasel word in there, so there might be a way out.

On negotiations between Governments, the Scotwork process is the standard that is used in most commercial negotiations. It is called LIM-it—like, intend, must. In other words, one goes in with three lists. It is perfectly possible to publish in advance the “must”—in other words, what I need to get for my side when I go into the negotiations. I suspect that it is not possible to publish the “like” and “intend”, which are the dice that are played as negotiations play out, but there is more scope to publish the “must” intentions of various Governments.

I am one of the former ministers. There is nothing more ex than an ex-minister, but I did not realise how much power ministers had until I became one. I suspect that I share that with others.

However, there are opportunities for Parliament to take more interest. In my concluding remarks, I will refer to a couple of things that are coming to us.

**The Deputy Presiding Officer:** If you could be quick, that would be excellent.

**Stewart Stevenson:** Supermajorities are coming, and we will have to look at that. We have the opportunity in the debate and beyond to think about doing things differently. Perhaps ex-ministers, at least among SNP members, untrammelled by the prospect of offending anyone and not being appointed to the House of Lords, can be quite radical, where others might be more cautious.

**The Deputy Presiding Officer:** Many thanks. I ask members to keep to six minutes.

16:05

**Drew Smith (Glasgow) (Lab):** Thank you, Presiding Officer—I think.

I am grateful to the Devolution (Further Powers) Committee for the opportunity to take part in the committee's debate on parliamentary oversight of IGR. It shows why Bruce Crawford is held in such high esteem and affection by us all, not least by Annabel Goldie, even if Malcolm Chisholm felt it was more of a duty than a pleasure to take part in the debate today.

Those of us in opposition and who serve on the Government's back benches suffer—or benefit, depending on your point of view—from having proximity to power without the chance, or the danger, of actually wielding it. When it comes to IGR, the whole Parliament suffers a similar predicament, being not so much observers as outsiders to much of the process of ministerial negotiation and deliberation that our constitutional arrangements make necessary if not always exciting.

That area of policy making and development, as Bruce Crawford said, has never been served by much in the way of transparency or accountability, which is a problem that has been lamented for some time. Lord Smith of Kelvin brought greater prominence to the issue with his timely call for improvements, when he made personal recommendations based, I presume, on his experience of brokering the Smith agreement.

However, the committee's report makes it clear that while our oversight of IGR is perhaps particularly poor, the challenge is not unique to our devolution settlement but is a feature of similar relationships in many other jurisdictions around the world.

There are, of course, important reasons why we expect and—in so far as we have ever consciously considered it—have allowed ministers to have leeway to consider such matters largely in private. Such matters are more than administrative or diplomatic, because often it is through these channels that disputes of high importance are settled, or, indeed, continued.

The committee's report makes a cogent case for changing that and I am therefore minded to agree with the committee and to share Lord Smith's frustrations.

Like others, I was struck by two interesting quotes in the committee report, which held a lot of truth. They have already been rehearsed, so I will not repeat them. One was the Deputy First Minister's words about his experience of resolving things through conversation rather than through formal channels; and the other was Professor Michael Keating's chiding, perhaps, of defensive

politicians who always feel that things should not be discussed in public until they have been agreed.

As I said, it was interesting to see in the report that there were not really any parts of the world with good intergovernmental relationship models that we could use as examples. However, there are places where it is done better than it is done here.

Despite the—in my view—pretty clear result of last year's referendum, the constitution remains a contested issue in Scotland. Therefore, it is difficult to put in place mechanisms and processes that can establish fairness for all parties, since there will always be a political driver that negates solutions being found other than when issues become acute or time is at its most pressing. I think that we have to accept that that is simply a fact of Scottish politics.

I have not devoted any time to talking about the fiscal framework and I do not intend to, simply because I do not feel that I know enough about the nature of what is being discussed to make much of a contribution—although I certainly agree that it is important and am not unsympathetic to the arguments that the Scottish Government has made around the fiscal framework. Perhaps that is a mark of the problem.

The issues around the Trade Union Bill and legislative consent for it might provide further examples of some of the relationships being tested. I would argue that scrutiny by both Parliaments might strengthen the hand of whichever Government has the best arguments.

These are all areas in which Parliament should be more jealous of the privileges and rights that it holds, and that should be true regardless of whether we are supporters of a particular Government.

Other members have made the point that one of the consequences of a post-Smith devolution settlement is that the clear distinctions between reserved and devolved matters have been eroded in favour of moving quite specific competences around within what is essentially a shared policy competence. Parliament should be much more bold about the possibilities of joint scrutiny, and indeed open to the possibility of co-decision within our framework.

Lord Smith has also recently made the point that we do not just need greater scrutiny of intergovernmental relations; this place also needs to do better at scrutinising Government actions in areas where it is accountable. On Mr Stevenson's point about the difficulty of disagreeing with colleagues, there are lessons for us all there, too.

The committee's report is a useful contribution to what is perhaps a dry but nonetheless important debate. Though modest, the committee's recommendations are welcome all the same. I suspect that this is an issue that will be returned to in the next session of Parliament. I am sure that members of the Scottish Parliament in that session will all benefit from the opportunity to debate it.

It has been a cold and dark winter's afternoon. Perhaps we have not generated much heat, but I am sure that we have shed a little light on this issue.

16:11

**Linda Fabiani (East Kilbride) (SNP):** This is quite a difficult debate in which to speak because an awful lot has been said already, so if I cannot be original, I suppose that I will try to be quick.

I was struck by the comment by some members that things have been changing anyway. Stewart Maxwell mentioned my remarks in committee about how joint ministerial committees are put together and used. We can be a bit rough on ourselves. As a fairly new institution, we should recognise that a lot of intergovernmental issues will arise anyway, and that has happened throughout the Parliament's existence, not only between Governments but between Parliaments. What we have been bad at is recognising good practice and giving it enough space to move on. I say that because I was reminded earlier of the time, a long time ago, when I was convener of the European and External Relations Committee and we set up regular meetings with the conveners of the European Scrutiny Committee in the Commons and its equivalent in the Lords. It was a good, useful system but it fell out of use because I was busy, as were those committees. It probably suffered from the fact that no one made enough of an effort to keep it going and gain the benefits from it. If we are serious about setting up joint working between Governments and Parliaments, we must recognise that if it is not in statute, it will take a lot of hard work. We will have to work at it and try to get mutual benefit from it.

I go back to the issues that we talked about in committee. I remember that on the Smith commission, Tavish Scott felt strongly that an awful lot of what we were trying to do could not be properly implemented unless we strengthened the structures that we had in place for intergovernmental relations. Lord Smith felt strongly about that too and put it in the report, and the Devolution (Further Powers) Committee ended up looking at the issue. It was an interesting discussion because we started from the point of view that other people must be doing it a lot better than we were and then found nowhere in the world

that did it very well at all. So, here we are again with the possibility of setting up something fairly new.

I am pleased to see that the Scottish Government has already given quite a detailed response to our recommendations. As far as I can see, a response has not yet arrived from Westminster, but I hope that it does so fairly soon, because it will be good to look at the different opinions of the respective Governments about what we can achieve.

There are general recommendations about openness and transparency, but I am particularly interested in some of the others. Members have already covered the idea of establishing a specific committee or looking at the remit of committees that already exist.

**Stewart Maxwell:** Will Linda Fabiani expand on that point of discussion? We did not reach a final view on whether there should be an additional committee or whether the role should be carried out by existing committees. On the face of it, given the additional powers that are coming to the Parliament, it might be quite difficult to establish an additional committee—it might be quite difficult for the 129 members here to cope with that.

**Linda Fabiani:** I suspect that the Deputy First Minister was very glad that he was able to respond to questions on that by saying that it was a matter for the Scottish Parliament to decide, as indeed it is. Given my role on the Scottish Parliamentary Corporate Body, I know that we are very aware of the additional constraints and strains that the extra powers will put on this institution. There is a lot of discussion to be had about how we manage that. Stewart Stevenson touched on some of that in his speech.

The recommendations that I think are particularly important are numbers 7 and 9. In recommendation 7, we state:

“The Committee reaffirms its view and agrees with the Deputy First Minister that it is essential that the fiscal framework is robust, coherent and subject to parliamentary scrutiny before any Legislative Consent Memorandum can be considered.”

That is very important—in fact, it is probably the most important point that has come out of the recommendations. It is absolutely essential that this Parliament knows exactly what is on offer from Westminster. I believe strongly that the terms of the Smith agreement, let alone the aspirations of the Scottish people, on that have not yet been met, so let us make sure that that recommendation is taken extremely seriously by everyone in this Parliament.

16:17

**Anne McTaggart (Glasgow) (Lab):** I am pleased to have the opportunity to contribute to this afternoon’s committee debate on devolution and parliamentary oversight of intergovernmental relations. I congratulate the committee members on their report on the changing relationships between the UK and Scotland and, more specifically, on the process of parliamentary scrutiny of intergovernmental relations, and I thank them for preparing such a comprehensive and thorough report on one of the most prominent issues for debate in Scotland today. I am sure that members across the chamber will agree that devolution is among the most common topics of conversation that we have had here in this chamber in the past year.

The relationship between the Scottish Government and the UK Government has always been dynamic and open and that trend has not changed over the past 15 years. Our intergovernmental relations are built on goodwill, positive communication and mutual trust, and that high standard must continue to be upheld going forward.

The committee’s report on our changing relationships reveals several areas in which our relationships might be improved ahead of the Smith commission’s recommendations coming in. It is crucial for this Government’s productivity that there is improvement in those areas as our relationships with the UK Government become more and more complex. An increase in shared and devolved powers must be met with an improvement in intergovernmental relations between Scotland and the UK.

At present, most intergovernmental relations take place between ministers in ad hoc meetings and in everyday communications between ministers and officials. Those types of informal relationships will always be important in building relations between the Scottish Government and the UK Government. However, there are serious concerns that the formal relationship between our Governments is not as strong as it should be.

With the possibility of new and stronger devolved powers for the Scottish Government, it is more important now than ever to work to strengthen and support the formal relationships and communications that we have with the UK Government. A strengthened system of formal intergovernmental relations will necessitate closer communication, collaboration and compromise between our two Governments, with each side being held accountable for their actions. In order for that improved partnership to be implemented, our processes for scrutiny must be enhanced. Our Governments must work past our historical weakness in scrutiny to improve and expand the

effectiveness of our relationship. The current lack of transparency in scrutiny is not sustainable with the future development of devolved Scottish powers. The only way that we can expect to improve is to promote robust, direct and meaningful discussion on concerns. The absence of a formal mechanism for raising concerns contributes to the lack of clear discussion and problem resolution.

As we move forward, we must ensure that increased transparency and accountability underpin the new devolved powers that Scotland will receive through the Smith commission. With a strong formal framework to support communication and accountability, relations will only improve. Although informal communications will remain a vital part of our partnership, such a statutory framework will provide a solid foundation on which to build relations with the UK Parliament. Furthermore, the attempt to improve the process of scrutiny of intergovernmental relations by introducing a formal, permanent committee to examine the relationship between our two Governments can only enhance our open and transparent communication.

The devolution settlement that is proposed in the current Scotland Bill marks a significant step in Scotland's political journey. It is also very clear from the report and today's debate that there is a vital need for both Governments to work together to create a more productive, robust, visible and transparent relationship. With an increasingly complex relationship between the Scottish Government and the UK Government, it is essential to create the necessary mechanisms and structures to maintain clear, focused and transparent communication.

I appreciate greatly the work of the Devolution (Further Powers) Committee to address the changing dynamic of our intergovernmental relations and to develop our collaboration for the future.

16:23

**Jim Eadie (Edinburgh Southern) (SNP):** I am grateful for the opportunity to take part in the debate. It is hard to envisage a debate on intergovernmental relations setting the heather on fire, except perhaps in some parallel universe that is inhabited by political anoraks, academics and, of course, Stewart Stevenson. In saying that, I intend no disrespect to Mr Stevenson or to those who have been most closely involved in scrutinising the issue. The members of the Devolution (Further Powers) Committee have done an excellent job in interrogating the existing arrangements and making very clear and cogent recommendations on specific ways in which the institutional infrastructure can be improved. I also

place on record my appreciation of the work undertaken by the centre for constitutional change, which is based at the University of Edinburgh and whose comparative analysis of intergovernmental relations in other jurisdictions has informed the committee's work.

The common theme throughout the debate, from members across the chamber, has been the recognition that the existing intergovernmental machinery requires overhaul. That is hardly surprising, given that the current arrangements date back to 1999 and the fact that, since then, we have had the Scotland Act 2012, the Smith commission and the latest Scotland Bill, which is soon to be an act.

However, it is also worth acknowledging the swathes of policy making in which there is no formal requirement for intergovernmental decision making, which is a point that Stewart Maxwell touched on—although I would hope that there would always be an opportunity for all four Administrations to share good practice and learn from one another.

There are non-comparable policies where an issue exists only, or largely, in one part of the UK. Land reform in Scotland is a good example. There are other issues around which there is a high degree of policy autonomy that pre-dates legislative devolution, although such autonomy has been much more pronounced since the Parliament's establishment. Those issues relate to areas such as local government, education, social care and the operation of the national health service.

In the Parliament, we must recognise the continuing importance in health policy of reserved areas, such as immunisation and vaccination, the pricing of medicines, the regulation of medicines and medical devices, and the regulation of the health professions. Health is a good example of an area in which the two Governments—the Scottish Government and the UK Government—talk to each other. There is a highly developed level of co-operation across the countries and health systems in the UK.

It is clear that an institutional framework and machinery that allow decision making involving the Scottish Government and the UK Government to be effective and timeous are necessary parts of the devolution settlement. However, where there are areas of disagreement or potential disagreement between the two Governments, it is vital that we have in place arrangements that command the support of both parties, are based—as Anne McTaggart said—on mutual respect, and, perhaps most crucially of all, are capable of gaining the public's support and confidence. Those aspects are important if the arrangements

are to be stable and durable in the medium to longer term.

A number of members have touched on the principles as well as the practices that underpin good intergovernmental working. Foremost among those principles have been the principle of transparency and the related principle of accountability. Professor Michael Keating put it well when he said:

“Whenever there is intergovernmental working, things disappear into rather opaque arenas. That is really not necessary. It is a peculiarly British habit that we like to have our arguments in private before presenting things to the public, and Governments will sometimes exploit that in order to stay away from the public gaze”.—[*Official Report, Devolution (Further Powers) Committee*, 19 March 2015; c 12.]

We would all do well to take heed of that message, which applies equally to the Governments, ministers and officials that are engaged in the process and to the Parliaments and parliamentarians that are responsible for scrutinising the arrangements.

We heard an admission from Bruce Crawford that he was wrong, albeit only in so far as the importance of intergovernmental relations is concerned. That led us to his important and insightful observation that intergovernmental relations are dominated by Governments, with limited scope for Parliaments to scrutinise those arrangements and processes.

The clear message from the committee was that relationships must be accountable and subject to scrutiny. Accountability and transparency are in effect the opposite sides of the same coin, and it is in this area that we can see the tension between them. There is tension between the committee’s second recommendation, which states that

“the principles of transparency and accountability”

should be

“placed in statute in the Scotland Bill”—

although the opportunity to do that may have passed—and the Scottish Government’s view, as expressed in its response to the committee, that that would require careful consideration and drafting to preserve private, internal and intergovernmental space. That is clearly a challenge for the Governments and the Parliaments as we move forward.

We would all support the committee’s third recommendation that a “new Written Agreement” should be taken forward. However, as Bruce Crawford said, embodying written agreements, memorandums of understanding or principles in statute is not sufficient. We need trust to underpin those arrangements.

I would have liked to comment on contributions from other members, but time does not permit. We need to ensure that the rules of the game as they apply to intergovernmental relations are understood by all, are fit for purpose and—to quote Lord Smith—are “robust, visible and transparent”. Whatever else we may disagree on in this chamber, we should all agree on that.

16:29

**Alex Johnstone (North East Scotland) (Con):**

I welcome the opportunity to respond to the debate on behalf of my party. There have been some interesting comments, not least from Malcolm Chisholm, who told us that he was participating largely out of a sense of duty. When these exciting debates come along, duty is, for many of us, as much of a motivator as anything else.

At the beginning of the debate, Bruce Crawford pointed out that after the Smith commission had reported, Lord Smith commented that intergovernmental relations were going to be an important part of everything that we do in the future. I agree with Bruce Crawford that perhaps the Devolution (Further Powers) Committee did not take the matter all that seriously at the outset, but we quickly came to realise that intergovernmental relations were a critical part of what was going to happen as the new Scotland Bill progressed and relationships developed.

However, it has to be said that, on our first attempt to find out what is going on in other parts of the world and how other Parliaments deal with Executives that indulge in intergovernmental relationships, the news was not good. Across many countries, those arrangements seem to have evolved gradually over time and, by and large, they exist between Executives but do not have very much in the way of parliamentary scrutiny to back them up. Therefore, we discovered that there was not much on which we could base our activities and that we are starting from scratch. It is important to understand that there is a desire among all members of the committee to ensure that, if there is going to be parliamentary scrutiny of intergovernmental relations in the UK, including in the Scottish Parliament, we need to get it right, and that we cannot allow a system to evolve that excludes Parliaments and leave Executives exclusively involved in the process.

I will begin to argue with myself by saying that that will not be easy, and the evidence suggests that it will not be easy for a number of reasons, not least of which is the concept of executive authority, which I believe in. Once we are elected to Parliament, we appoint a Government and ministers to take decisions and act on our behalf.

An important principle of my belief in that structure of Government is that when I delegate John Swinney to negotiate with the Westminster Government on my behalf, he has with him my executive authority to make agreements on my behalf, even though we might not have a great deal in common on some of the things that we would like to achieve. Nevertheless, that principle is key, so it is important that, whatever else we do, this Parliament and I are not on John Swinney's back or leaning over his shoulder at every step along the way. The principle of executive authority is one that we must defend.

Nevertheless, when we look at the changes that are on the way, particularly in relation to taxation and welfare powers, the fiscal framework will be, as many members have said, the most vital piece of intergovernmental relations that we are likely to see during the current parliamentary session, or, indeed, the next.

For that reason, it is important that we have recognisable structures, and the committee has put in its report a few ideas on things that can be achieved. Simply knowing when meetings take place is important; if possible, knowing what is on the agenda is important, too. If we can get it into practice, it would be good for a minister to come before a committee and discuss matters before a negotiation takes place so that the subject of that negotiation is slightly better understood by the Parliament in advance. If that approach is not possible, post-agreement scrutiny must be our option. Of course, we can do both, but it is important that when we hold ministers to account, we do so for agreements that they have made on all our behalf. The suggestions that the committee has made would give us the option to go in that direction.

The idea that we should have a separate committee dealing with the issue is perhaps ambitious. Given the many responsibilities that the Parliament is about to acquire, the size of the Parliament and the nature of the existing committee structure, it might not be possible to have an individual committee for every purpose. However, committee scrutiny of intergovernmental relations is vital and a committee of the Parliament must have the responsibility for it.

When we go forward on the issue, we must understand that other things can improve the structure. We have an asymmetric system of devolution in place, and symmetry within the structure will never be possible. However, I would like to see a similar system of scrutiny at the other end. If it is possible for Westminster to conduct scrutiny of its ministers in their relationships with other Governments within the UK, it is also possible that, through our committee structure, we, as a Parliament, can strengthen our relationships

with the parallel committee structure in Westminster.

We heard at some length from Linda Fabiani about the relationships that she managed to achieve in the past. I honestly believe that if we are going to make the system work at its most effective, we can perhaps finally square that circle by working hand-in-hand with Westminster committees and the Westminster Parliament on the profile of scrutiny.

16:35

**Mary Fee (West Scotland) (Lab):** I start by thanking the Devolution (Further Powers) Committee for bringing the debate to the chamber today and for the well-written report that has been the focus of our discussion.

The report has given us the opportunity to assess where we stand as a Parliament in line with the four nations of the United Kingdom. With the substantial new powers that are coming to the Scottish Parliament, we must ensure that we have the right structures in place to allow the chamber to properly scrutinise the bilateral and multilateral relationships with the UK Government and the devolved Administrations.

**Stewart Stevenson:** I know that it may seem a small point, but we should not neglect Guernsey, Jersey and the Isle of Man. In particular, I know that Guernsey currently has serious issues with the power that the UK Government has to veto any of its legislation on policy grounds. There is a bigger picture, even beyond the four Administrations that we often talk about.

**Mary Fee:** I thank the member for that very useful and constructive intervention. As usual, Mr Stevenson comes up with something that no one else has thought of.

In her opening remarks, Claire Baker rightly stated that the debate around intergovernmental relations should focus on openness and transparency. Malcolm Chisholm made a number of points that were reflected by other members during the debate, including around weak intergovernmental relationships, the challenge of scrutiny and the principles of transparency and accountability.

Anne McTaggart pointed out that, with the possibility of new and stronger devolved powers for the Scottish Government, it is important—now more than ever—to work to strengthen and support the formal relationships and communications that we have with the UK Government. A strengthened system of formal intergovernmental relations will necessitate closer communication, collaboration and compromise



between our two Governments, where each side is held accountable.

Our country, politics and Parliament have changed dramatically since the re-establishment of the Scottish Parliament in 1999. As the report states in the opening lines of the executive summary:

"The formal structures of inter-governmental relations between the UK Government and the devolved administrations have undergone a process of evolution and expansion".

We cannot be caught out in this new era in Scottish politics; as with everything in politics, evolution is necessary for change. We must continue that evolution in line with the further expansion of the Parliament's powers. With the process of agreeing a new memorandum of understanding under way, I commend the committee for commissioning external research and for looking for evidence of the structures and levels of scrutiny of intergovernmental relations in other jurisdictions.

The committee acknowledges that there is no model or template from around the world that can be replicated here. Instead we must learn from the processes, procedures and principles of other jurisdictions and use them in negotiating the new memorandum of understanding. The new MOU should also open up transparency around how our elected Governments work with one another.

The external research also offers us five issues from a comparative assessment of practice and procedures in other jurisdictions, some of which I believe we should consider and others that I have concerns about. Primarily, the issues focus on transparency and accountability.

The first issue is "Timing and access to information"—we should have no reason not to support what the report says about that. The second issue, "A Committee on IGR", gives me cause for concern because I believe—as do the Presiding Officer and other MSPs—that the committee system needs its own reform. We currently have too many committees that are overstretched and unable to effectively scrutinise the Scottish Government as well as carry out pre-legislative and post-legislative scrutiny.

The third issue, "Hearings/Evidence sessions", appeals to me because such sessions would promote transparency. However, my concerns about who will carry them out merge with my concerns about having a committee on IGR.

"Consent" is the fourth issue. It is suggested that there may be a case for extending the Scottish Parliament's consent powers,

"Given the increased significance of intergovernmental agreements, most notably relating to block grant adjustment and the fiscal framework".

That area would need to be assessed further.

The final issue is "Transparency and Public Engagement". A commitment to report the outcome of intergovernmental meetings would open up the opportunity for MSPs, Welsh Assembly members and members of the Northern Ireland Assembly to debate such outcomes and would result in further increased public awareness of what is going on behind the scenes. That approach would clearly be preferred when joint ministerial committees debate matters, as sensitive issues, such as state intelligence, would not be revealed.

The Scottish Parliament must be able to effectively scrutinise intergovernmental relations. Whether or not the new memorandum of understanding results in relations being placed on a statutory footing, the Scottish Government and the Scottish Parliament must work more closely together, as the Deputy First Minister said in evidence to the committee. Transparency and accountability are at the heart of our debate today, and as parliamentarians we should welcome the report and embrace the evolution of intergovernmental relations with those in mind.

16:41

**John Swinney:** I feel greatly strengthened by the debate, particularly the ringing endorsement by Alex Johnstone, who is going to support enthusiastically everything that I do in my discussions with the United Kingdom Government. It was almost as though he were issuing a blank cheque, if one can imagine that prospect. That generated a somewhat more giddy reaction from Baroness Goldie, who is sitting at his side and who looked slightly more suspicious about the concept. Nonetheless, I take Mr Johnstone at his word and will ensure that he does not criticise anything that I do at any stage in the future.

Tavish Scott and Stewart Stevenson mentioned the First Minister's reference to her full involvement in the COBRA arrangements over the weekend, which Parliament would expect. My experience, on a host of different issues over the years, is that, when emergency situations arise, the intergovernmental discussion is open, transparent and regular. It is possible to have good intergovernmental working when the need arises, such as when we all realise that we face a difficult situation. Whether that involves atrocities such as those that occurred in Paris on Friday, a weather incident or whatever, we can find the mechanisms for good intergovernmental working. We should take heart from that, notwithstanding the criticisms that have been made about the formality and order of existing intergovernmental relationships.

Malcolm Chisholm said that he thinks that it is easier for such arrangements to work when ministers from different Administrations are from the same political party, but I completely disagree with that point. I remember vividly an interview that was given by one of my predecessors, my dear friend Andy Kerr, who bemoaned the fact that he thought that the SNP finance minister had got a better hearing from the Labour-run Treasury than he had ever managed to get.

Equally, my experience over the past five years, up to the UK general election in May, of dealing with a Liberal Democrat Chief Secretary to the Treasury, Danny Alexander, was of a relationship that was driven by courtesy in both directions and in which we had very effective dealings on issues. It was not that we agreed on everything, but I could not complain about the courtesy and nature of the dialogue in that direct relationship.

Therefore, I do not accept the point that it is necessary for ministers in different Administrations to come from similar political backgrounds to have good relations.

**Malcolm Chisholm:** The main point that I was making in that context related to the research. I think that the comment to which the cabinet secretary refers related to the external research and how that worked. As I think I pointed out, I quite often disagreed with colleagues from my own party.

**John Swinney:** In that case, I will allow Mr Chisholm's remarks to stand.

For me, the point is that, as ministers, we have responsibilities to fulfil regardless of our party-political backgrounds, and our citizens expect us to be able to work our way through the politics to get good outcomes for them. That said, I accept that there will be issues on which we genuinely cannot reach agreement because of different interests.

I have a number of remarks to make about the culture of intergovernmental relations. Mark McDonald made the point that arrangements for such relations can be put in place through the formality of documentation, rules and processes, but they need political will to make them work. I agree with that. We can have all the rules, procedures and notification arrangements that we want, but if the political will is not there to deal with things swiftly and with courtesy and openness, those arrangements will not work effectively.

**Bruce Crawford:** Tavish Scott described the fiscal framework as a striking example of the type of agreement that is reached between Governments, and he said that the worth of that framework would be fundamentally affected by the UK Government's spending decisions; I hope that

I have got that about right. I agree with Tavish Scott.

Given what has been said about the need for respect between Governments and the need to share information with Parliaments, how much notice did we get of the proposed £2.5 billion of cuts for UK Government departments and the plans to cut the Big Lottery Fund?

**John Swinney:** We have had no notification, other than what has been in the media, of spending decisions made at UK Government level as they affect departmental arrangements. I will wait to hear what prior notice we are given of the announcements that are made as part of the spending review on 25 November.

I was coming on to make a point about Tavish Scott's remarks. He made the point that a variety of changes are taking place in the nature of governance in the UK, whether we are talking about the powers that Scotland is getting under the Smith commission or the proposals for the northern powerhouse, the west country, Cornwall or wherever. In my view, a change in political culture will be required to enable all those arrangements to work properly.

If we operate in a system in which people are treated as equals rather than—Rob Gibson put it slightly more bluntly than I would ever manage to do—as the rulers and the ruled, we will get closer to realising that the political culture must change fundamentally such that there might be the remote possibility that something that I said as the Scottish finance minister might have more validity than what the Treasury happened to believe on a particular issue. Heaven forbid that that should ever come to pass. My point is that, when we have such distinctive changes in political accountability and relationships, the political culture needs to change to take account of that. That means that the attitude whereby the UK Government or its departments might think, "We take the decision; others have to get on with it," must change if we are to make progress on intergovernmental relationships.

I come to the issues to do with the fiscal framework that Drew Smith, Tavish Scott, Linda Fabiani and others referred to. I have endeavoured to keep Parliament as fully informed as I have been able to—notwithstanding the fact that a formal negotiation is under way—about the issues that are at stake in the fiscal framework. I have done that by appearing in front of the Finance Committee and the Devolution (Further Powers) Committee, and through my participation in the Finance Committee debate on the subject back on 7 October. I again commit myself to addressing any issues that Parliament wishes to raise with me about the nature of the progress that is being made on the fiscal framework.

The discussions are on-going. I have mapped out to Parliament the issues that I think are at stake in the fiscal framework. Obviously, I cannot map out the conclusions that have been reached, because they have not been reached. I respectfully say to Parliament—and assure it—that if it wishes me to provide further information or commentary, or to participate in further scrutiny and consideration of the issues around the fiscal framework, I will of course fulfil my duty to Parliament and do exactly that.

I close with the observation that we need to ensure that we have in place effective intergovernmental relationships to ensure that the complex landscape of governance in the United Kingdom can operate effectively on behalf of the citizens of this country. That will be done by not just a set of rules, but a change in culture in the interaction between different Administrations, so that there is an atmosphere of mutual respect and that we are able to be treated, as Mr Gibson said, as equals in that process of discussion and dialogue.

**The Presiding Officer (Tricia Marwick):** I call Duncan McNeil to wind up the debate on behalf of the Devolution (Further Powers) Committee. You have until 5 o'clock, Mr McNeil.

16:50

**Duncan McNeil (Greenock and Inverclyde) (Lab):** Whether we are here today, as at least Tavish Scott and I are—I am sure that others are, too—because of genuine interest in the issue that we are debating, because of a sense of duty or merely because we are conscripts, I do not know. My only regret in this cold chamber is that we have not managed to generate more heat, because it is freezing in here, as anybody who has sat here all afternoon will know. I hope that we know who has their hand on the heating knob, because it should not just be left to parliamentarians to inject some heat.

**The Presiding Officer:** I am freezing too. I will report it.

**Duncan McNeil:** This has been a useful debate about an issue that, as Malcolm Chisholm said, we need to get more interested in and take more seriously. I think that we have established from Stewart Stevenson and others—perhaps including those who have just joined us—that intergovernmental relations are nothing new for us, because we have had a lot of experience in this chamber of communicating across Governments and Parliaments since this Parliament's inception, whether or not it has been done well.

Tavish Scott made the point that although lots of that communication takes place day to day—

sometimes on technical matters, as Drew Smith said, and sometimes at a point of crisis or because of an argument—that is all very well but things are not all fine and there is much more that we can do.

It has been useful to recognise—I heard no dissent on this—the direction of travel in moving from devolved areas into areas of shared powers, which will be much more challenging for us as Governments and Parliaments. It is about how we interact and how we ensure that the capacity that we have in this chamber is used well to provide scrutiny and examine many of the issues.

Rob Gibson, Jim Eadie and others made the point that, although debate on IGR might be presented as dry, it has an effect on what we are doing and it impacts on people such as the fishing community that Rob Gibson mentioned or people who are affected by the regulation of our health service. If we do our work in those areas better because of the IGR debate, we will all be the better for it.

Many members have recognised that we are working in a context where things are clearly shifting because of the Scotland Bill. Of course, it is important that we see changes happening at the practical level. To me, there is a reduced chance of our being able to use effectively the powers that come from Smith, particularly on welfare, if the two Governments do not work well together—that is the reality. If we want to use the powers to effect practical change and improvement for the people whom we represent, we have a responsibility to get things right. It is not just about the politics but about improving people's lives.

As a consequence, if we accept the proposition that we are going to change people's lives, it is incumbent on us to ensure that there are good intergovernmental structures in place. It is also incumbent on this Parliament to ensure that we are content with the structure, that we are informed and not merely observers, as Drew Smith said, and that we are consulted on the deals that the two Governments do in that space.

As others have done, I recognise the challenges that lie ahead for this institution—I have mentioned them—in being able to successfully scrutinise Government policy making in the future. I also contend that, as others have said, we have to recognise that the issue is not unique to this place. As the convener of the Devolution (Further Powers) Committee noted at the outset of the debate, the external research that the committee commissioned on the subject found that intergovernmental relations almost anywhere in the world that we look at are dominated by the Executive—by the Governments. That is not so surprising given that we are talking about intergovernmental relations. What is unusual, however, is that the legislatures in virtually all the

countries that we looked at have more powerful scrutiny roles in relation to these issues than any legislature in the United Kingdom has.

Professor Michael Keating, whose words have been quoted a number of times in the debate, said to the committee:

"It is a peculiarly British habit that we like to have our arguments in private before presenting things to the public, and Governments will sometimes exploit that in order to stay away from the public gaze ... We have very poor parliamentary scrutiny of intergovernmental relations."—*[Official Report, Devolution (Further Powers) Committee, 19 March 2015; c 12.]*

We can probably all agree that that is a British trait that we could well do without, and that we can do more in that regard. The comment certainly chimes with my experience in seeking to get answers on the issues. Only in the past few days, we have witnessed a debate taking place on the fiscal framework that sits alongside the Scotland Bill. Mr Swinney has said that he will not do a deal on the bill without a fair and sustainable framework. I would be tempted to agree with him, but how do I know that I can? How do I know what is in the framework or even what he is discussing with the Treasury?

I emphasise that I am not being critical only of the current Government. As Mr Swinney said, the culture applies regardless of the political complexion of the Government that happens to be in power at any given time.

**John Swinney:** I have tried to set out for the Parliament, particularly in the fiscal framework debate on 7 October, the issues that are at stake in the discussions with the United Kingdom Government. As I said in my closing speech, I will of course be perfectly happy to engage further with the Parliament on those issues if it wishes me to do so.

**Duncan McNeil:** The committee appreciates the cabinet secretary doing what he has done within the constraints that he is presented with.

I return to the committee's strong view and its recommendation that the principles of transparency and accountability should be placed in statute by the Scotland Bill as the underpinning principles that govern relationships in this area. As Alex Johnstone pointed out, there is a balance to be struck between allowing Governments the space to negotiate and reach agreement and ensuring that they are accountable. We accept that. However, there is clearly an absence in that, since 1999, the accountability strand of that relationship has been missing.

As the convener stated in opening the debate, it is the responsibility of the Scottish Parliament and us as parliamentarians to ensure that our scrutiny practices are as effective as possible in this area. I

return to the issue of duty and why we are here. In the context of the founding principles of the Scottish Parliament, it is important that we look at how we can develop intergovernmental relationships and cross-party parliamentary relationships and avoid the British trait of secrecy and hiding things that people need to know.

It does not do us any harm to remind ourselves of the key principles that shape the Scottish Parliament, of course: accessibility, openness, responsiveness and encouraging participation. The Scottish Government is accountable to the Parliament and the Scottish people, and power is shared between the legislators and the Scottish Government. We need to ensure that we get intergovernmental relationships within that context and work across Parliaments to ensure that Parliaments have the right to scrutinise Governments in a new and changing environment.

## Decision Time

17:00

**The Presiding Officer (Tricia Marwick):** There are two questions to be put as a result of today's business. The first question is, that motion S4M-14848, in the name of Nicola Sturgeon, on a motion of condolence, Paris, 13 November 2015, be agreed to.

*Motion agreed to,*

That the Parliament extends its solidarity and that of the people of Scotland to the people of France and offers its condolences to all those affected by the appalling terrorist attacks in Paris on 13 November 2015; reaffirms its commitment to a diverse and multicultural society, and calls on people across Scotland to unite as one community, both here at home and in solidarity with France, to make clear that acts of terrorism will not succeed in dividing us or destroying the freedoms and way of life that are valued so highly.

**The Presiding Officer:** The next question is, that motion S4M-14820, in the name of Bruce Crawford, on "Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations", be agreed to.

*Motion agreed to,*

That the Parliament notes the 8th Report, 2015 (Session 4) of the Devolution (Further Powers) Committee, *Changing Relationships: Parliamentary Scrutiny of Intergovernmental Relations* (SP Paper 809 (Web)), including its recommendations to the Scottish and UK governments.

## Universal Children's Day 2015

**The Deputy Presiding Officer (Elaine Smith):**

The final item of business today is a members' business debate on motion S4M-14499, in the name of Roderick Campbell, on universal children's day 2015. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament recognises that 20 November is Universal Children's Day; understands that this commemorative day was established by the UN in 1954 and is devoted to promoting the principles of the UN Convention on the Rights of the Child; recognises the necessity of protecting and promoting children's rights not just in North East Fife and across Scotland, but around the rest of the world; believes that this will help ensure that children can survive and thrive, learn and grow, have their voices heard and reach their full potential; understands that violations of children's rights continue to take place across the world; applauds the work of organisations that are devoted to tackling and confronting such abuse, and commends the Cross Party Group on Children and Young People on what it sees as its efforts to promote dialogue about and an understanding of the realisation of children's rights in Scotland and in encouraging the promotion of Scotland's international obligations to allow every child worldwide the opportunity to enjoy their childhood with freedom and dignity.

17:02

**Roderick Campbell (North East Fife) (SNP):** It gives me pleasure to bring this debate to the chamber prior to universal children's day.

Members may well ask what universal children's day is. It was established by the United Nations in 1954 to encourage understanding among children and to promote children's welfare around the world. It is held on 20 November, which was the day on which the UN General Assembly adopted the Declaration of the Rights of the Child in 1959 and on which it signed the Convention on the Rights of the Child in 1989. The United Nations has said:

"the General Assembly recommended that all countries institute a Universal Children's Day, to be observed as a day of worldwide fraternity and understanding between children. It recommended that the Day was to be observed also as a day of activity devoted to promoting the ideals and objectives of the Charter and the welfare of the children of the world. The Assembly suggested to governments that the Day be observed on the date and in the way which each considers appropriate."

Countries around the world celebrate the day in many different ways. In some countries, children receive presents and in others they take part in events and activities or are allowed a holiday from school.

At home in Scotland, the Scottish Parliament cross-party group on children and young people has chosen universal children's day as an

appropriate time to launch its children's rights manifesto, to which I will refer later. However, it will not have escaped the attention of members that it is—because 20 November is a non-sitting day—to be launched tomorrow.

Childhood is the great stage in every person's life when the building blocks of their adult life come together. For many children around the world, that right is not respected or guaranteed, but there is much to celebrate as we mark the 25th anniversary of the coming into force of the UN Convention on the Rights of the Child, from declining infant mortality to rising school enrolment. However, that historic milestone must also serve as an urgent reminder that much remains to be done.

Too many children still do not enjoy full rights on a par with those of their peers. The UN Secretary General Ban Ki-moon has said:

"The one thing all children have in common is their rights. Every child has the right to survive and thrive, to be educated, to be free from violence and abuse, to participate and to be heard."

Sadly, that is so often not the case.

Abuses of children's rights are an everyday occurrence in many parts of the world. The latest UNICEF data highlight the state of children's rights around the world. For example, 16,000 children die every day, mostly from preventable or treatable causes. The births of about 230 million children under age 5 worldwide—about one in three—have never been officially recorded, which deprives them of their right to a name and a nationality. Out of an estimated 35 million people who are living with HIV, more than 2 million are 10 to 19 years old, and 56 per cent of them are girls. Globally, about one third of women aged 20 to 24 have been child brides, and every 10 minutes, somewhere in the world an adolescent girl dies as a result of violence. Nearly half of all deaths in children under age 5 are attributable to undernutrition, which translates into the unnecessary loss of about 3 million young lives a year. Those are sad statistics.

Although those issues are most likely to originate in developing countries, we must not be complacent about our own approach. However, here in Scotland, the Children and Young People (Scotland) Act 2014 has put the wellbeing of children and young people at the heart of policy. It was designed to support the effective and consistent implementation of the getting it right for every child policy across Scotland. The act was based on the principles and aims of the UNCRC, and marks a positive step in declaring Scotland's ambition to be the best place in the world to grow up.

In addition, I welcome the changes that were brought about by the Scottish Elections (Reduction of Voting Age) Act 2015, which recognised the huge engagement by young people during the referendum campaign. That response within the young population was a pleasure to behold, and remains with many of us.

I also welcome the important role of Scotland's Commissioner for Children and Young People, which is further enabled through the Children and Young People (Scotland) Act 2014 by placing specific duties on all ministers to consider steps that can better give effect to the UNCRC, and to promote public awareness and understanding of children's rights. Those provisions take us further than any previous Scottish Government has gone.

The Education (Scotland) Bill seeks to reduce the attainment gap, mostly by tackling the social divide that is experienced by so many children in Scotland. The Scottish Government should be commended for tackling that fundamental problem that all too often frustrates the ambitions of less well-off pupils.

I commend also the work of the many children's groups, including Children 1st, Children in Scotland, Together—the Scottish Alliance for Children's Rights, and YouthLink Scotland, and the work of charities such as Barnardo's Scotland.

Within the Scottish Parliament, the cross-party group on children and young people exists to provide a forum for dialogue and exchange between the children's sector and Scottish parliamentarians. It is made up of more than 200 individuals and children's organisations, as well as more than a dozen MSPs with a specific interest in children's policy. The CPG's members regularly work together to drive forward the children's policy agenda by bringing together leading figures from the children's sector and decision makers to debate and discuss issues of importance to children and young people. Further to that, a subgroup has been working to produce a children's rights manifesto, based on the cumulative result of more than three years of participative work with children and young people across Scotland.

More than 3,500 children have had a direct say in formulating that manifesto. It includes a series of asks based on the things that matter most to young people. It encourages MSPs and prospective parliamentarians to consider children's rights and calls on them to demonstrate their commitment to respecting and protecting those rights. It is a concise values-based manifesto, which does not include specific policy asks; rather, it outlines how children and young people expect decision makers to act, in order for them to enjoy their rights, as set out in the UN Convention on the Rights of the Child.

The manifesto requests that parliamentarians promote and protect children's rights, actively listen to and help to empower children to participate in the world around them, create respectful communities that celebrate difference and support children to live full and healthy lives in which they can aspire and achieve. The manifesto has been produced to help to ensure that the rights of children are central to discussions in the run-up to next May's elections, and to accelerate the culture change that is needed to ensure full implementation of the UNCRC across all policy areas. Groups of children and young people have reviewed the manifesto to ensure that it is accessible and reflects their views.

However, issues remain. There is the issue of the age of criminal responsibility as well as that of poverty, which without doubt impacts on health, as does homelessness. Let us not forget the need under article 19 of the UNCRC for states to take appropriate steps to protect children from physical or mental violence, although we should recognise that a debate remains to be had about the extent of the parental right to chastise children, to which I am sure Parliament will return.

By nurturing children and allowing them to achieve, they can grow into increasingly confident individuals, responsible citizens and effective contributors to our society. However, we must work hard to achieve and maintain that, and we must not lose sight of those objectives. If we continue to ensure that children can survive and thrive, learn and grow, have their voices heard and reach their full potential, we can be an example for others around the world to follow.

17:10

**Jamie McGrigor (Highlands and Islands) (Con):** I congratulate Roderick Campbell on securing the debate on his motion. As I have six children myself, I am very aware of the rights to which children are entitled and which they rightly demand. As the motion notes, the idea of a universal children's day was established by the United Nations in 1954. The reason why it is celebrated on 20 November is that the Declaration of the Rights of the Child was adopted on that date in 1959 and, 30 years later on that date in 1989, the Convention on the Rights of the Child was signed.

It goes without saying that there has been significant progress for children since universal children's day was first celebrated. That does not mean that the world can be complacent, because progress has not been enjoyed equally by all countries and there is still much work to be done. Moreover, there must also be recognition of the new and evolving challenges that children and their families face in the 21st century.

In 2000, all UN member states agreed to eight millennium development goals, many of which related explicitly to improving the rights of children, such as goal 2 on universal primary education, goal 3 on gender equality, which aimed to reduce gender disparity in education, and goal 4, which targeted the reduction of child mortality rates. It was originally envisaged that the goals could be achieved this year—2015—but there has been uneven progress across developing countries for a variety of reasons. That has meant that child mortality reduced by half between 1990 and 2015 rather than by two thirds, which was the goal. The education target was also missed. Enrolment in primary school education rose from 83 per cent in 2000 to 91 per cent this year, but that is still short of the goal of universal enrolment.

The goals have now been updated and enhanced in the new sustainable development goals, which were agreed by the UN just two months ago, in September. The more ambitious education goal has numerous targets and includes not only the aim of achieving gender equality in primary and secondary education, but the aims of working towards quality early childhood development and care, and increasing the number of learners with relevant technical and vocational skills. The health goal aims to end preventable deaths of children under 5 and to reduce the global maternal mortality ratio to fewer than 70 per 100,000 births. The goals also recognise the importance of economic growth and related employment for young people, of improving education opportunities for young people in conflict areas, and of ending hunger and poor nutrition.

I am proud that the United Kingdom has agreed to the goals, which will continue to ensure that the rights of children and young people are at the front of the minds of policy makers and Governments across the world. I am pleased that the UK became the first country in the G8 to meet the commitment to spend 0.7 per cent of national income on international aid and that it was a Conservative-led Government that enshrined that in law.

The UK's international aid continues to contribute to meeting the new goals in a variety of ways. Over the last Parliament, it helped 10.9 million children, including 4.5 million girls, to attend primary and lower secondary school. It has trained 190,000 teachers, provided vaccinations for 55 million children, prevented 19.3 million children under 5 and pregnant women from going hungry, and has provided access to water, sanitation or hygiene to more than 51.1 million people, thereby helping to reduce illnesses and address safety concerns about young people who would otherwise be left in vulnerable situations.

Moreover, the UK has a £35 million programme to tackle the despicable crime of female genital mutilation, which has helped to reduce the practice by 30 per cent in 17 countries.

I am glad that our country recognises the importance of children's rights and has done so much through its international aid budget to improve them throughout the world. I congratulate Roderick Campbell again on bringing this important topic to the chamber.

17:15

**Mark McDonald (Aberdeen Donside) (SNP):** I congratulate my colleague Rod Campbell on bringing this important debate to the chamber. I also apologise because, due to a pre-arranged meeting, I will have to leave at the end of my speech and will not be able to stay until the conclusion of the debate.

Rod Campbell rightly highlighted the work of the cross-party group on children and young people, of which I am one of the three co-conveners. I re-emphasise the opportunity for MSPs to come along to committee room 1 tomorrow between 1 pm and 2:30 pm to sign up to be child rights champions. As Rod Campbell said, that is not about specific policies but about values that will underpin the decisions that we take and how we work as parliamentarians.

As most members do, I get invited regularly to speak to groups of schoolchildren in my constituency. I am often asked to go to primary schools and talk about the work of the Scottish Parliament and the work that MSPs do. I am always keen to emphasise to young people that, even although they are not of voting age, they are still our constituents. We still have a duty as parliamentarians to represent them and their interests. I am always keen to emphasise to them that, if they feel that there are things that should happen, or of which we should take account, they should get in touch with us.

Building on the work that is being done on respecting and protecting children's rights, there is an opportunity for children to feel that their voices are being heard and that we are open to receiving letters, emails or even visits from them to raise their concerns with us about the communities in which they live, and how those communities can best be improved for them. Many children who have spoken to me at school visits and in correspondence say that they often feel that adults take it upon themselves to speak on behalf of children without taking the opportunity to enter into a dialogue with them and finding out what they want, first. That takes place across a range of areas of society, most notably in education. I commend the fact that, in some places, young

people's views are now starting to be taken much more into consideration. Not only are parents views listened to, but what pupils and young people want is also considered.

It is also appropriate that we are discussing the motion on the day when a number of Syrian families arrive in Scotland. Many children throughout the world are being displaced as a consequence of conflicts, not only in the middle east but in other parts of the world. Their rights are often violated horrendously in many other places. The work that the Scottish Government is doing to send a message that we welcome refugees and want to be a safe haven for people who are fleeing conflict is important in that respect.

Although it is not universal children's day today, it is world prematurity day. It is an opportunity for us to remember that many children who come into the world prematurely, sometimes with associated conditions, now have an opportunity, thanks to the wonders of medical science, to live a much more fulfilled life—indeed, to survive beyond birth, which they would not have done in the past. Their rights are equally important. It is equally important that the rights of disabled children, many of whom are non-verbal and, therefore, unable to verbalise their views and opinions, be protected and respected. We should remember them alongside the other groups that have been mentioned.

I commend Rod Campbell for bringing the debate to the chamber.

17:19

**James Kelly (Rutherglen) (Lab):** I congratulate Roderick Campbell on securing the debate about universal children's day and on getting so many signatories to the Parliamentary motion.

It is important not only that we celebrate the day, but that we celebrate the importance of children. As the father of two teenage girls, I know how much joy my children bring me and how much they keep my feet on the ground when I return home from Parliament. I can see the minister smiling—no doubt she can draw on her own experiences.

As politicians, we all get so het up at times about what we regard as the crucial issues of the day. The great thing about having a family and children who ground you is that they make you realise that family is really important and that there are things that are more important than the political issues that we discuss in here.

I want to touch on the role that the UN plays in promoting the role of children, not just on universal children's day, throughout the world. We have seen too many instances on our television screens in recent times of how the rights of children have



been undermined. It is important that there is a strong role for the UN in speaking out.

That link goes straight to Scotland and to the work that the Commissioner for Children and Young People carries out, on which Roderick Campbell touched. It is important that the link is also brought in to Parliament. So many of the issues that we discuss in Parliament have an impact on children. The obvious one is the range of the education portfolio, from the early years through school and into college. That is about producing policies and budget priorities that give our young people the best opportunity to establish a good platform, through their education.

The link also runs into other policy areas, including health and wellbeing. As deputy convener of the cross-party group on sport, I know how important the role of sport in our communities and schools is in bringing young people out to participate in many events.

When we visit schools in our constituencies and when schools visit us in Parliament, we can see how much young people get out of finding out about this place and questioning MSPs and holding them to account. Sometimes, they can give us a completely different insight.

I want to touch on the role that is played by the cross-party group on children and young people, about which Rod Campbell spoke. It will be interesting to hear the ideas that it brings forward in its manifesto for the forthcoming election. I believe that it is incumbent on all political parties to place children and the rights of young people at the centre of their election manifestos.

I congratulate Rod Campbell on securing the debate. It is excellent that we are able to celebrate the importance of children not only in our personal lives, but with regard to the priorities of Parliament and the Scottish Government.

17:24

**The Minister for Children and Young People (Aileen Campbell):** I add my thanks to Roderick Campbell for lodging the motion and for drawing our attention to the work of the cross-party group, which seeks to improve the life chances of children and young people. I also thank everyone who has participated in this important debate.

As Rod Campbell said, the debate is timely, as this week we celebrate universal children's day and can reflect on Scotland's progress on recognising the UN Convention on the Rights of the Child. As others have said, universal children's day was established by the UN in 1954. That generation danced to the sound of Bill Haley's "Rock Around the Clock", a tune that I am sure no

one in the chamber can remember—I see that there are some wry smiles.

More seriously, in 1954 the minimum voting age was 21. From next year, our 16 and 17-year-olds will have their say in all Scottish elections. That, along with other measures, will ensure that the voices of children and young people are heard in the decisions that are taken by this Parliament. Thankfully, we have moved on from the days when children were encouraged to be seen and not heard. I take seriously Mark McDonald's point that children and young people are also our constituents, with values and views that demand our attention.

Last week, I held a youth surgery with my Scottish Youth Parliament colleagues, Megan Russell MSYP and Reece Harding MSYP. It is an important message to send to young people that their MSPs want to listen to their point of view and to make a difference where we can.

Food rationing officially ended in the UK in 1954 yet, in 2014-15, against a backdrop of harsh welfare reforms, almost 118,000 people, including 36,000 children, received a three-day supply of groceries from the Trussell Trust's Scottish food banks. For families and children to rely on food banks in our resource-rich nation is anathema to our shared desire to create a Scotland that is based on fairness, equality and social justice. That is why this Government and this Parliament will continue to spearhead activity to ensure that children's rights are realised and strengthened.

The UNCRC is at the heart of our ambition to make Scotland the best place to grow up. Provisions in the Children and Young People (Scotland) Act 2014 demonstrate our commitment to children's rights. Part 1 of the act, which commenced in June this year, places specific duties on ministers to consider steps that can secure better or further effect to the UNCRC and to promote public awareness and understanding of children's rights. Those provisions take us further than any previous Scottish Government.

We have developed a model for child rights and wellbeing impact assessments. All Government portfolios must now consider the possible impact of proposed policies and legislation on the rights and wellbeing of children and young people in Scotland. They must also hear the views of children in taking forward any new initiatives.

We will continue to work in partnership with Scotland's Commissioner for Children and Young People and third sector organisations in a whole-Scotland approach to making children's rights real.

Through the 2014 act, we will also support the effective and consistent implementation of our getting it right for every child approach throughout Scotland. GIRFEC is firmly rooted in the UNCRC,

and that approach means ensuring that we up the pace of change and increase our efforts, because GIRFEC is and must be about every child, every time, and not some children, some of the time.

Here in Scotland, we are tackling poverty and inequality head on, because often it is children who feel their harsh effects the most. For example, we have invested nearly £300 million in welfare mitigation measures. We have also extended the provision of free school meals to all primary 1 to 3 pupils—a measure that is benefiting an additional 98,000 children across Scotland.

We recognise the right of all children and young people in Scotland to achieve their full potential. Research shows us that progress is being made to raise attainment and reduce educational inequity in Scotland but it is not fast enough. For example, in 2008, just over two in 10 students from the most deprived areas of Scotland obtained at least one higher or equivalent. Last year, the figure was almost four in 10. For students from the most affluent areas, the figure was eight in 10. In other words, when it comes to highers, school leavers from the most deprived 20 per cent of areas in Scotland currently do half as well as school leavers from the most affluent areas. That is unacceptable, which is why, to make a difference, we launched the Scottish attainment challenge and the £100 million attainment Scotland fund. James Kelly talked about focusing on ensuring that all children get access to and enjoy sport and culture. That is an important part of that attainment agenda.

We want to ensure that literacy, numeracy and health and wellbeing are our top priorities. We need to ensure that, no matter what income a family has, children are able to fulfil their potential, because not to do so represents a failing in their future.

Recognising children's rights and ensuring that our children and young people know the inalienable rights that they have as children is a powerful tool. We want our children to be responsible citizens through the curriculum for excellence. That does not mean simply teaching our children and young people the articles in the UNCRC by rote, but ensuring that they have a deep and meaningful understanding of the rights and their application in Scotland and around the world.

That is why I have been so impressed by UNICEF's work on rights respecting schools and Education Scotland's work on promoting rights. Rights-based learning means that we have children in Scotland who understand that they have a right to play, a right to learn, a right to a name, a right to shelter and a right to all the things that make their lives comfortable. They also recognise that those rights are not universally

enjoyed by children around the world. Rights-based learning offers a really beautiful way to ensure that our responsible citizens and leaders of the future have empathy and tolerance and that they realise that we need to protect childhood for our global family. I do not think that it has ever been more important that we promote that message of peace, tolerance and solidarity and we have an opportunity to do so through our rights-based learning.

It is clearly unacceptable that so many of the world's children are living in extreme poverty or are unable to attend school. Rod Campbell and Jamie McGrigor gave some harrowing statistics that highlight the tragic realities facing some of our children around the world, such as infant mortality rates and the fact that poverty erodes childhood for far too many. It is important to reflect on the gender-based inequality that Jamie McGrigor mentioned, too.

That is why the UN has agreed the sustainable development goals, which outline a number of universal high-level objectives for countries including eroding poverty, ensuring access to education and achieving gender equality. Those goals will form the basis of a global partnership for sustainable development. I am very proud that Scotland was one of the first countries to sign up to that impressive UN initiative.

It is clear that we have travelled a long way since 1954, but we still have challenges to face up to, especially if we want to say with any confidence that Scotland is the best place to grow up.

As Rod Campbell articulated in his speech, the children's rights manifesto offers a useful tool for us to consider what more we need to do to make children's rights real. I am committed to doing all I can to ensure that children in Scotland get the best possible start in life, which they deserve. Children get only one shot at childhood and it is incumbent upon each and every one of us, regardless of the party that we represent, to ensure that we get it right for them, which means respecting their rights as children.

Once again I congratulate Rod Campbell on his motion and his speech and I congratulate the other speakers on taking part in this evening's important and timely debate.

*Meeting closed at 17:32.*

This is the final edition of the *Official Report* for this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

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