



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Meeting of the Parliament

**Thursday 5 October 2017**

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# Scottish Parliament

Thursday 5 October 2017

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

## General Question Time

### Geese (Highlands and Islands)

**1. Donald Cameron (Highlands and Islands) (Con):** I refer members to my entry in the register of interests on crofting and farming. To ask the Scottish Government what plans it has to control the number of geese in the Highlands and Islands. (S5O-01335)

**The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham):** The Scottish Government spends more than £1.2 million annually on goose management schemes that are designed to minimise economic losses experienced by farmers and crofters as a result of the presence of geese, to meet our nature conservation obligations for protected geese species and to maximise the value for money of public expenditure.

On Islay, there is a strategy to reduce crop damage by decreasing the number of Greenland barnacle geese, to improve habitat for rare Greenland white-fronted geese and to help farmers to manage their land more efficiently and effectively. In the Western Isles and in Orkney, Scottish Natural Heritage is evaluating a new adaptive management approach to deal with increasing numbers of resident greylag geese.

**Donald Cameron:** The cabinet secretary will know that geese damage to grazing continues to be a major issue across the region, particularly in the Uists and on Islay. The crofting committee of the Comhairle nan Eilean Siar has said that it is hugely concerned about the apparent retreat in Scottish Government support for the existing scheme. Given the deep levels of concern from crofters and farmers about their livelihoods, will the cabinet secretary confirm today that the Scottish Government has plans to review the level of funding that is offered by the schemes?

**Roseanna Cunningham:** The Government undertakes a review of goose policy every five years. In effect, therefore, there is a rolling programme of review. In 2015, the Scottish Government commissioned the latest review of goose policy, which included issues around the support that is offered to farmers to manage geese in Scotland through goose management schemes. That review is being considered by an external quality assurance panel and is due to be

completed by November 2017. I am sure that the member will be interested in its results.

I should add that Scottish Natural Heritage spends a considerable portion of its budget on goose management and that that portion cannot just continue to grow exponentially, because that is not sustainable. We are looking to enable farmers to be the solution through their management.

### Scottish Water (Meetings)

**2. Mairi Gougeon (Angus North and Mearns) (SNP):** To ask the Scottish Government when it last met Scottish Water. (S5O-01336)

**The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham):** I am in regular contact with Scottish Water and receive regular updates on the delivery of the capital programme, which I am pleased to report is currently ahead of schedule. Further, I had the pleasure of visiting Thurso waste water treatment works and Gorthleck water treatment works in August.

**Mairi Gougeon:** I have several constituents who are experiencing problems with Scottish Water and Business Stream. One of them cannot take his case to the Scottish Public Services Ombudsman because Scottish Water has failed to respond to him, which means that the case cannot be taken forward. Does the cabinet secretary agree that customer service should be a priority for Scottish Water and Business Stream, and that it is not good enough that people cannot resolve the issues that they are facing because of their failure to respond? Will the cabinet secretary write to Scottish Water on behalf of my constituents to try to resolve their issues?

**Roseanna Cunningham:** Customer service should be a high priority for all agencies, including Scottish Water, which has good levels of customer satisfaction. If the member would care to give me details of the case that she is concerned with and the issues raised therein, I will be happy to investigate the matter and take it forward for her.

**John Scott (Ayr) (Con):** The cabinet secretary is aware of the long-term flooding issues in Prestwick and the pressing need for them to be addressed. I note from the written answer that I recently received that the allocation of funding is by priority. Can the cabinet secretary assure me that the flooding from sewers in Prestwick will be addressed as an absolute priority, and that a flood mitigation scheme will be drawn up as soon as possible?

**Roseanna Cunningham:** John Scott has been in the Parliament long enough to have been involved in the flooding bill that we took through the Parliament some years ago, which became the

Flood Risk Management (Scotland) Act 2009. We now have a carefully thought out priority programme, which is agreed with the Convention of Scottish Local Authorities, that informs the immediate priorities. It is a rolling programme that will constantly be under review.

Flood protection is an issue for local authorities to address but, if the member wishes to raise directly with me concerns about a specific programme, I will be very happy to speak to him about that. Flooding will be a constant and consistent problem as we move forward, but we have the best possible framework to manage that problem in Scotland.

#### **Local Government (Remote and Rural Areas)**

3. **Gail Ross (Caithness, Sutherland and Ross) (SNP):** To ask the Scottish Government what its position is on reorganising local government to ensure that remote and rural areas have decision making and strategic planning located at the heart of their communities. (S5O-01337)

**The Minister for Local Government and Housing (Kevin Stewart):** The Scottish Government is committed to community empowerment and to supporting strong local democracy. In the programme for government, we set out our plans to work with a wide range of organisations to deliver a comprehensive review of local governance ahead of a local democracy bill later in this parliamentary session. We will ensure that listening to the voices of remote, rural and island communities is central to the review.

**Gail Ross:** Having had a lot of discussion with local stakeholders in my constituency, I am concerned that there appears to be a large disparity in the effectiveness and inclusiveness of community planning partnerships in different areas. Will the Scottish Government consider issuing specific guidance to make partnerships aware of their responsibilities to be open, inclusive and welcoming to all members of the community?

**Kevin Stewart:** We have recently introduced important changes to strengthen community planning. Since last December, community planning partnerships have been subject to new statutory duties that were introduced by the Community Empowerment (Scotland) Act 2015 and its supporting guidance. They give community planning a statutory purpose that is focused on local public services working together and with communities to improve outcomes and to tackle inequalities on what they agree are local priorities. The act and guidance place communities at the heart of community planning. For instance, they require CPP partner bodies to take all reasonable steps to enable any community body that can

contribute to community planning to participate as far as that body wants.

I know that Gail Ross is passionate about the issue and about empowering communities, and I am more than willing to meet her to discuss that further.

**Alexander Stewart (Mid Scotland and Fife) (Con):** The minister highlighted the importance of local government in planning decisions. Will he then explain the utter hypocrisy that is shown by the overturning of planning decisions that were taken at local level, such as those relating to unwanted wind farm developments and green-belt developments such as Park of Keir?

**Kevin Stewart:** The question that Gail Ross posed was about community planning, but Mr Stewart has moved on to spatial planning. As Mr Stewart is well aware, there is a special part of the ministerial code for planning ministers, and he knows that I cannot talk about any specific case. I refer him to the letters that go out giving my decisions, so that he can see the reasoning for those decisions.

#### **Fish Processing**

4. **Peter Chapman (North East Scotland) (Con):** To ask the Scottish Government what it is doing to support the fish processing industry. (S5O-01338)

**The Minister for Transport and the Islands (Humza Yousaf):** We are taking a number of steps to support the fish processing industry. We continue to provide vital funding through our European fisheries funds to support processors to invest in their facilities. Since 2007, we have provided more than £30 million to support 146 businesses in Scotland. As the member will be aware, we have also published proposals for a Scottish landings target to increase landings of fish by Scottish vessels into Scotland, thus giving processors more raw material to market. Further, we are providing £250,000 a year to Seafood Scotland to enable it to promote the sector in Scotland and at international trade shows. In addition, we are working with the industry to develop a new sector-specific action plan to exploit further growth opportunities.

**Peter Chapman:** We expect increased tonnages of fish landings post-Brexit, so it is very concerning that, between 2008 and 2016 in Scotland, there was a 34 per cent decline in fish processing factories and a 12 per cent decline in people employed processing fish. Those fish are being driven to areas such as Grimsby where there are significantly lower business rates and running costs. There seems to be no Scottish Government support for driving down costs in the industry and processors in Scotland are struggling

with high business rates, water charges and effluent charges. Will the Government commit to helping to build the industry and stop our fish being driven out of Scotland?

**Humza Yousaf:** That was a remarkable question from Peter Chapman, for a number of reasons. Let me try to be constructive and helpful where I can, though. My colleague the Cabinet Secretary for Finance and the Constitution recently met the Grampian seafood alliance and wrote to Tory-led Aberdeen City Council and Aberdeenshire Council reminding them that community empowerment legislation gives them the powers to introduce specific rates relief for the fish processing industry.

It is quite incredible that Peter Chapman mentions the decline in employment in the industry. According to statistics for Grampian, 70 per cent of those employed in the fish processing industry there are European Union nationals. Will Peter Chapman join the Scottish Government in calling on the United Kingdom Government not to push for a hard Brexit and to say that EU citizens make a contribution, whether it is in fish processing, hospitality or many other sectors across Scotland?

Further to that, will the member join the Scottish Government in saying to the UK Government that any money for the European marine fisheries fund that comes back to the UK must come back to Scotland and be spent on our fishermen? I can guarantee that if Mr Chapman does that, he will not be receiving his P45.

#### **North Coast 500 (Road Safety)**

**5. Edward Mountain (Highlands and Islands) (Con):** To ask the Scottish Government what action it is taking to improve road safety on the north coast 500 route, in light of a reported increase in accidents. (S5O-01339)

**The Minister for Transport and the Islands (Humza Yousaf):** The Scottish Government welcomes the success of the north coast 500 and recognises the importance of the NC500 route to the Scottish economy.

On road safety, Scottish ministers are directly responsible for trunk road sections of the NC500, which comprise approximately 22 per cent of the route, through sections of the A835, A99 and A9. The safety performance of the trunk road elements of the NC500 is reviewed annually and the figures for 2016 are lower than the average for the three years before the route was promoted in 2015.

A partnership approach has been taken to improving safety across the whole NC500. The transport sub-group that has been set up by the NC500 working group includes officials from Highland Council, Police Scotland, Transport

Scotland, BEAR Scotland, NC500 and visit Wester Ross. Options that are being considered include passing places on single-track roads, road-edge strengthening, improved tourist route signing and general road safety and driver behaviour education. Those discussions are at an early stage and I would welcome contributions and input from members.

**Edward Mountain:** The north coast 500 has been a tremendous boost to the Highlands. However, many people who live near it believe that accidents are caused by a combination of frustration and inexperienced driving on single-track roads. Given that Highland Council is finding it difficult financially to do so, will the Government help to take the lead in increasing signage on the route to mitigate those two problems?

**Humza Yousaf:** I will look at any proposals, along with colleagues from Highland Council. The appropriate place to do that is at the transport sub-group and the working group that we have set up. Some of our recent interventions focus on signage, and on single-track roads and passing places. If a proposal comes from Highland Council, we will look at it.

We would expect local roads to be funded from the block grant that Highland Council receives, which amounts to more than £400 million. Nonetheless, I will keep an open mind on any suggestions and proposals that come forward.

**David Stewart (Highlands and Islands) (Lab):** Will the minister join me in congratulating the north of Scotland driver awareness team, which has produced a road safety leaflet about driving on single-track roads in the NC500 and beyond? Does the minister share my view that the NC500 route is a stellar success for tourism, but perhaps more work needs to be done to promote the specialist and technical skills that are needed for driving on single-track roads?

**Humza Yousaf:** Yes, I agree with all of that. I thank Dave Stewart for giving me a copy of the leaflet, which is excellent—many of those who drive the NC500 route would do well to look at it. We should absolutely support such initiatives where we can. Transport Scotland and the Government, as part of the NC500 transport sub-group, will look to do what more we can.

**The Presiding Officer (Ken Macintosh):** Question 6 has not been lodged.

#### **Babcock International (Stirling)**

**7. Bruce Crawford (Stirling) (SNP):** To ask the Scottish Government what its response is to Babcock International's proposal to relocate the Defence Support Group site from Stirling. (S5O-01341)

**The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown):** I am very disappointed that Babcock International is considering closing the Stirling workshop, although I understand that a final decision has not yet been made. Along with Bruce Crawford, who has made many representations on the issue, I very much hope that the excellent work of the highly skilled workforce is recognised as a result of the consultation. In any event, we in the Scottish Government are standing by to provide what support we can.

**Bruce Crawford:** Is the cabinet secretary aware that the Defence Support Group operation in Stirling is the central point for the maintenance of military equipment and the last of its kind in Scotland? Does he agree with Unite the union, which represents many of the 56 highly skilled workers at Forthside, that the proposals from Babcock represent a potential “logistics nightmare” for the armed forces in Scotland? Does he agree that if plans to move significant parts of the service, mainly to Yorkshire and Bovington, proceed, they will also be damaging to the local Stirling economy?

**Keith Brown:** I certainly do not doubt the importance of the DSG site and the skills of the people employed there. The Ministry of Defence’s brutal basing cuts, which were announced last year, have left a number of outstanding questions on the operational and economic impact of its proposals.

The member might be interested to know that there have been many representations from Conservative MPs down south about closures in their areas but not one representation from Conservative MSPs or MPs about the basing cuts in Scotland, which is absolutely astonishing.

The proposals further underline the importance of MOD ministers coming to Scotland to engage strategically on the impact of decisions to close defence sites, including the one at Stirling, by 2022. They continue to refuse to do so, with one exception—Lord Duncan accepted my invitation, although we have still not managed to progress towards an actual meeting. I hope that one will take place.

I agree with Bruce Crawford that it is disappointing that Babcock is considering closing the facility at Stirling and I share his concerns, not just about that but about the footprint of the armed forces in Scotland.

**Mark Ruskell (Mid Scotland and Fife) (Green):** Given that Stirling Council’s local development plan zones the Defence Support Group site for much-needed housing and regeneration, why is the Scottish Government

once again undermining that plan and regeneration in Stirling with its stance?

**Keith Brown:** We have just heard from the elected constituency MSP for Stirling the views about employment currently in the area. We take employment very seriously, which is why we have an unemployment level that is one of the lowest ever and an employment level that is the highest ever. Jobs are extremely important.

Of course we, and in this case, the MOD, can look at proposals that might be able to accommodate further housing, which Stirling needs, but we do not want that to come at the expense of good, well-paid jobs for highly skilled people in the Stirling area. I would have thought that the member would have been concerned about that, too.

**Dean Lockhart (Mid Scotland and Fife) (Con):** Stirling does indeed have a highly skilled workforce and superb transport links that can well support this dedicated facility. Will the cabinet secretary meet me, and Bruce Crawford, to discuss options for how to address Babcock International’s proposals?

**Keith Brown:** I am of course always willing to meet members. I have had discussions with my colleague Bruce Crawford already. It is important to meet anybody who is willing to help the campaign to make sure that we keep these jobs here. Perhaps, if Dean Lockhart is willing to do so, we could extend that conversation to future planned closures by the MOD in Stirling and the rest of Scotland, which would allow us to address a much wider problem. I am more than happy to meet Dean Lockhart—if he is willing—and Bruce Crawford to discuss that subject. It is important, and we can save jobs in Stirling if we make the right case.

## Income Tax

**8. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the Scottish Government on what date it will publish its proposals for setting the level of income tax. (S5O-01342)

**The Cabinet Secretary for Finance and the Constitution (Derek Mackay):** The Scottish Government will publish its draft budget for 2018-19 on 14 December 2017. That will, of course, include proposals for setting the rates and bands for Scottish income tax.

**Murdo Fraser:** The Scottish Government has written to all the Opposition parties asking us to set out our plans for income tax in advance of the budget. We are quite clear in the Conservative Party. We do not want Scottish taxes to be set at a higher rate than elsewhere in the United Kingdom. Given that we are showing the cabinet secretary

what our plans are, why do we have to wait to hear what his are?

**Derek Mackay:** Murdo Fraser is right in as much as neither the Conservative Party nor the Labour Party has responded to the challenge to contribute to the debate on income tax. The only principle that the Tories have is to simultaneously cut taxes and spend more. That is the budget contribution from the Tories.

The Scottish Government has outlined our position and principles around taxation, which include certainty, collecting tax in a progressive fashion, supporting public services and not passing austerity on to those with the lowest incomes. In the budget process last year, the Opposition parties asked me to listen to them. I am listening, but they have to give a clear position in which the sums actually add up. The budget negotiations will be crucial in setting out our plans for Scotland, on which we will engage with the other parties.

I will put forward a discussion paper, and I hope that the other parties will engage in a mature and rational fashion to inform that debate. In that sense, the Scottish Government will show leadership, but also engage with other parties, as we should.

## First Minister's Question Time

12:01

### Carrying of Weapons (Children)

**1. Ruth Davidson (Edinburgh Central) (Con):** Figures from the Scottish Children's Reporter Administration this week reveal that 254 children under the age of 16 were referred to it for carrying knives or other weapons last year. That is up by 11 per cent, so we know that the problem is growing. Do we know how many of those 254 incidents involved knives or other weapons being carried within school grounds?

**The First Minister (Nicola Sturgeon):** I do not have those statistics available to me today. If that breakdown is available, I will certainly make it available to Ruth Davidson and to the wider Parliament.

We know from some extremely tragic cases recently that there is an issue, as I am sure there is in many countries, of some young people—a minority—carrying knives and other weapons in schools. That is why it is important that, through the processes and procedures that we have in place in our schools and through our wider justice system, we take action that combats that and makes sure that our schools are safe places to be, as they already are for the vast majority of young people across our country.

**Ruth Davidson:** In the aftermath of the tragic death of Aberdeen pupil Bailey Gwynne two years ago, the Scottish Government rightly issued new guidance on the handling of weapons that are suspected of being carried or are found in schools. It says that education authorities, in consultation with key partners, should develop their own policy on weapons. What discussions have taken place between the Scottish Government and Scottish councils since that guidance was issued? Can the First Minister confirm that all councils have now developed and put in place such a policy?

**The First Minister:** A range of discussions take place between the Scottish Government and councils. I am happy to give Ruth Davidson a full update in writing about the current circumstances in respect of guidance.

Ruth Davidson is right to talk about the report, and the action that was taken after it, following the tragic death of Bailey Gwynne. Since the independent review into that tragic death, we have been focused on implementing the two specific recommendations that were directed to the Scottish Government. Members will recall that one recommendation centred on improving the resilience of schools to the threat that is posed by weapons and giving consideration to amending

the law on searching pupils, and the second recommendation was about further legislative controls that can be brought to bear on the purchase of weapons online.

Ministers have considered the issue of violence and knife crime in schools very carefully and have taken advice from a wide range of stakeholders. Those stakeholders do not support the introduction of a new search power for teachers—indeed, that was rejected and opposed by the teaching profession.

Of course, those recommendations were directed to the Scottish Government. Ruth Davidson also rightly asked about the recommendations for councils. It is important that councils have the right processes in place and that all schools have the right policies in place. Through our officials in the education department of the Scottish Government, we will continue to act to make sure that that is the case.

**Ruth Davidson:** Schools are also supposed to monitor and record every time a child is searched. The guidance specifically requires that any incident where a decision is made to search a child or young person, or where a weapon is suspected of being carried or is found, must be recorded. Can the First Minister confirm that every Scottish council operates such a policy and that all instances of pupils being searched on suspicion of carrying a weapon or of weapons being found are recorded locally, are collated and are publicly accessible?

**The First Minister:** It is for councils to ensure that they take the action that adheres to the guidance in all respects. I say quite clearly that the education secretary and I expect councils to do exactly that, which includes adhering to the aspects of the guidance that relate to the monitoring and reporting of young people who are searched or who are found to be carrying knives or other weapons.

As I am sure that Ruth Davidson understands, it is fundamentally for councils to ensure that they take action to adhere to the guidance. Of course there is a responsibility on the Government's part, and we will always seek to discharge that responsibility to take whatever action is necessary to ensure that all the correct policies are in place and that guidance is being followed.

**Ruth Davidson:** I recognise what the First Minister says about it being incumbent on councils to follow the Scottish Government's recommendations. However, in many cases, the information is not being collated and is not in any way publicly accessible. In response to recent freedom of information requests, nearly half of Scottish councils were unable to confirm the number of weapons that have been confiscated

from pupils in their areas, because the information was not held centrally. Parents and the wider public have a right to know that information. The fact that it is not fully accessible means that we have no meaningful picture of the extent of the problem in any area.

In the wake of Bailey Gwynne's death, Aberdeen City Council has introduced measures to ensure that there is a clear picture of knife possession in schools, and it has introduced an anti-knife crime policy. Does the First Minister agree that it is time that all councils met the same standard? Will the Government examine the matter again to ensure that all schools are the safe environment that parents have the right to expect?

**The First Minister:** Ruth Davidson is right to raise such an issue of concern and I give a commitment to look further into the specific points that she has raised today. I agree that we want all councils to operate best practice. For tragic reasons, Aberdeen City Council has had cause to look carefully and critically at its policies on the issue.

I genuinely do not mean to say this in any hard political sense, but the Scottish Government is frequently criticised in Parliament for seeking to overly direct councils, and members from all sides sometimes accuse us of having a centralising instinct, although I do not accept that characterisation. There is always a balance to strike between allowing local authorities to discharge their responsibilities—ensuring that the guidance is being adhered to is local authorities' responsibility—and discharging our responsibility as a Government to ensure that that happens.

On such issues, I am acutely aware that parents who are listening to the debate will not be particularly concerned about who has the responsibility but will want to know that schools are as safe as possible for their young people. The Scottish Government takes that responsibility very seriously. The Deputy First Minister and I will look further into the points that have been raised today to consider carefully whether the Scottish Government requires to take further action.

In addition to the actions that are the responsibility of councils, the Scottish Government takes a range of steps to try to reduce knife crime, not just in our schools but more generally. That includes the no knives, better lives youth engagement programme, which has received £3 million of funding since 2009. It is perhaps relevant that, as we speak, 25 local authorities are involved in delivering that programme. We also invest heavily in the national violence reduction unit. We take a range of actions to reduce the number of knife crimes. We know that the length of sentences for adults who are convicted of knife crime has increased in recent years.

To return to schools, every parent wants to know, when they send their child to school of a morning, that the school will be as safe as possible for young people. That is the case for the vast majority of young people on the vast majority of days in the year, across our country. If we need to take action to ensure that that is the case for every single young person, it is the responsibility of councils and the Government to do so.

### **Universal Credit (Roll-out)**

**2. Alex Rowley (Mid Scotland and Fife) (Lab):** Earlier this week, this Parliament voted in favour of calling for a halt to the roll-out of universal credit across the United Kingdom. So far, the roll-out has been badly flawed, and the six-week delay will cause untold misery to tens of thousands of families up and down the country. This Parliament now stands with most of civic Scotland in calling for a halt to the roll-out until the structural issues built into the system have been resolved. Will the First Minister and her Government now make the strongest possible representations on behalf of Parliament and the people of Scotland to stop the roll-out of universal credit?

**The First Minister (Nicola Sturgeon):** Yes, we will. Indeed, we have already done so; we have been making an argument to the UK Government that universal credit should not be rolled out further until it has confidence—and can demonstrate to the public its confidence—that the system works properly.

During the recent election campaign, I visited Inverness and talked not only to people who were operating a food bank but to recipients of universal credit, who told me about delays and the impacts and consequences of those delays: people getting into debt; people running up significant rent arrears; and huge misery, stress and anxiety being caused to some people in our country who are already in a very vulnerable situation. That is completely unacceptable, and I do not think that any Government should in good conscience continue with the roll-out of universal credit while those concerns continue. We will continue to make that case strongly to the UK Government.

Of course, we have seen this week not only the vote in the chamber but the coming into force of some of the flexibilities around universal credit that this Government has insisted on using. There are new powers to allow, for example, for more frequent payments to be made and for the housing components to go direct to landlords. That is perhaps a small but significant way in which we can help ensure that the most vulnerable are being properly cared for. However, I have significant and very serious concerns about universal credit and the misery that it will cause,

and I hope that we can join together to call on the UK Government to do the right thing.

**Alex Rowley:** Where this Parliament can work together, it should do so in the interests of the people of Scotland.

This morning, we have learned from Macmillan Cancer Support that cuts to employment and support allowance are affecting nearly 300 people in Scotland who are living with cancer. Let me be clear: these are cruel Tory cuts that make a mockery of the claim made by Theresa May and, indeed, Ruth Davidson that the Tories want to build a country that works for everyone. Labour will fight these cuts at Westminster, but can we protect people now? Reversing cuts for those who are living with cancer will cost £400,000, while reversing them for everyone affected will cost £14 million next year. Will the First Minister use the powers of this Parliament to reverse those cuts and support those people in their time of need?

**The First Minister:** As I think we have demonstrated by our actions, this Government will act where it can to mitigate the worst impacts of UK welfare cuts. Since 2013, we have invested more than £350 million in supporting low-income families who have been affected by the changes that we have already seen. Of course, we know that the benefit cuts that have been imposed by the UK Government since 2010 are expected to reduce welfare spending in Scotland by almost £4 billion a year by the end of the decade.

We will look carefully at the case that Macmillan Cancer Support has made today; indeed, as we heard just before First Minister's questions started, the draft budget of the Scottish Government will be published in December, and we will consider the matter in line with the other decisions that we have to consider. However, it is important to point out that, as I am sure Alex Rowley is aware, employment and support allowance is not one of the benefits that are being devolved to this Parliament. It will remain reserved and, of course, it is one of the benefits that will be rolled into universal credit.

Let me say finally that we will mitigate where we can, but everyone across this Parliament must appreciate what I have said previously: when the UK Government makes wrongheaded and in many respects deeply immoral cuts—this one included—it saves money from doing so, but it does not pass on a portion of those savings to the Scottish Government, so any mitigation that we put in place involves us taking money from other parts of the Scottish budget. We will do that where we can, but I think that everyone who looks at the scale of the cuts that I have just spoken about—£4 billion a year by the end of this decade—will see that the Scottish Government cannot mitigate every welfare cut that the UK Government makes.

Of course, if we had power over all benefits and all the money that supports them, we could take very different decisions. I hope that one day Labour will join us in calling for the complete devolution of all welfare powers, responsibilities and budgets to this Parliament.

**Alex Rowley:** In her programme for government, the First Minister announced that she would bring forward a number of papers to set out the case for this Parliament having more powers. The Labour Party looks forward to those papers. Where we can work together and where it makes sense to have powers in this place, that is where the powers should be.

I understand the First Minister's point about continually mitigating the Tories' welfare cuts. Labour's answer is that we want a general election as soon as possible. The Government in Westminster is bankrupt of ideas and has no place to go. We will work for that general election and work to put Jeremy Corbyn in Downing Street.

Some £400,000 from a Government budget of £30 billion would not be a lot to stop the Tory attack on cancer patients, but it would certainly mean a lot for those people and their families. I hope that the First Minister will look at that. If she will not take action, Labour will lodge amendments to the Social Security (Scotland) Bill to deliver that. Saying, "We want a different type of social security system—one based on dignity and respect," is all well and good, but people want action. Will the First Minister move beyond those warm words and work with Labour to reverse these cuts and address the appalling welfare reforms that are affecting so many people so badly up and down Scotland?

**The First Minister:** There were a few points in Alex Rowley's question—I think that there was a question in there somewhere.

I absolutely agree with Alex Rowley's characterisation of the shambolic Tory Government at Westminster. Watching the letters literally fall off the stage set yesterday was like watching an episode of "Fawlty Towers"—it was awful. But there is a serious point here: the shambolic and chaotic Tory Westminster Government is doing real damage day in, day out to people right across Scotland and the UK. That is why I am so disappointed when I hear both the candidates for the Labour leadership say that they would not work with the Scottish National Party in any circumstances, ever. In other words, Labour seems still to be in a position where it would actually prefer to see the continuation of a Tory Government than ever to work with the SNP. That beggars belief and leaves people across this country utterly astonished.

On the specific issue of mitigating cuts, yes, we will look at all the ways in which we can mitigate Tory welfare cuts. Alex Rowley said that Labour would lodge amendments to the Social Security (Scotland) Bill. May I make another suggestion? I suggest that Labour brings forward proposals in the budget process, because that process sets out how we will pay for all these policies. Labour should agree to do that today.

Finally, Alex Rowley seemed to suggest at the outset of his question that Labour's position on the devolution of welfare is changing. If that is the case, I warmly welcome that. As he said, we will publish a paper setting out again the case for 100 per cent devolution of welfare to this Parliament. I hope that, when that happens, Labour will take a position unlike the one that it took on the Smith commission and stand with the SNP Scottish Government in favour of welfare powers lying with this Parliament rather than in the hands of a Tory Government at Westminster.

**The Presiding Officer (Ken Macintosh):** We have a number of constituency questions. The first is from Oliver Mundell.

#### EME Furniture

**Oliver Mundell (Dumfriesshire) (Con):** This week, after 50 years of operation in Sanquhar in my constituency, EME Furniture has closed its doors, resulting in significant local job losses. Only last year, it was talking about millions of pounds of investment and doubling its workforce. The company blamed procurement issues with Scotland Excel for the decision. Therefore, can the First Minister tell me what the Scottish Government is doing to ensure that Scotland's small and medium-sized enterprises can compete for public sector contracts, and will she offer her assurances to the workforce that all possible support will be given at what is a difficult time?

**The First Minister (Nicola Sturgeon):** Over the past few years, the Scottish Government has made a number of amendments and reforms to our system of procurement, specifically designed to make it more streamlined and transparent and better able to help more small and medium-sized enterprises across our country. We will continue to look for opportunities to do that even further.

I was, of course, disappointed to hear of the closure of EME Furniture in Sanquhar. I know that this will be an exceptionally difficult time for the affected staff, their families and, indeed, the wider local area. Scottish Enterprise has already engaged with the company to explore all possible options for supporting the business to try to avoid this outcome, but, unfortunately, the company has taken the decision to close the site.

Scottish Enterprise will continue to engage with the company and is now working to identify any and all possible future opportunities for the site and its workforce. The partnership action for continuing employment team has also made contact with the company to offer assistance to the workers who are affected.

### **Services for Older People (Scottish Borders)**

**Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** Is the First Minister aware of a recent Care Inspectorate report on services for older people in the Scottish Borders, which, among its many criticisms, identifies delays in assessments, compounded by delays in providing services? For example, one of my constituents was admitted to the Borders general hospital in February, was not assessed until June and is still waiting for his care package even as I speak—by my calculation, that is eight months. Does the First Minister share my concern that, admirable though the integration of health and social care services is, it is not working in practice?

**The First Minister (Nicola Sturgeon):** I am aware of that inspection report. I am disappointed that it says that services have fallen short of the high standards that patients have a right to expect. I am also concerned about the leadership and governance issues that were identified and the impact that they have had on patient care. I know that the Cabinet Secretary for Health and Sport has already spoken to the health board and the leader of the council about those issues, and Government officials are ensuring that Healthcare Improvement Scotland is working with the board to take all necessary improvement actions. I know that NHS Borders has already taken steps to improve leadership and governance, including learning from other NHS boards.

In the course of her question, Christine Grahame raised a specific constituency case. As I frequently say in response to issues around constituency cases, I do not have all the details about the case, but if the member wishes to make them available to the health secretary, we will ensure that it is properly looked into.

### **Port of Cairnryan**

**Brian Whittle (South Scotland) (Con):** Has the Scottish Government done any research into the socioeconomic impact on the south-west of Scotland region if the ferry companies that operate out of the port of Cairnryan transfer their routes to Holyhead, as the ferry operators have suggested could happen if the chronic lack of investment in local infrastructure by the Scottish Government continues, particularly in relation to the need to

dual the A75 and A77 artery routes north and south from the port?

**The First Minister (Nicola Sturgeon):** It was this Government, of course, that supported the development of the Cairnryan port, so we recognise its importance to the economy of the area and the social impact that it has. We are also investing in infrastructure, including the upgrading of the A77. We will continue to take whatever actions are necessary to ensure that those important services stay in Cairnryan, to the benefit of people who live in that area.

### **Mental Health Services**

**3. Willie Rennie (North East Fife) (LD):** The First Minister will have seen the shocking report of the way in which Gordon Edwards from West Lothian has been let down. Despite three referrals from his general practitioner, Mr Edwards, who is only 17 years old, has been denied access to mental health services. Instead, he was sent to an employment service to get a job. How ill does he need to get before he gets the treatment that he needs?

**The First Minister (Nicola Sturgeon):** We expect our mental health services to provide appropriate treatment to the individuals who present to them, including the individual whose case Willie Rennie has raised today. As Willie Rennie knows, we accept the challenge that Scotland has—in common with other countries—to meet the rising demand for mental health services. We are investing additional resources in mental health services and are seeing more people employed in them, and we will continue to take action to ensure that that carries on. This year is the first time that national health service investment in mental health will exceed £1 billion; in a whole range of ways, we are taking action with health boards to improve services.

I take the view—and I took this view when I was health secretary—that as long as one person in mental health services or any other health service feels as if they have been let down by the system, the Government, working with health boards and, increasingly, in the delivery of health care, local councils, has a responsibility to continue to make improvements. That is what we will continue to do in response to the kind of case that Willie Rennie has highlighted.

**Willie Rennie:** The trouble is that Mr Edwards is not alone. In Lothian, two in five young people who need support are not getting it on time. In Grampian, 65 per cent are being failed. Those figures mask people who are being bumped off lists to meet waiting-time targets. The Kindred Advocacy group says that young people have to “be extremely ill” before they are treated. Falkland House school says that young people need early

treatment, instead of being sent somewhere else first.

The First Minister agreed to commission an audit of rejected referrals for mental health, but that was more than six months ago. What was the outcome of that review? How much longer will young people like Mr Edwards have to wait?

**The First Minister:** As Willie Rennie said, we did confirm a review of rejected referrals and that the review would get under way this year. Of course, there has to be preparation to carry out that work, but we will take it forward in the way that we have committed to, and then we will share its findings with Parliament.

As I have said, not just today but on many previous occasions in the chamber, we are seeing growing demand for mental health services. We should welcome that because what lies behind it is a reducing stigma around mental health.

Willie Rennie and other members are absolutely right to bring to the chamber any case of services not meeting the level of quality that patients have a right to expect. Equally, I will continue to talk, rightly, about the investment that we are committing to make sure that the improvements, which everybody wants to see, happen. I said earlier that investment this year will exceed £1 billion for the first time. If we look at the trend of spend over the past decade, we see that in 2007, £651 million was spent on mental health; the figure now exceeds £1 billion. We are investing more than £50 million specifically to support reductions in waiting times; £10 million to support new ways of improving mental health in primary care; and £15 million to support better access to child and adolescent mental health services and innovation around the delivery of those services.

Across a whole range of issues, we are taking the action that people expect us to take to ensure that we see the improvement to services that people deserve and have the right to expect.

**Willie Rennie:** Can I be clear on what the First Minister has just said? She seems to be unaware whether the audit has been concluded. Has the audit actually started?

**The First Minister:** The work on the audit is under way and, when we have concluded it, we will ensure that its findings are shared with the Parliament. We made a range of commitments in our mental health strategy and work is under way to deliver all of them, and we will continue to ensure that action is taken so that we meet those commitments and improve services in the way that people expect.

## Fracking Ban

**Mark Ruskell (Mid Scotland and Fife) (Green):** The fracking ban has rightly been met with celebration across Scotland, but there are concerns from communities and many Scottish National Party members that the ban is not yet legally watertight, as it merely extends a temporary brake on planning decisions. Will the First Minister get the ban properly over the line by putting it on the same footing as the ban on new nuclear power stations, and will she commit to using the licensing powers when they arrive?

**The First Minister (Nicola Sturgeon):** The ban on new nuclear energy in Scotland is done through planning powers and that is exactly what we are proposing for the ban on fracking. Let me be clear, because to some ears, it will sound as if some members are dancing on the head of a pin: fracking is being banned in Scotland—end of story. There will be no fracking in Scotland, and that position could not be clearer.

Members will appreciate that, because powers over licensing have not yet been transferred to this Parliament, we do not have the power to do what some—Claudia Beamish in particular—are asking us to do in legislation. What Paul Wheelhouse outlined to the chamber earlier this week is an effective way of banning fracking and—as the precedent on nuclear energy demonstrates—is also the quickest way of banning fracking. Instead of continuing to have this abstract argument, those who, like me, do not believe that fracking should go ahead in Scotland should welcome the fact that fracking in Scotland is banned.

## Obesity

**Richard Lochhead (Moray) (SNP):** Is the First Minister aware that the just-published annual Scottish health survey shows that as a nation we are substantially overweight and that adults are consuming less fruit and vegetables? That report comes just before obesity and cancer awareness week, which starts on Monday.

Given that this Parliament has successfully tackled smoking and is now tackling alcohol misuse, does the First Minister agree that we must focus more on tackling Scotland's food culture, which although improving still sees Scots living in a nation that is blessed with an abundance of nutritious, healthy food, but has a very challenging health record. Does she agree that the forthcoming food bill has a big role to play, and that we also need to tackle issues such as multibuy deals in supermarkets, something that I was reminded of a few days ago when I saw a young pupil buying four doughnuts for his lunch?

**The First Minister (Nicola Sturgeon):** I should probably be careful not to single out the person that Richard Lochhead referred to.

There is a serious issue here. We are actually seeing rates of childhood obesity decline. They have declined from 17 per cent in 2014 to the rate that we saw in 1998, which is 14 per cent. However, that is still too high.

When I set out the programme for government last month, I said that it is time to show the same ambition on the growing public health challenge of obesity as the ambition that we have shown on alcohol misuse and smoking. That is why we have indicated that we will bring forward a range of new measures to tackle obesity, including limiting the marketing of foods that are high in fat, salt and sugar.

We need to continue to put across the messages around healthy eating, and of course we also have to continue to encourage young people to be more active. That is why things such as the daily mile and the increase in physical education provision in schools are so important.

Richard Lochhead is right to identify obesity as a major public health challenge and he is right to talk about the potential of the food bill to help us increase healthy eating across our country.

### Environmental Court

**John Finnie (Highlands and Islands) (Green):** Last week, the Scottish Government announced that it will not establish a specialist environmental court or tribunal. When the United Kingdom leaves the European Union, we will lose the oversight of the European Court of Justice, which has played a key role in overseeing and enforcing environmental obligations. The UK legal system does not allow us to fully replace the ECJ.

Will the First Minister outline what actions the Scottish Government is taking to replace the environmental protections that will be lost as a result of Brexit and will she reconsider her decision not to establish an environmental court?

**The First Minister (Nicola Sturgeon):** This Government is determined that the—in our view, wrongheaded—decision to leave the European Union will not lead to any dilution or weakening of environmental protections, employment protections, consumer protections or any of the other protections that people feel are so important. We will do that where we can through our devolved responsibilities. One of the reasons why we are so concerned about the terms of the European Union (Withdrawal) Bill is that some of the powers that currently rest in Brussels would end up being centralised at Westminster, rather than coming here to allow us to take that action. We will act in whatever way we can, and where we

do not have the power to act we will make the case for the UK Government to do so. There is no doubt that the weakening of regulation and protection is one thing that people have the right to be concerned about in the Brexit process.

I recognise that John Finnie and I have a difference of opinion on a specialist court. However, it is important—whether we are talking about environmental crime or regulation or any other matter—that we do not somehow suggest that just because we do not have a specialist court these issues are not taken seriously in our wider justice and court system. They very much are taken seriously, and they absolutely will continue to be.

### Domestic Abuse (Disclosure Scheme)

**4. Stuart McMillan (Greenock and Inverclyde) (SNP):** To ask the First Minister how the disclosure scheme for domestic abuse, Clare's law, has worked during its two years in practice. (S5F-01618)

**The First Minister (Nicola Sturgeon):** Safeguarding those who suffer from, or are at risk of, domestic abuse is an absolute priority for the Scottish Government, and we were pleased to support Police Scotland's decision to roll out a national disclosure scheme for domestic abuse. Two years on, Clare's law has assisted with more than 2,000 requests and has warned more than 900 people of their partner's history of abusive behaviour. The scheme helps to highlight the day-to-day work of Police Scotland officers in helping to keep people safe. We will continue to work closely with criminal justice and third sector partners to reduce and, ultimately, to eliminate domestic abuse.

**Stuart McMillan:** Does the First Minister agree with me that the disclosure scheme for domestic abuse in Scotland has successfully acted as a safeguard for individuals who may be victims or at risk of domestic violence, and that raising more awareness of the scheme would go even further towards protecting people in Scotland from abusive partners?

**The First Minister:** Yes—that is an important point. When the scheme was launched, the Scottish Government funded an awareness-raising campaign. Given the benefits that have arisen from the scheme already, we will certainly continue to work with Police Scotland in ensuring that anyone who feels that they are at risk can take advantage of the scheme.

Last week, the chamber unanimously supported the creation of a new offence of domestic abuse. We know that, although reporting of domestic abuse has increased, there are still many people who suffer in silence. That is why there will be a

comprehensive publicity campaign for the new offence, to ensure that people know that it will make it easier to hold domestic abusers to account—especially for acts of coercive or controlling behaviour.

### School Inspections

**5. Liz Smith (Mid Scotland and Fife) (Con):** To ask the First Minister whether the Scottish Government will review the school inspection process. (S5F-01606)

**The First Minister (Nicola Sturgeon):** As I am sure Liz Smith is aware, earlier this week, Education Scotland announced a significant increase in school inspections—of more than 30 per cent in the school year beginning in April 2018. As a result, the number of school inspections will rise from 180 to 250 schools per year initially. That will strengthen the role of inspection as a crucial tool to support improvement. It is one of a range of improvement approaches announced by Education Scotland to enable it to reach every school, every year, through a variety of different channels.

**Liz Smith:** In November 2016, Education Scotland could not confirm to members of the Scottish Parliament who sit on the Education and Skills Committee whether school inspection numbers had gone up or down. At the same meeting, it could not confirm how many full-time inspectors there were for 2017. Last week, it was revealed that key elements of historical school inspection data had been deleted.

Will the First Minister accept that those are not the hallmarks that are required in order to inspire full trust in the administration of the inspection process? To that end, will she now agree with the Conservatives—and all the other Opposition parties—that Her Majesty's Inspectorate of Education's inspection process should be fully independent of Education Scotland?

**The First Minister:** We will introduce legislation on governance changes in education, and I am sure that such issues will continue to be debated. The Cabinet Secretary for Education and Skills has set out his view on that.

I know that the issues are not identical, but I remember that when I was Cabinet Secretary for Health and Wellbeing I faced a similar decision around the role of health inspectors. It is absolutely right that those who inspect our hospitals—like those who inspect our schools—are independent. However, it is important that we also have a link between inspection and improvement, which is what we risk being lost if we go down the route that Liz Smith proposes. Inspection is not there for its own sake; it is there to identify failings, or areas in which there needs to

be improvement, and then to make sure that that improvement is made. That is why the statement around regional improvement collaboratives that the Deputy First Minister gave earlier this week is such an important part of our reform agenda.

Of course, we will continue to debate such issues in the chamber, but I hope that, whatever the eventual outcome of that particular debate, everyone will welcome this week's announcement of the increase in inspections that I have just set out.

**Iain Gray (East Lothian) (Lab):** The extra inspections that were announced by Education Scotland will be helpful in supporting schools to work towards closing the attainment gap. However, the Scottish Government is only this week consulting on how it will measure that gap in progress. It has been two years since the First Minister told us that closing the gap was her top priority. Does she not think that two years to get round to thinking about what she means by the attainment gap is a little lethargic—to put it kindly?

**The First Minister:** No. We have been getting on with putting in place the national improvement framework and introducing standardised assessments across the country that will inform the teacher judgment, which we will then publish as the percentage of young people meeting the required levels of curriculum for excellence. That will be, for the first time, a comprehensive and transparent indication not just of how our education system is performing nationally, but of how individual schools and local authorities are performing.

We have taken that action, but we have always said that there is no single measure that should be necessarily used to measure attainment. The consultation launched yesterday looks at a range of different measures to make sure that, as we continue to work to close the attainment gap, we do so in a way that respects and enhances the overall development of young people. That is what curriculum for excellence is all about.

Iain Gray's characterisation is, not for the first time, not strictly accurate. We have been taking a series of steps not only to make sure that the money that we are putting through, for example, the pupil equity fund helps to close the attainment gap, but to make sure that measures are in place to record that and that there is a transparency that means that ministers and the wider system are completely accountable to Parliament and the public.

### Rough Sleeping (Audit)

**6. Pauline McNeill (Glasgow) (Lab):** To ask the First Minister whether the Scottish Government will undertake a national audit of the

number of people who are rough sleeping. (S5F-01613)

**The First Minister (Nicola Sturgeon):** The programme for government sets out our national objective to eradicate rough sleeping. We are backing that commitment with a £50 million ending homelessness together fund. We have also established a short-term homelessness and rough sleeping action group, which is chaired by the chief executive of the homelessness charity Crisis. The group, which meets today, will make recommendations on what further actions need to be taken on rough sleeping, including, of course, the additional information or data that we need to gather.

**Pauline McNeill:** I welcome the establishment of the homelessness and rough sleeping action group. Does the First Minister recognise that rough sleeping is, sadly, on the rise, that it is likely that we face a further increase in rough sleeping through a bleak winter, and that it is urgent that we act? I am sure that she agrees that it is not acceptable that anyone is sleeping on the streets anywhere in Scotland.

Shelter Scotland has confirmed that the number of homelessness applications in which the applicant had slept rough the night before making the application increased by 10 per cent last year. In view of that increase, does the First Minister agree that it would be helpful to have a fresh assessment of the scale of the issue, through the action group? According to Homeless Action Scotland, there has not been an audit since 2003.

I ask the First Minister—in a constructive manner—to consider taking a housing-led approach and not a hostel-led approach. While recognising that the work of the charity sector and local government partners is key, does she agree that there is a case for national roll-out of the housing first model—I know that she has acknowledged that model in the past—which recognises the multiple disadvantages that homeless people face when trying to establish stability in their life? I hope that she will agree—

**The Presiding Officer:** Okay, Ms McNeill. That is enough.

**Pauline McNeill:** I hope that she will agree that it cannot simply be left to the charity sector. The Government must lead from the front.

**The First Minister:** The Government is leading from the front, which is why we have established the £50 million fund that I mentioned and have set up the expert group that meets for the first time today.

As I think that Pauline McNeill knows, I am very sympathetic to some of those issues, but we have set up an expert group to give us ordered

recommendations on the actions that it thinks are most important for us to take forward. That may well include an audit. If that is the case, we will, of course, carry it out.

There is a debate about what the member characterised as the housing versus hostel approach. The expert group may well make recommendations about that, too.

One of the things that I see as being among the most important is that we do not see the matter as just an accommodation issue—whether the accommodation is houses or hostels. The way to tackle rough sleeping is to provide the package of support that is needed around people, so the housing first model that Pauline McNeill mentioned is important. I have already said that it offers opportunities for individuals with more complex needs in helping to stabilise their lives and to prevent repeat homelessness. Again, the reason why we have set up the expert group is to look at the issue to make sure that we are doing the right things.

We know that rough sleeping is increasing—I said that when I set out the programme for government. We also know—this takes us back to Alex Rowley's question—that the increase in rough sleeping and homelessness generally is very much driven by the welfare cuts that we have already spoken about. Unfortunately, we cannot deal with the whole problem at source—I wish that we could—but we can make sure that we are doing as much as we can to deal with the consequences, and we will continue to do exactly that.

### Nursing (Staffing)

**7. Miles Briggs (Lothian) (Con):** To ask the First Minister what the Scottish Government's response is to the concerns of front-line nursing staff in Scotland, which have been highlighted in the Royal College of Nursing report, "Safe and Effective Staffing: Nursing Against the Odds". (S5F-01601)

**The First Minister (Nicola Sturgeon):** The link between nurse staffing levels and high-quality care for patients is well established. Staff welfare is a top priority, and we take staff views on the issues very seriously. The RCN has called for safe-staffing legislation, and we intend, as we set out in the programme for government, to take that forward. Of course, the United Kingdom Government has given no commitment to similar legislation in England. In addition, we are committing an additional £40 million to create an estimated 2,600 extra training places over the next four years, and will continue to work with the RCN and other organisations to help to shape future action.

**Miles Briggs:** In the past two weeks, we have heard warnings from the Royal College of General Practitioners that Scotland is now 856 GPs short. This week, RCN Scotland has predicted that Scotland is 2,800 nurses short. Obviously, the 2,600 training places will not cover that shortage. The situation is now directly impacting on staff and patient care. Having been in control of our national health service for 10 and a half years, does the First Minister now accept that the Scottish Government's NHS workforce planning has been totally mismanaged?

**The First Minister:** No, I do not. There are almost 12,000 more people working in our health service today than there were when the Government took office. As I said, we are also taking a range of actions in relation to nursing students, including the safe-staffing legislation that I spoke about and an increase in intakes for pre-registration nursing and midwifery programmes.

Under the Scottish National Party Government, there has been an average of 1,000 more nurses in training every year than there were under the previous Administration. As I said, we are spending £40 million on increasing training places.

We have also kept the nursing bursary, which the Tories south of the border have abolished. That is leading to a rapid reduction in the numbers coming into nurse training in England.

We will continue to take a range of actions on nursing and across other elements of the NHS workforce. However, I will end where I often do on questions about the NHS: as we take all those actions to try to increase the number of people who are coming into the NHS and the different professional groups within it, we face the looming threat of Brexit, which is making it harder for those who are already here to stay here and contribute to our NHS and will, of course, make it harder for us to recruit people who want to come here.

Yet again I say, whether it is on the NHS, welfare or any such issues, shame on the Tories for coming here to lecture others while their own Government does so much damage to the things that we hold dear.

**The Presiding Officer:** That concludes First Minister's questions. I suspend the meeting until 2 pm.

12:48

*Meeting suspended.*

14:00

*On resuming—*

## **Air Departure Tax (Update)**

**The Presiding Officer (Ken Macintosh):** The first item of business this afternoon is a statement by Derek Mackay on the air departure tax update.

**James Kelly (Glasgow) (Lab):** On a point of order, Presiding Officer. The cabinet secretary is about to give a statement on air departure tax, but the details of the statement are revealed extensively on BBC online and were discussed by Glenn Campbell on "Good Morning Scotland" this morning. In addition, the implications of the statement are reported in *The Scotsman* online and it is clear from the Twitter feed of *The Scotsman's* transport correspondent, Alastair Dalton, that he has been in discussion with Scottish Government officials about the issue.

I submit that the Parliament has been disrespected. The point of a parliamentary statement is to inform members of the Scottish Parliament and the public first and foremost—not the media. Presiding Officer, I ask you to investigate whether Mr Mackay has broken parliamentary rules and what action can be taken.

**The Presiding Officer:** Thank you for that point of order, Mr Kelly, and for notifying me in advance of your intention to make it.

As members are aware, I take the issue very seriously indeed. I recently revised the good practice guidance on announcements to make it clear that Government announcements should be made to the Parliament in the first instance.

I note that there has been speculation on the contents of the statement in advance and I draw the cabinet secretary's attention to the guidance. However, I am sure that all members will welcome the opportunity to question the cabinet secretary on the detailed contents of his statement, which he can now make.

**The Cabinet Secretary for Finance and the Constitution (Derek Mackay):** Thank you, Presiding Officer.

The Scottish Government has made a strong case over many years for powers over air passenger taxation to be devolved to the Scottish Parliament. We have set out a clear aim to reduce the burden of air passenger taxation by 50 per cent and to abolish the tax altogether when resources permit. That commitment will help both to boost international connectivity and to generate sustainable growth—priorities that are even more pressing as a result of the European Union referendum.

In 2014, the Smith commission recommended devolution of powers over air passenger duty to the Scottish Parliament. The Scotland Act 2016 made provision for that devolution. Following extensive engagement with stakeholders, we introduced the Air Departure Tax (Scotland) Bill to Parliament; the act gained royal assent in July 2017. Under terms agreed between the Scottish and United Kingdom Governments in the fiscal framework, APD is due to be fully devolved in April 2018 and Revenue Scotland has work well in hand to begin collection.

If the UK Government were handing over the tax in a fit state, Parliament would now be considering regulations setting out tax bands and rate amounts. However, that is not the case. During stage 1 consideration of the bill, I alerted the Parliament to an important matter that had arisen concerning our plans to replicate the current APD exemption for passengers who fly from Highlands and Islands airports. The Highlands and Islands exemption has applied under APD since 2001. The exemption is a feature of air passenger duty and should be a feature of air departure tax, supporting not just residents but businesses and tourism in the area.

As members know, the Government and the Parliament cannot act in a way that is contrary to EU law. After very careful consideration, we have concluded that in order for the Highlands and Islands exemption to be compliant with EU law and state-aid regulations, it must now be notified for approval to the European Commission. As the UK is the member state, only the UK Government can do that.

It is not a technical argument. Aviation is critical to the Highlands and Islands, helping to support a diverse range of businesses and enabling residents from the more remote regions to access essential services that cannot be provided in their areas. Without it, there is a real risk that the Highlands and Islands will suffer economic detriment.

Since informing Parliament of the position in April, I have had a series of discussions and exchanges of correspondence with UK Treasury ministers, most recently with the Financial Secretary to the Treasury on 25 September. Throughout the conversations and correspondence, I have been clear that although we remain committed to working with the UK Government to secure an acceptable resolution, it is for the UK Government to resolve the issue and, as the EU member state, only the UK can take forward any notification.

The response, thus far, from the UK Government has been disappointing. The Financial Secretary to the Treasury made it clear in July that the UK Government has serious

concerns about making an approach to the Commission; in correspondence, he stated that before the UK Government will agree to do so, the Scottish Government will need to accept full liability for all risks, including the potential for knock-on effects on Highlands and Islands business. As I will explain, those risks would include liability for the historical operation of the tax; acceptance of the financial consequences back to 2001 if the Commission does not approve the exemption; and the cost of avoiding detriment to the Highlands and Islands during the length of time that notification would take.

I am clear that, with its transferring responsibility for the tax, the obligation was on the UK Government to ensure that it could be operated fully. The conditions that the UK Government has sought to impose are clearly not acceptable, and it is patently unfair that, having got us into this mess, the UK Government is willing to fix it only if the Scottish Government agrees to pay the costs of any mistakes made. Let me be clear: this Government will not put at risk the economy of the Highlands and Islands, and it is not for this Government to bear the cost of actions that the UK has taken, if they are found not to be compliant.

This Government therefore finds itself placed in a deeply unsatisfactory position. We could choose not to introduce the exemption for Highlands and Islands flights, ensuring that ADT remains within EU state-aid rules and avoiding the need for notification. However, that would bring an unacceptable cost to the fragile economies of the Highlands and Islands. We could also seek an alternative approach that would deliver the same outcome as the exemption, and I and my officials have left no stone unturned in investigating ways of delivering the same or better outcomes for the Highlands and Islands without a notification process. However, although there are solutions within state aid that would support the residents of islands and sparsely populated areas, we have no legal viable exemption that would support businesses and tourists and provide the good connectivity that is vital to the city of Inverness on the same terms that are currently available. The UK Government also suggested that it would consider alternatives, but it has yet to present any options that we have not already considered or which meet the requirements of the Highlands and Islands and would not also require notification to the Commission.

The only option identified by the Scottish Government that does not require notification to the Commission and which could be in place for April 2018, securing the benefits of the exemption for the Highlands and Islands, would be through the use of rates and bands and in a way not exclusive to the Highlands and Islands. That would

involve setting all bands at a zero rate to cover direct and connected flights from Highlands and Islands airports. Doing that would involve the Scottish Government forgoing substantial revenues not to deliver any additional benefit but simply to deliver the tax to the same standard for the Highlands and Islands as currently operates. To match the exemption for all Highlands and Islands flights, including connecting flights, would require the Scottish Government to forgo revenues of more than £320 million, and to do so simply for band A flights would mean forgoing revenues of around half of that.

Although under the terms of the fiscal framework this Government would, of course, bear the cost of any policy changes made by this Parliament, such as reducing rates to deliver economic growth, it should not cost this Government financially simply to deliver the tax as it currently is. That is the principle of no detriment that was set out by the Smith commission and which underpins the fiscal framework accompanying the devolution of powers. That principle is central to the operation of the block grant adjustment. However, the block grant adjustment mechanism for ADT does not take account of this potential flaw in the Highlands and Islands exemption. Currently, the block grant adjustment will see Scotland's block grant reduced by an amount forecast on the delivery of the tax as it currently operates. As a result of the position we have now been placed in, I have not yet been able to set the exemptions, reliefs and rates that I propose for ADT in the coming year.

The UK Government has suggested that, instead of going ahead with notification or facing removing the exemption, we could defer implementation of the tax for an unspecified time period. A change to the timetable is certainly feasible—the UK Government must switch off the tax before ADT can be introduced in Scotland—and it might be unavoidable if a solution is not found. However, that is not our preference.

I have therefore written to the UK Government again today to set out my position. I remain supportive of notifying the Commission, but not of the Scottish Government taking on the risk of the UK Government's operation of the policy. I am very aware that the European Commission will need time to consider any case that is made, so it is already unlikely that we could get a decision from the Commission in time for ADT to begin in April 2018.

Instead, I have suggested that the UK Government agree to amend the block grant adjustment to enable the Scottish Government to deliver support for the Highlands and Islands in a way that ensures neither the Highlands and

Islands nor Scotland's public finances suffer as a result of this apparent defect in air passenger duty.

That amendment could be made while notification is pursued, on the understanding that the UK Government accepts the risks inherent in such a notification, or on a permanent basis if the UK Government remains unwilling to make such a notification. It is the only solution that either Government has tabled that would enable ADT to be implemented on time and in a way that protects the economy and the communities of the Highlands and Islands and the devolution of powers under the Scotland Act 2016, and which is consistent with the no-detriment principle of the Smith commission.

To determine our approach, we require clarity from the UK Government by the time of the UK budget at the very latest. We urge all stakeholders and interested parties to encourage the UK Government to reach a sensible solution.

Given the severity of this issue, the potential impact on the economy of the Highlands and Islands and the risks to the devolution of powers as agreed by this Parliament, I felt that it was incumbent on the Government to air these issues in Parliament and to be clear to the region and to industry where we stand on the introduction of ADT. I hope that all members will support the action that we are taking. I know that some members do not support our general position on reducing ADT, but this is a different issue—it is about our ability to deliver the tax as it stands today.

A delay is not my preferred option—I could agree that only as a last resort—but ADT cannot be put into operation while significant uncertainty hangs over the Highlands and Islands. I therefore urge the UK Government to step up to the plate, recognise its responsibilities and support our proposal, which would enable ADT to go forward as planned without causing harm to Highlands and Islands communities.

**The Presiding Officer:** The cabinet secretary will now take questions on his statement for about 20 minutes. I urge members who wish to ask a question to press their request-to-speak buttons now.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I thank the cabinet secretary for advance sight of his statement. The Scottish Government's policy of reducing air departure tax is a long-standing one, and our tourism industry has eagerly awaited its delivery. As the cabinet secretary knows, the policy has the support of the Scottish Conservatives, so there is a clear majority in the Parliament to deliver it. It is therefore disappointing to hear that the Scottish Government seems to be trying to weasel out of its manifesto commitment to

deliver the policy, which means that we might miss out on the boost that it would give the Scottish economy. Many in Scotland's tourism sector will feel badly let down by the announcement, which a cynic might conclude has more to do with politics and with the Scottish National Party's desire to pally up with the Greens again to get its budget through Parliament than with any legal technicalities.

I will ask the cabinet secretary two questions. First, as the Highlands and Islands APD exemption has existed without challenge for the past 16 years, why does the Scottish Government believe that there is suddenly, at this convenient point, an insurmountable legal problem that means that devolution of the tax might have to be delayed? Secondly, will he confirm for the record that it remains the Scottish Government's policy to deliver an ADT cut as a matter of principle, to help to grow the economy, even if he has today started to make excuses for why he cannot deliver it on time?

**Derek Mackay:** Of all the bizarre accusations that Murdo Fraser has made about the Scottish Government, that—accusing the UK Government of conspiring with the Scottish Government not to deliver an SNP policy—is one of the most bewildering. I am surprised that even he is willing to make it.

The issue is of the UK Government's making. The issue concerns the defective state of the function and the taxation proposition. The question—

**James Kelly:** You brought forward the legislation.

**Derek Mackay:** Well, Labour is partly complicit, too—its activity probably was not compliant, either.

I am surprised that a member of Murdo Fraser's standing is not aware that the Scottish Parliament cannot pass acts or orders that contravene EU law and regulations. I am so surprised that Murdo Fraser, as a front-bench spokesperson, does not know that simple fact about the function and operation of this Parliament and the parameters in which we have to operate.

On the question about principle, SNP policy—Government policy—remains the same, but what we have been asked to do—[*Interruption.*] I am surprised to hear heckling from the Labour Party. I know that many Labour members with an interest in the Highlands and Islands want us to protect that region as we deliver air departure tax. I am surprised by the Labour Party's opposition on the issue.

We have said that the power is in a defective state and that we will co-operate with the UK Government to resolve the issue, but it is for the

UK Government to resolve. It, not the Scottish Government, created the potential non-compliance issue. We believe in the outcome of the Smith commission—the principle of there being no detriment to the people of Scotland—and we are trying to protect that.

Protecting the Highlands and Islands also includes ensuring that there is a like-for-like exemption and that we protect the devolution of powers, but in a competent fashion and not in the typical bombastic, chaotic and incompetent fashion that the Tories have followed recently.

We will try to find a resolution. The principle remains the same, but it must be implemented competently.

**Neil Bibby (West Scotland) (Lab):** For years, passengers in the Highlands and Islands have received an exemption, and that must continue. The devolution of APD was agreed by the Smith commission three years ago and was SNP policy for many years before that. Today, however, the cabinet secretary tells us that he cannot switch on the air departure tax policy, despite the Parliament passing a piece of legislation to agree to do so. Today, the SNP is using a convenient opportunity to kick a bad policy into the long grass. Let me be clear: the SNP's ADT cut is bad policy and, instead of being delayed, it should be cancelled.

Will the cabinet secretary confirm that he still intends to cut £190 million from public services, or will he rule out cutting ADT in the lifetime of this session of Parliament? In any event, how can the cabinet secretary justify a multimillion-pound tax cut for the frequent-flying few at a time of hardship and austerity for the people of this country? Is it not the case that the Scottish Government supports a tax cut that was rejected in its own consultation, which would increase aviation emissions and which would strip hundreds of millions of pounds out of our public services?

**Derek Mackay:** The most important point in that commentary or question was in the first sentence, when Neil Bibby stated that the exemption must continue. The exemption as it stands cannot continue, and the UK Government has not found a solution to that issue, other than to propose that the Scottish Parliament, the Scottish Government and, therefore, the people of Scotland should bear the risk of liability for the historical lack of compliance because of the lack of notification. That was the doing not of the Scottish Government but of the UK Government. No wonder it wrote to me to suggest notification, but only if the Scottish Government took the risk of that. That is in clear breach of the no-detriment principle of the Smith commission and the enhancement of powers under devolution.

I agree with Neil Bibby about trying to ensure that the exemption continues. I raised the matter in Parliament when we introduced the bill at stage 1, and I have repeatedly said that I would try to find a resolution through working with the UK Government. However, it is for the UK Government to resolve any lack of compliance, because of the reason that I shared earlier, which is about how this Parliament and this Government conduct their business in accordance with EU law and regulations.

In principle, we stand by our position on air departure tax and the economic benefits that would come from reducing it. However, we will not land on the people of Scotland—pardon the pun—a defective power that might cost them dearly if it is found not to be compliant when the issue is considered.

Looking after the economy, supporting tourism, protecting the Highlands and Islands and ensuring that there is a competent transfer of powers are important issues for the Government. However, if the key ask from the Labour Party is that the exemption must continue, I say that that is exactly what I have been trying to achieve.

**Patrick Harvie (Glasgow) (Green):** The policy has not exactly had the smoothest of take-offs, has it? Under scrutiny, it has been clear that the Government has not even bothered building an economic case for the policy, that there is no environmental or social justice justification for the policy and that there is no political support for it, other than from the Conservatives, who want to cut every tax going and spend, spend, spend from the magic money tree. Now, the policy is stuck in a legal quagmire that the cabinet secretary must have known lay ahead of him. I understand if he needs a technical pretext to spare his blushes, but would it not be simpler and cleaner just to acknowledge today that he will not be cutting aviation taxes in the coming year?

**Derek Mackay:** In accordance with my statement, the timetable for what we can do is in the hands of the UK Government, which must consider the proposition that I have put to it in advance of the budget. It can do that and respond by the time of its next budget speech at the latest, which will help to inform the Scottish budget.

Unless it can find a legal remedy or a fiscal remedy, the UK Government has a responsibility to address the issue. I know that it would be difficult ever to convince Patrick Harvie or the Greens of the policy, but the principle that we all agree on is the successful and competent delivery of devolution. In this defective state, the tax cannot be delivered in Scotland; that is for the UK Government to resolve in the fashion that I have described.

**Willie Rennie (North East Fife) (LD):** The Liberal Democrats are pleased that the APD cuts have been stopped. Does the cabinet secretary think that today's statement will force the European Commission to take action to close down the Highlands and Islands exemption? He has described the scheme as "defective" and not compliant with EU law. To provide himself with political cover, is he recklessly risking the discount's future?

**Derek Mackay:** I can imagine what those champions of transparency, the Liberal Democrats, would have said if I had kept secret from Parliament the complications, the lack of compliance and the reason why we could not pursue the like-for-like exemption. The Parliament has to be fair; I raised the matter at stage 1, I raised it in committee and I raised it when being pursued by Conservatives as to why the exemptions were not in the bill.

I have been transparent with Parliament. It is important to tell the truth to Parliament about the condition of legislation, the arrangements around the Smith commission, the no-detriment principle and what the bill would mean to the very important region that is the Highlands and Islands. That would be sacrificed if we did not address the issue in the correct way. I have kept Parliament up to speed and been transparent, and I have engaged with the UK Government to try to find a solution. However, it is for the UK Government to resolve the issue.

Of course, being so transparent creates a risk in how the EU could respond to the issue, but the request from the UK Government was that the Scottish people should take the risk of the UK Government's lack of compliance over the years. The UK Government should bear that burden when resolving the issue, so that we can deliver the powers in a competent fashion that protects every part of Scotland.

**The Presiding Officer:** I gave some time for the opening questions and answers to explore the issue. We now have less than nine minutes for 10 questioners, so I ask for progress, please—no preambles, no statements, just straight to the question.

**Maree Todd (Highlands and Islands) (SNP):** The cabinet secretary mentioned that state-aid solutions would not apply to Inverness airport. The UK Government stated that it would consider alternatives, but it has not presented sufficient options. Does the cabinet secretary agree that the UK Government forgetting to flag the Highlands and Islands exemption to the EU is symptomatic of the UK Government forgetting the Highlands and Islands for centuries?

**Derek Mackay:** In outlining this statement, the Scottish Government is clearly not sacrificing the Highlands and Islands and I encourage the UK Government not to do so either.

**Bill Bowman (North East Scotland) (Con):** Has the cabinet secretary considered devolving the tax to Highland Council, in which case the exemption would not come under state-aid rules? If so, why has he ruled it out?

**Derek Mackay:** That approach has not been put to us in a state that would appear to comply with state-aid regulations and EU law. As with many other matters, we could consider that further, but there are a range of complexities in that and other propositions that may be put to us. If that is now the position of the UK Government, I do not believe that it would be compliant. I am happy—*[Interruption.]* I hear the Conservative shout that it is a suggestion. I have said that I will look seriously at any proposition that is put to the Scottish Government to deliver this power and this tax in a competent way. It strikes me that the suggestion as put by Bill Bowman would not be compliant, but I will take all helpful suggestions into account. Equally, I hope that the UK Government will seriously consider the suggestion that I have put to it today.

**Kate Forbes (Skye, Lochaber and Badenoch) (SNP):** Will the cabinet secretary provide an unequivocal assurance to the communities of the Highlands and Islands, who are most affected by this, that he will continue in his unwavering efforts to protect the Highlands and Islands and to create a like-for-like replacement of the current exemption that covers residents, businesses and tourist visitors?

**Derek Mackay:** Yes, I will provide that assurance, and I hope that the statement makes clear that that is exactly what I am endeavouring to do.

**James Kelly:** Does the cabinet secretary accept that, week after week, we hear in the chamber from members who have issues with cuts in the health service, education services and local councils? Does he not therefore accept that it is time to dump this discredited policy that would strip £190 million from the Scottish budget every year?

**Derek Mackay:** I am sure that, having seen my statement and realised that it was not quite what he had read about in the press—which probably removes the need for his complaint at the start—James Kelly will now understand that that is not what the statement is about. It is about the compliance of the regime to ensure that the power can function competently in Scotland, in keeping with the Smith commission's recommendations and the agreement—to which all parties signed

up—to enhance devolution, but in a way that does not bring detriment to the people of Scotland. Surely the Labour Party has not given up on that as well.

**Richard Lyle (Uddingston and Bellshill) (SNP):** Does the cabinet secretary agree that it is an absurd situation that the UK Government can effectively block the implementation of Scottish Government policy by refusing to notify the European Commission?

**Derek Mackay:** It is true to say that the UK Government will not go through the notification procedure unless the Scottish Government bears the risks of doing so. That means that it is Scottish taxpayers who will bear the risks from the operation of a historical policy of the UK Government. That is the difference, and that is what I am trying to point out to members. It is an absurd position, but it is to be hoped that the UK Government will work constructively with us so that we are able to proceed.

**Rachael Hamilton (Ettrick, Roxburgh and Berwickshire) (Con):** I draw members' attention to my entry in the register of members' interests.

What will the cost of the cabinet secretary's U-turn on air departure tax be to the tourism industry and the wider Scottish economy.

**Derek Mackay:** Of course, it was the Tories who did a U-turn on tax reduction.

Let me be clear to Rachael Hamilton and others. We are trying to proceed, but we need the UK Government to give us the mechanism to deliver the tax competently. It is now back to the UK Government to resolve the power, which is currently in a defective state. If we want to talk about cost to the economy—before we even mention Brexit—it would be wise for Rachael Hamilton to turn her attention to the UK Government to find a resolution to the issue.

**Ivan McKee (Glasgow Provan) (SNP):** Does the cabinet secretary have any information on why the UK Government failed to notify the European Commission of the exemption for 16 years? Was there not a requirement on the UK Government to do so, and was it not aware of that requirement?

**Derek Mackay:** Members will be able to tell from my statement and from the correspondence that I have had with the UK Government that it is very reluctant to seek notification. That suggests to me that it is concerned about compliance, which is why it is trying to pass the cost to the people of Scotland. That is a sacrifice that we should not be willing to make.

**Jamie Greene (West Scotland) (Con):** Contrary to what was in the cabinet secretary's statement today, my understanding is that the UK Government has bent over backwards to work with

the Scottish Government to find a solution, so I cannot be the only person who is deeply suspicious about the motivation behind the statement. Does he really believe that the Parliament will be fooled by his faux concern over the devolution of the tax? Why does he not admit that it has nothing to do with the EU and everything to do with backtracking on his promise in return for support from the Greens?

**Derek Mackay:** So should I ignore all the advice that I have had from officials and all the engagement that I have had with successive UK Treasury ministers and instead believe that a Tory minister, or someone in the Tory party, told Jamie Greene that it is all okay and that I am just making this up? I assure Mr Greene that my correspondence and engagement with UK Government ministers will show that they accept that there are issues, which is why—to be fair to them—they want to find a solution, although so far they have failed to do that.

**Bruce Crawford (Stirling) (SNP):** In his statement, the cabinet secretary recognised the cross-party Smith agreement that helped to deliver the devolution of APD. The Smith agreement was also very clear on the principle of there being no detriment as a result of the further powers to be devolved under the Scotland Act 2016. Does he agree that failure to replicate the Highlands and Islands exemption as a result of the UK Government's negligence would be a significant instance of detriment and therefore contrary to the intent and purpose behind the Smith commission proposals? I say to Mr Greene that the issue has nothing to do with the EU and everything to do with the UK Government.

**Derek Mackay:** That is right. This is about the competent devolution of powers, as agreed by the Smith commission. In fairness, the issue was not raised over the course of those negotiations. As far as I understand it, the UK Government did not say that there was an issue with compliance. The principles that all parties signed up to for successful further devolution, the fiscal framework and how that relates to the block grant adjustment are a political agreement, and to proceed in the way that the UK Government proposes would be a breach of that political agreement.

**David Stewart (Highlands and Islands) (Lab):** What assessment has the cabinet secretary made of the effect on the airports and economy of the Highlands and Islands if the exemption does not continue?

**Derek Mackay:** David Stewart will know—as will the other members who have been lobbying me on the exemption—that many involved in the sector say that its discontinuation would have a catastrophic impact on the fragile connectivity economy. We have looked at legal and fiscal

remedies to try to prevent that, but I have no doubt that, for the reasons that I gave in my statement, it would have a profound impact on the Highlands and Islands. That is why together we must endeavour to replicate the exemption. The UK Government has failed to give me a competent alternative, so today I have put a further proposition to the UK Government for it to consider. I hope that it will respond in good time, so that I can take the matter forward.

**Kate Forbes:** For the record, Presiding Officer, I remind you and the chamber that I am the parliamentary liaison officer to the cabinet secretary.

## City Region Deals

**The Presiding Officer (Ken Macintosh):** The next item of business is a statement by Keith Brown, on Scottish city region deals—next steps. The cabinet secretary will take questions at the end of his statement.

14:31

**The Cabinet Secretary for Economy, Jobs and Fair Work (Keith Brown):** Strengthening Scotland's economy so that it benefits all is the very definition of inclusive growth and is front and centre of what the Government is all about. We are using all the levers at our disposal. Recent data shows that the economy is growing, though we want it to grow at a higher rate. The number of people in employment is at a record high and unemployment is at a joint record low.

Cities and their regions are the engines of our economy. Increasing jobs, investment and employment in our city regions will drive up national economic growth. City region deals are one of our key economic levers. Eighty-three per cent of Scotland's population—4.5 million people—live in the areas that are covered by existing or planned city region deals. According to the latest figures, which are from 2015, those same areas account for 86 per cent of Scotland's gross value added and 2.2 million jobs, which is 85 per cent of the total number of Scottish jobs.

The investments that we have made in city region deals can be transformational. They will benefit Scotland as a whole, creating tens of thousands of jobs and upskilling labour markets. However, deals can do much more than that. They galvanise key partners to come together to drive regional economies in ways that go well beyond the investments that they deliver.

So far, the Scottish Government has committed over £1 billion over the next 10 to 20 years for city region deals in Glasgow, Aberdeen, Inverness and Edinburgh. Our investment exceeds the United Kingdom Government investment in the deals. Indeed, the Scottish Government is the biggest funder of city region deals in Scotland.

The deals are based on proposals developed by cities and their partners, harnessing local intelligence to identify what is needed to unlock inclusive growth. City deals are important investments and they can attract significant private sector leverage, but we must see them in context. Over the past five years, local government in Scotland has received more than £3.5 billion capital funding through the local government settlement. This Government has made significant investment to transform Scotland's infrastructure. In 2017-18 alone, we have committed more than

£4 billion for projects such as the Queensferry crossing, the Aberdeen western peripheral route, the A9 dualling programme and rail improvements between Edinburgh and Glasgow. To cap that list, over three years we have seen four deals. That is solid progress.

Today I express our commitment to deals for all our cities and confirm to Parliament that the Scottish Government will support city deals for Stirling and Clackmannanshire and for the Tay cities, which will be the first two-city deal in Scotland. In addition, I want to seek clarity and achieve consensus where possible with other partners on how all Scotland can benefit from the deals that we strike.

The first deal was, of course, Glasgow. That deal is in its delivery stage. Along with the UK Government, we are supporting £1.13 billion of investment in Scotland's largest city and region, which is leveraging in about £3.3 billion of private sector investment.

In Aberdeen, we are investing £125 million over the next 10 years, with match funding from the UK Government, to deliver projects including a new oil and gas technology centre and harbour infrastructure. When we struck that deal, we were clear that more was needed for the north-east, so the Scottish Government alone committed to investing an additional £254 million in transport, digital and housing.

In January, I signed the Inverness and Highland city region deal, committing up to £135 million over 10 years as part of a £315 million package. That investment will deliver jobs, drive innovation, attract greater private sector investment and—crucially for the Highlands—help to retain the young people who are the lifeblood of the region's future.

In Edinburgh, after some hard negotiations with the UK Government to encourage it to match our ambitions, we signed heads of terms in July to invest £300 million over the next 15 years in the Edinburgh and south-east Scotland city region deal as part of a £1.1 billion package.

That is where we are, and we plan to go further.

We have discussed in the chamber on a number of occasions the enterprise and skills review. In our review report, which we published in June, we set out our commitment to support the creation of regional partnerships across the country.

Our national economic development agencies have been challenged to align regionally to support regional partnerships, and they have been proactive in doing that. We are very clear that future city and regional deals will be expected to use our inclusive growth model to prioritise their investments and monitor their progress. We are

also clear that private sector involvement in the partnerships is crucial and that the Scottish Government—I think that this is also true for the UK Government—will make its funding contingent on the involvement of the private sector.

In each of the deals that I have talked about, we have leveraged private investment to support regional development. I am delighted with that, and I am sure that we can do even more. The private sector has to be an engaged partner, providing drive and direction to our regional economies. In parallel, and very importantly, the Equality and Human Rights Commission is working with us to maximise equality of opportunity within city region deals.

As I have said, we intend to achieve city region deals for Stirling and Clackmannanshire and for the Tay cities of Dundee and Perth, alongside their partners in Angus and the north of Fife. Officials are working with both sets of regional partners and with the UK Government, so that we can reach agreement on heads of terms as soon as possible. I will continue to press the UK Government to match our commitment to transform those regional economies.

Our policy approach should not just be about cities and their regions, extremely important though they are. For our economy and all our people to flourish, we need inclusive economic growth in all of Scotland, especially outside the traditional growth areas.

As I said at the start of my statement, inclusive growth is about opportunities for everybody. To that end, we have said that we are supportive of a growth deal for the three Ayrshire councils, which would be the first regional deal in Scotland. Ayrshire's economy has lagged behind national growth for too long and it is time to take decisive action. We are determined to deliver a deal that will bring jobs and investment to the area, reduce unemployment and reinvigorate the local economy.

We are also committed to tackling the economic challenges faced in the south of Scotland, so as well as our commitment to establish a new south of Scotland enterprise agency—we are the first Government to do that—we are looking at a border lands inclusive growth deal. We are entering into detailed discussions with Dumfries and Galloway and Scottish Borders to explore a deal that supports their aspirations.

We have had discussions with Moray, Falkirk and Argyll and Bute. Each has growth proposals, while Orkney, Shetland and the Western Isles seek an islands deal.

I am willing to play my part and to work closely with the UK Government to agree the next phase of deals. We have had good co-operation, to this

juncture at least. We had good co-operation with Andrew Dunlop when he was in post, but I call on the UK Government to play its part, match our commitment to support inclusive economic growth for all Scotland and, crucially, develop a coherent and planned programme. By that I mean that it is not clear to me what role the UK Government wants to play in different parts of Scotland and it would be useful for us to know that before we proceed with any further deals.

I have given a clear picture of our plans. Our existing deals are delivering jobs and investment for Scotland. The £1 billion committed so far to city region deals is a clear signal that we respect the knowledge of regional partners, who are best placed to identify what is needed to unlock inclusive growth in their regions. The point is that the cities and their partners produce the proposals. Of necessity, we and the UK Government have to prioritise which of those we accept and support, but the cities come up with them in the first place; the proposals are not made by either of the two Governments.

We are also expanding our regional economic policy to go beyond city deals and we will support the creation of regional partnerships across the country. However, I want a clear commitment from the UK Government that it will work in partnership with us to deliver transformational city region deals for Stirling and Clackmannanshire, the Tay cities and the other areas that I have mentioned.

I have said repeatedly that I am willing to work with the relevant UK ministers to help to achieve the aspirations of the industrial strategy. To achieve that, I call on the UK Government to help to develop a co-ordinated approach to all of Scotland, including working with us in relation to all areas, including the Ayrshire regions, Argyll and Bute, Moray, Falkirk, the border lands and the islands. For my part and on behalf of the Scottish Government, I commit to working collaboratively with all our partners to ensure that we get the best deal for cities, regions and the whole of Scotland.

#### **Dean Lockhart (Mid Scotland and Fife) (Con):**

I thank the cabinet secretary for the advance copy of his statement. We welcome the continuing collaboration between the UK Government and the Scottish Government on the city region deals. Such deals represent an opportunity for transformational change in the regions that they cover. That is to be encouraged, because Scotland's economy continues to struggle under the Scottish National Party Government, as demonstrated in yesterday's economic figures, which showed growth of only 0.1 per cent for the second quarter.

Growth of 0.1 per cent might be good news according to the cabinet secretary, but I make it clear that it is not good enough for Scotland.

Official forecasts show that such underperformance under the SNP will continue in the years to come. Will the cabinet secretary therefore explain how the Scottish Government plans to use the city region deals to deliver higher levels of economic growth throughout Scotland? Will he clarify when the Government expects the heads of terms for the Stirling and Clackmannanshire and Tay cities deals to be finalised and what the level of investment from the Scottish Government will be in respect of those deals?

**Keith Brown:** It is astonishing that the Tories have crept back to their position of pretending that the UK Government has no role in the Scottish economy. It defies belief that people who are meant to have a level of intelligence about economic debate still cling to that position. Dean Lockhart famously held it when he declared before the previous gross domestic product statistics came out that it was all on the SNP's shoulders. Afterwards, when we had three times the growth of the UK, suddenly both Governments were involved. We are now back to only one Government being involved. When we have that level of myopia on the part of the Tories, we will not get the joint working that we need. I am thankful that some of their colleagues in the UK Government are a bit more economically savvy and recognise their role, hence the industrial strategy and the shared prosperity fund that have been announced.

I laid out some of the ways in which we hope to achieve economic growth through some of the measures that we have taken on the city deals. Those measures are varied, and it is fair to say that they are more varied in the later city deals. They developed over time.

We want the quantum and the timing of the Stirling and Clackmannanshire deal to be clarified as soon as possible, but both depend on all partners coming together—the councils that are involved, their partners, the UK Government and the Scottish Government. Nothing is agreed until it is all agreed. The UK Government has now introduced the stricture of trying to balance the deal as much as possible between reserved and devolved issues. It had no regard to that when it struck a deal with the Democratic Unionist Party, into which it put more than £1 billion for strictly devolved issues, but for city deals in Scotland, it will fund only reserved issues. Such funding helps to determine the quantum that is eventually agreed on and we are in the process of discussing that with the UK Government, Stirling Council and Clackmannanshire Council.

**Jackie Baillie (Dumbarton) (Lab):** I thank the cabinet secretary for providing an advance copy of his statement. There is much on which we can

agree. Scottish Labour believes that cities and regions are the engine rooms of growth. We welcome all city region deals and area growth deals and believe that regional partnerships are good.

However, I part company with the cabinet secretary on the state of our economy. Growth in the economy was only 0.1 per cent for the last quarter, which is not good news. I contrast that with the situation in the UK as a whole. Over the course of the year, growth in the Scottish economy has been less than 0.5 per cent, whereas the figure across the UK is 1.5 per cent. Although the employment growth that the cabinet secretary mentioned is welcome, it is predominantly in part-time, temporary jobs, many of the holders of which are employed on zero-hours contracts as part of the gig economy.

Because I feel that we can and should do better, I want to ask the cabinet secretary what percentage level of growth he thinks that the city region deals will deliver, how many jobs will be created, what constitutes success and how he will measure it so that we know what it looks like. Does he believe that the city region deals are a positive example of the pooling and sharing of resources across the UK?

**Keith Brown:** In response to Jackie Baillie's final question, if the money were allocated on an equitable basis, of course it would be a positive example, but given that the Government announced out of the blue that it would put more than £1 billion into one devolved part of the UK for strictly devolved purposes, it is evident that the money is not being allocated on a fair and transparent basis.

Of course it is good that we are working collaboratively. We have sought to do that and we will continue to do that, but different parts of the UK are not being treated in the same way, which is unfortunate.

In the preamble to her question, Jackie Baillie mentioned GDP. The simple fact is that, over the past six months, GDP has increased by 0.7 per cent in Scotland and by 0.5 per cent in the UK, so she was wrong in her general assumption.

**Jackie Baillie:** Growth in Scotland has increased by 0.5 per cent over the year.

**Keith Brown:** If Jackie Baillie would care to listen to what I am saying, she will find out that she was also wrong in what she said about part-time workers. In Scotland, part-time workers represent a smaller proportion of those in employment than is the case down south. In Scotland, there are more people who want to work on a part-time basis as opposed to people who have to do so than is the case in the rest of the UK. Jackie Baillie did not mention the fact that we have more

businesses in Scotland than ever before and that we have the second-highest level in the UK of foreign direct investment.

When the proposals on each of the city deals have come forward, they have included estimates of the amount of growth that they will generate and the number of jobs that they will create. Those figures will have to be aggregated when we get to the end of the process. At that point, we will be able to set out the sum total of the ambition that is encapsulated in all the deals that we do.

However, we are still some way from knowing how many deals there are to be and what the basis of those deals will be. For that reason, we need to get clarity from the UK Government on what its approach will be in Moray and in Argyll and Bute. Will it work with us in those areas? We have said that we are willing to do that; if the UK Government says the same thing, we can proceed.

**Bruce Crawford (Stirling) (SNP):** I very much welcome the cabinet secretary's statement and the Scottish Government's clear commitment to ensuring a successful outcome for the Stirling and Clackmannanshire city region deal.

Can the cabinet secretary provide me with an update on how effective the working relationship between Stirling Council, the Scottish Government and the UK Government has been and what the estimated timescale is for successful delivery of a deal that is vital for the future of the fabulous city of Stirling and its fantastic surrounding rural communities in Clackmannanshire?

It is a pity that Dean Shiels concentrated on political point scoring instead of talking up the Stirling city deal.

**Keith Brown:** It might have been a pity, but it was not a surprise.

In relation to the Stirling and Clackmannanshire city region deal, we have constructive relationships with the two councils involved. Some welcome flexibility has been shown. As I mentioned, the UK Government now seeks to concentrate on reserved functions, although it does not focus exclusively on them—there have been one or two exceptions. Given that that is the case, that sometimes creates a dilemma, not just for the Stirling and Clackmannanshire deal but for the Tay cities deal. We have said that we will not be too stringent in applying that to each constituent part of the area involved in the deal. We will not mind if one area has more of a reserved component than a devolved component, as long as the whole thing balances up across the city deal. We have made that suggestion. To his credit, the UK Government's Lord Duncan—or the blue baron, as he prefers to refer to himself—has

said that he is willing to support that approach. If so, a flexible approach can be developed.

As far as the timescale is concerned, we have in place what we need to proceed to a deal. I think that I am right in understanding that the UK Government feels that it has to make a statement before it will proceed further. We are ready to go, but I am not convinced that both councils are ready to go with their proposals, and I am not sure that the UK Government will want to proceed ahead of making that statement. It may well do that at the next opportunity that it has—it calls such things “financial events”. Nothing is holding us back from getting the proposals finalised. The sooner we can get on with this, the better for all concerned.

**Murdo Fraser (Mid Scotland and Fife) (Con):** In his statement, the cabinet secretary mentioned that private investment had been leveraged into the various city deals. Is he able to give us any figures for how much that amounts to?

**Keith Brown:** I can give a couple of examples; if the member wants more detail, I can write to him with that.

The biggest example would be the contribution that is made through the Aberdeen Harbour trust of around £400 million. We and the UK Government have supported that through some of the infrastructure works to maximise the benefit.

Such investment has been more of a feature of the later deals than it was of the earlier deals. We were not hugely involved in the development of the city deal although we committed £0.5 billion to it. It is fair to say that we and the UK Government came under quite a bit of pressure to include private sector partners, and we will continue to include them in future deals.

In the Stirling and Clackmannanshire deal, relationships have developed with private sector partners such as CodeBase, and we welcome that.

I would be happy to give Murdo Fraser the total for all private sector involvement but perhaps the biggest is the Aberdeen city deal, with Aberdeen Harbour trust putting in £400 million.

**The Presiding Officer:** There are 10 minutes left for 10 questions so I urge the cabinet secretary to be slightly briefer in his answers.

**Mark Ruskell (Mid Scotland and Fife) (Green):** City deals can be a strong driver for investment in low-carbon infrastructure and in the inclusive economic growth opportunities that come alongside that. Under the Edinburgh city deal, however, we saw proposals to support feasibility work on the Fife rail projects dropped. How will the Scottish Government ensure that the feasibility work on the St Andrews and Newburgh rail

reopenings is supported through the Tay cities deal, and does the cabinet secretary see opportunities to deliver feasibility work on the Stirling to Dunfermline route through the Stirling and Clackmannanshire deal?

**Keith Brown:** I will try to be brief, but I reiterate the point that we have to look at the deals that are proposed to us and decide which ones we will support. If the council does not put forward the projects that the member is talking about, they cannot be considered.

My colleague Humza Yousaf has already spoken about the different ways in which the Levenmouth rail link could be taken forward and he has addressed the chamber on the issue. As for the other deals that Mark Ruskell mentioned, whether it be St Andrews, or Alloa to Dunfermline, it is down to the councils to bring them forward. Even if they do so, we cannot guarantee to fund them, but we can guarantee to look at all the projects that are submitted.

**Liam McArthur (Orkney Islands) (LD):** I thank the cabinet secretary for early sight of his statement and welcome the confirmation of the ongoing discussions with the island authorities about a possible islands deal that I hope will address, among other things, the need for improvements to internal ferry services.

Can the cabinet secretary also confirm that the Scottish Futures Trust will continue to engage proactively with the island authorities on the development of the proposals? Will he also ensure that a specific official in his department is assigned responsibility as the primary point of contact for the island authorities within that process?

**Keith Brown:** I can say yes to both of those questions. The SFT engages with all local authorities when they express a need for support in relation to estate and other financial matters, and they will remain so engaged.

If it is not known already, there are two officials here in the chamber who are involved in all the city deals. I will make sure that the council and Liam McArthur are made aware of the named official.

**Gail Ross (Caithness, Sutherland and Ross) (SNP):** My constituents in Caithness, Sutherland and Ross have a perception that the Inverness city region deal is largely being used in Inverness, as opposed to supporting infrastructure and projects in remote and rural areas. What support does the Scottish Government give the local authority to make sure that the deal benefits the region as well as the city?

**Keith Brown:** I give Gail Ross the same caveat that I have given to other members. We look at the projects that the local authorities and their partners

bring forward. We do not seek to go behind them and propose projects.

On the point that Gail Ross has raised, I have two examples. The first is the investment in the Highlands deal for the science skills academy that will provide young people with state of the art teaching hubs for science, technology, engineering and mathematics subject right across the region. There is also the new innovative living project, which will deliver supported homes for people across the region.

Among other things, as Gail Ross knows, connectivity is a huge issue in the Highlands. Helping to realise Highland Council's ambition to be the best digitally connected rural region in Europe is behind some of the decisions that we have made about the digital projects that we are supporting in that deal.

**Pauline McNeill (Glasgow) (Lab):** Will the cabinet secretary confirm that the access link to Glasgow airport will be state of the art and that it will be delivered by 2025? Will he confirm whether he or the Minister for Transport and the Islands has met the new leader of Glasgow City Council to discuss the delivery of that project, which is key to the Glasgow city region?

**Keith Brown:** It might be helpful for Pauline McNeill if I lay out the basis on which the deals are made. They are made with support from the UK and Scottish Governments, but it is for councils and their partners to bring forward projects. We have a role in what is called the assurance framework in making sure that business cases are as robust as they can be.

There have been on-going discussions for many years on that issue that have involved me, both of my predecessors and the new and previous administrations of Glasgow City Council.

**Kenneth Gibson (Cunninghame North) (SNP):** I welcome the cabinet secretary's commitment to Ayrshire in his statement. Will he advise members what progress has been made in discussions with the UK Government regarding the delivery of the Ayrshire growth deal, which has the support of all three Ayrshire local authorities and the SNP Government, but requires £359.8 million from the UK Government to bring it to fruition?

**Keith Brown:** At the request of the three Ayrshire authorities—because they could not get a response—we asked the UK Government whether it wanted to be a co-partner in an Ayrshire growth deal. The response from the UK Government was negative. However, since that time, it has, somewhat out of the blue, supported the HALO Kilmarnock project, although to a lesser extent than the Scottish Government. As things stand, my understanding of the UK Government's

position is that it does not want to be part of the Ayrshire growth deal, although it might be the case that support is forthcoming for different projects through the industrial strategy.

Discussions on the deal between the Scottish Government and regional partners began earlier this year and we are currently working closely with those partners to understand their full ambitions for the deal.

**Brian Whittle (South Scotland) (Con):** I thank the Scottish Government for following the UK Government lead and matching its £3.5 million investment in the HALO project in Kilmarnock, which was in addition to the £1.8 million from the low-carbon infrastructure transition programme for the geothermal district heating system. Given that other projects in the Ayrshire growth deal are already approaching shovel readiness, and my discussions with the UK Government suggest that it is ready and willing to move to the next phase, it is clear that decisive action and formal commitment to invest from the Scottish Government would accelerate the process and demonstrate a meaningful commitment to the Ayrshire growth deal. Is the cabinet secretary prepared to quantify the financial commitment to the people of Ayrshire?

**Keith Brown:** I notice that there was no quantification of the deal that the UK Government is apparently on the verge of agreeing. If members were to ask the councils that are involved—certainly if they were to ask the Scottish Government—they would hear that the response from the UK Government has been, “No, we will not be part of an Ayrshire growth deal”. It would be interesting if the position of the UK Government is now being revealed by a Conservative back bencher in this Parliament.

I will be clear about the HALO Kilmarnock project: the Scottish Government put in £5.3 million, as opposed to £3 million. The reason that Brian Whittle can say that we “followed” the UK Government is because collaborative working broke down completely. A puerile attempt to get a headline led to the UK Government going ahead and announcing it before the due diligence was done, instead of working with the Scottish Government and giving a conjoined announcement. If the UK Government can stop playing such stupid games, I am sure that Ayrshire will benefit. *[Interruption.]*

**The Presiding Officer:** Will members behave, please? Colin Smyth—

**Bruce Crawford:** On a point of order, Presiding Officer. I am sorry—I thought that we had reached the end of the questions.

**The Presiding Officer:** Not quite yet. We will be a few more minutes. Colin Smyth, to be followed by Ben Macpherson.

**Colin Smyth (South Scotland) (Lab):** The cabinet secretary will be aware that local councils in the border lands—Dumfries and Galloway and the Scottish Borders in Scotland, and Carlisle, Cumbria and Northumbria in England—have been working together for some time to develop a border lands growth deal. Given the cabinet secretary’s comments in his statement about inclusive growth and his pledge to work closely with the UK Government, will he give a commitment today that the proposals for a border lands growth deal will be considered as part of the Scottish Government’s budget process this December, and will he encourage the UK Government to ensure that the proposals are considered as part of its budget in November, so that there is investment in the economy of the south of Scotland sooner rather than later?

**Keith Brown:** First, we have to see those proposals and have the chance to consider them. That is the only responsible thing that a Government can do.

We have said that we support the idea of a border lands deal but, if that were agreed, there would be the anomaly of the Scottish Borders having had two deals when other parts of Scotland have had no deals. That is what underlies my point about trying to get a bit of coherence.

We have said in good faith that we will look closely and sympathetically at the proposals that are made, but we have to have time to consider them. If we are about to make a financial commitment, people will expect that we do so on the right terms for the taxpayer. Our willingness to work with the border lands proposal is on the record.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** How will the Scottish Government’s investment in the Edinburgh and south-east Scotland city region deal benefit the whole area? In particular, how will it increase the housing supply?

**Keith Brown:** Given the shortness of time, I will focus on the last part of Ben Macpherson’s question. The commitments will include providing £50 million of investment and loans to unlock housing in seven strategic sites across the region, guaranteeing, on a risk-sharing basis, up to £150 million of investment to unlock up to 5,000 new homes in Winchburgh and supporting the City of Edinburgh Council to establish a new regional housing vehicle to deliver a minimum of 1,500 homes, with the Scottish Government committing £50 million capital grant and a consent to on-lend

up to £240 million real support for housing in Edinburgh.

**Bill Bowman (North East Scotland) (Con):** Will the cabinet secretary update us on the prospects for the decommissioning of North Sea oil and gas infrastructure being part of the Tay cities deal?

**Keith Brown:** Bill Bowman obviously knows the details of that. All I can say is that we are considering those details. There have been a number of proposals from different parts of the country in relation to decommissioning. I remind members that 90 per cent of decommissioning work comes to the UK, a large proportion of which comes to Scotland. Most of that is plugging and abandonment, and not so much the decommissioning of big rigs. However, we want that business too, so we will support initiatives that bring that business to Scotland.

**Richard Lochhead (Moray) (SNP):** The cabinet secretary referred to areas outwith the city region deals, and I welcome his comments on Moray. Will he update us on his recent meeting with Moray Council and elaborate on what steps have been taken to ensure that the UK Government coordinates with the Scottish Government so that there is no undue delay?

**The Presiding Officer:** Without too much elaboration, please, cabinet secretary.

**Keith Brown:** I met Moray Council—as Richard Lochhead mentioned—on 14 September. There has been a collaborative approach so far, but one thing that is fairly obvious is that when we get a list of things that are largely in the devolved sector, it limits the potential for a deal. If the UK Government wants to come on board, or if it wants to stick with reserved areas, the most balanced proposals are likely to get the greatest support. I have said to Moray Council that we are very happy to work with it and develop the proposals that it is working on. We hope that the UK Government will be a partner in that, too.

**The Presiding Officer:** I thank members for their contributions and the cabinet secretary for getting through all those points.

**Bruce Crawford:** On a point of order, Presiding Officer. I would like to put the record straight. I am obviously obsessed with Dunfermline Athletic Football Club. I referred to Dean Shiels earlier when I should have referred to Dean Lockhart. I apologise to Dean Shiels—[*Laughter.*]—and of course to Dean Lockhart.

**The Presiding Officer:** The point was noted by the chair. I think that the member was probably flattered to be compared to Dean Shiels.

## Wild Animals in Travelling Circuses (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (Christine Grahame):** The next item of business is a debate on motion S5M-08062, in the name of Roseanna Cunningham, on stage 1 of the Wild Animals in Travelling Circuses (Scotland) Bill.

15:03

**The Cabinet Secretary for Environment, Climate Change and Land Reform (Roseanna Cunningham):** I first thank the Environment, Climate Change and Land Reform Committee for its consideration of the bill. The committee took a great deal of evidence from a wide range of stakeholders and produced a very detailed stage 1 report, especially for such a short and concise bill. The Scottish Government has responded to the committee's recommendations and I would now like to explain what the bill will and—perhaps of equal interest—will not do, and why I am bringing the bill before Parliament.

The bill will, quite simply, make it an offence for a circus operator to cause or permit a wild animal to be used in a travelling circus in Scotland. There has been growing concern for many years about the use of wild animals in circuses. Although such circuses have not recently visited Scotland, they continue to perform in the rest of the United Kingdom and across much of Europe. The bill is a Scottish National Party manifesto commitment. Scottish Labour and the Green Party had similar commitments, as did the United Kingdom Conservative Party.

The bill will address the widespread concerns that led to these commitments by preventing travelling circuses from ever showing wild animals in Scotland in the future. It will also demonstrate to the wider world that Scotland is one of the growing number of countries that no longer condone use of wild animals in that fashion.

Previous concern about wild animals in travelling circuses focused on perceived animal welfare issues. In 2007, the Radford report, which was the product of extensive evidence gathering by a committee that was appointed by the United Kingdom Government, ruled out a ban on welfare grounds. By 2016, the academic Dorning and her colleagues considered that, nearly 10 years on, there was sufficient new evidence on welfare to support a ban. However, such evidence varies greatly according to the type of animal, and much work is focused on a few naturally wide-ranging animals—in particular, tigers and elephants.

However, when the Scottish Government began work on the issue we recognised that there are

much wider ethical concerns that apply to use of all wild animals in travelling circuses. The Scottish Government consultation in 2014 therefore asked specific questions about the potential for a ban on purely ethical grounds. The response was overwhelmingly in favour of a ban—98 per cent of respondents supported a ban on performance and 96.4 per cent supported a ban on exhibition. Many responses from individuals and organisations gave detailed replies to the ethical questions that were posed.

The bill seeks to address three main ethical concerns. The first is the impact on respect for animals. Most people now consider it outdated and morally wrong to make wild animals perform tricks that they would not perform naturally, and to display them in an unnatural environment simply to entertain the viewing public, thereby seeing animals as an entertainment commodity rather than as sentient beings.

The results of the 2014 consultation also showed that 89.5 per cent of respondents considered that the performances that are required of wild animals—not just their keeping—compromise respect for the animals concerned. In addition, more than 94 per cent of respondents considered that exposure to such acts has an adverse impact on the development of respectful and responsible attitudes to animals, particularly in children.

I am grateful for the additional engagement with young people that was undertaken by the committee, its clerks and the Scottish Parliament education service, and I welcome the results of the survey of young visitors to the Parliament. That survey showed that, of the 1,045 children and young people who were asked whether it should be an offence to use wild animals in travelling circuses, 81 per cent were in favour of a ban. That work echoes the results of the Scottish Government's recent survey, which was carried out in conjunction with Young Scot. The clear majority of young people who responded to our survey—80 per cent—were in favour of the prohibition.

The second area of ethical concern is the impact of the travelling circus life on wild animals. In response to the 2014 consultation, more than 90 per cent of respondents considered that the ability of wild animals to undertake natural behaviours is compromised in the travelling circus environment. Many people regard that as morally wrong, regardless of whether it can be proved that the animals suffer, because it compromises the integrity of their wild nature and, therefore, their wellbeing.

The third area of concern is the balance between ethical costs and wider benefits. I know that other types of animal use cause concern

about the environment in which the animals are kept, how far they are transported and what acts they are expected to perform. However, despite there being a range of individual views on the ethical challenges of other uses of animals, it is generally accepted that there are clear benefits to be obtained from conservation of exotic species and from food production. Those benefits are generally assumed to balance out the ethical costs.

A query was raised in the committee's report about why the bill addresses only travelling circuses. I believe that use of wild animals in travelling circuses is unique among all the uses. It is the only situation that raises significant ethical concerns in all three of the areas that I outlined. Other types of animal use could give rise to unease in one or two areas of ethical concern, but not all three.

The bill will not stop use in travelling circuses of domestic animals including dogs and horses, or use of wild animals in displays in static circuses and zoos and at public gatherings. Penguin parades at zoos, birds of prey demonstrations at fairs and reindeer displays will not be affected. The use of wild animals in television and film production will not be affected. The programme for government includes a commitment to develop new licensing requirements to protect the welfare of wild and domesticated animals that are used for public performance or display, which will address a number of those other uses. Those requirements will replace the somewhat dated Performing Animals (Regulation) Act 1925.

I would now like to address some of the issues that are raised in the committee's report. The committee is concerned about the definition of "wild animal". However, the definition in the bill is clear and easily understood, and has been at least since the Zoo Licensing Act 1981. The definition includes two parts: a requirement that an animal not be

"of a kind that is domesticated"

and, equally important, a requirement that it is not "commonly domesticated in the British Islands."

Even if a circus was to argue that, in its opinion, its lions or tigers had become domesticated across successive generations of use, such animals would still be caught by the ban because they are clearly not

"commonly domesticated in the British Islands."

Furthermore, I do not believe that including in the bill a definitive list of wild animals that are covered would be either proportionate or effective in addressing the aims of the bill. Nevertheless, I will seek to provide ministers with a power to create secondary legislation that is subject to

affirmative procedure in which particular kinds of animals can be classified as wild or commonly domesticated in the British isles, or not, for the purposes of the bill. That power could be used in a targeted manner in any unforeseeable cases of genuine doubt in the future.

The committee has also expressed particular concern about the definition of “circus” in the bill. An ordinary meaning allows for flexibility and common sense at both enforcement and prosecution stages. A specific definition is, by its very nature, frozen in time and risks, because of its rigidity, capturing or excluding unintended enterprises. It could also provide a clear signpost to the potential loopholes that would be caused by that rigidity. We must not be naive: listing the constituent parts would also lay out a path to circumventing the ban.

There is a common public understanding of what “circus” means. In the 2014 consultation, the respondents did not have any difficulty understanding the word, and it is the word that is commonly used in other legislation that covers similar areas. I strongly believe that the approach that we have taken is most likely to achieve the purpose of the bill.

In the meantime, my officials will continue to engage with stakeholders to draft guidance for the bill. That should, I believe, be sufficient to allay unfounded fears about the definition and the danger of it being misinterpreted to include what are clearly not travelling circus activities.

I hope that my opening remarks explain why we are taking forward this important, proportionate and simple bill. It seeks to prohibit a singular practice that is morally objectionable to the people of Scotland: it seeks to do no more and no less. A more detailed Government response is available for people to consider; I think that most committee members will have had it relayed to them earlier today.

I move,

That the Parliament agrees to the general principles of the Wild Animals in Travelling Circuses (Scotland) Bill.

**The Deputy Presiding Officer:** Thank you, cabinet secretary. I call Graeme Dey, convener of the Environment, Climate Change and Land Reform Committee, to speak on behalf of the committee.

15:13

**Graeme Dey (Angus South) (SNP):** I am delighted to speak in the debate on behalf of the committee. I thank the members of the committee for their efforts in producing the unanimous report on the bill, all the stakeholders who gave evidence, and the clerks to the committee.

The committee recommends to Parliament the general principles of the Wild Animals in Travelling Circuses (Scotland) Bill and is supportive of its aims. However, the committee believes that it will achieve those aims only if several key concerns are addressed. Let me explore the specifics of those concerns and react, in so far as I can do so, to the response to them that we have recently received from the Government.

The most significant of the concerns is about the definitions in the bill. It defines a “wild animal” as

“an animal other than one of a kind that is commonly domesticated in the British Islands.”

It also provides a definition of “domesticated”, stating:

“an animal is of a kind that is domesticated if the behaviour, life cycle or physiology of animals of that kind has been altered as a result of the breeding or living conditions of multiple generations of animals of that kind being under human control.”

The committee believes that it would be helpful if the definition of “wild animal” in section 2 was made clearer. The Scottish Government suggested in evidence to the committee that a flexible definition is appropriate, which was supported by some stakeholders. However, local authorities and circus operators feel that the classification of animals as domesticated or otherwise is open to interpretation.

Local authorities also suggested that there may be circumstances in which veterinary assistance would be required to classify an animal in order to ascertain whether an offence had been committed. Although the committee accepts that flexibility can be helpful in some circumstances, we do not believe that operators and local authorities should be in any doubt as to what would be considered a wild animal.

The definition of domestication was also the subject of debate in the committee’s consideration of the bill. People who oppose the bill suggested that animals living in circus environments could be domesticated—and therefore not covered by the bill—due to changes in their behaviour being developed through their having been reared in captivity, including when it had taken place over several generations.

Similarly, those who support the bill proposed that the definition be removed in order not to suggest that domestication could be achieved from captive breeding and rearing over time. The fact that such views exist persuaded the committee that further consideration might be worth while, in order to nail down what is and what is not a “wild animal”.

The committee also feels that the rationale behind omitting a list of animals that would be covered should be revisited by the Scottish

Government. The committee has suggested that such a list would provide clarity and could, if the processes are right, be updated to react to unforeseen circumstances.

I note the cabinet secretary's comments in her formal response to the committee, which she has repeated this afternoon. I welcome her willingness at least to explore the development of an amendment to provide a regulation-making power to include or exclude animals that become the subject of genuine doubt as to whether they are wild. Members will want to reflect on her wider response on that, in due course.

I will continue with the theme of definitions. Perhaps the biggest elephant in the room—I suspect that will not be last pun we hear this afternoon—was the omission of a definition of “circus”. Although a definition of what constitutes a “travelling circus” is included, it is undermined by the lack of a clear idea of what is meant by “circus”.

The bill has been introduced to address the public's ethical concerns about the use of wild animals in travelling circuses. The most recent such enterprise to visit Scotland that caused the public to express their views on the subject to the Scottish Government—a display, while they were wintering here, of lions and tigers from a show that contains only lions and tigers—would not, in the view of the committee, be covered by the bill. Similarly, the committee received several representations from stakeholders from both sides of the debate to the effect that any ambiguity would mean that the bill could apply to enterprises beyond those that it is intended will be caught by the bill, in particular due to the application of the ethical arguments for the bill to other animal acts.

The committee believes that the bill should be clear as to what acts will be covered. The committee heard evidence from Scottish Government officials suggesting that the term “circus” would be interpreted by courts using the “Oxford English Dictionary” definition, which includes references to elements such as “a circular arena” and “acrobatic” performances. The committee was also told that the omission of any one of those elements could mean that an act using wild animals would not be considered to be a circus. The ordinary or commonly understood definition was also advocated in evidence to the committee.

Not only does the committee believe that the bill's reliance on such a definition opens the door to its purpose being undermined, it also considers that approach to legislating to be unsatisfactory. The law should be clear for participants and for enforcers without the need for immediate recourse to legal challenge. Let me pose a scenario: let us say that a show containing only lions and tigers

was set up in a non-circular cage inside a major exhibition arena and no horses or acrobats were involved. Would that, beyond doubt, be captured by the bill?

The committee has recommended that a definition of “circus” be included in the bill. However, I welcome—as I am sure will the committee—the commitment to producing accompanying guidance with examples of what constitutes a circus, and to consider amendments that define “circus” without inadvertently capturing the likes of birds of prey displays or festive reindeer, or allowing circus enterprises to modify their offering in order to circumvent the ban.

The committee recommends that the accompanying guidance be ready as soon as the bill is passed so that there is no point at which legislation is in place without local authorities having supporting clarity. I hope that the cabinet secretary will confirm her intention in that respect, in due course.

Evidence to the committee suggested that the definition of “circus operator” should be extended to reflect the everyday hierarchies and employment scenarios that are at work in circuses. Having received the Government's response to the report only last night, members will want to take time to reflect on its comments on that.

Although definitions occupied most of the evidence that was received on the substance of the bill, local authorities also explored proposals on potential additional enforcement powers. The committee proposed that such powers should be considered by the Scottish Government. The Government has provided a detailed response on that, on which members—individually and, perhaps, collectively—will come to a view.

Representations were also made to the committee on the potential wider impacts of the bill on the entertainment industry. The committee received evidence suggesting that moves to restrict the use of wild animals in travelling circuses could have an impact on, for example, Scotland's attractiveness as a filming location. The committee has highlighted that evidence in its stage 1 report. The cabinet secretary has helpfully acknowledged the validity of such concerns, in as much as she will issue additional clarifying guidance reiterating that the bill is intended to capture only travelling circuses.

I have focused mainly on the substance of the bill, but I wonder, Presiding Officer, whether by way of conclusion I can turn briefly to the issue of further legislation on performing animals.

**The Deputy Presiding Officer:** Yes. We have a little time in hand.

**Graeme Dey:** On the day on which the bill was introduced, the cabinet secretary wrote to the committee to highlight the intention to review the operation of the Performing Animals (Regulation) Act 1925. Although that is welcome, there remain concerns about whether it was best to introduce the bill in isolation instead of including it as a part of more comprehensive approach.

Similarly, we sought assurances that at the end of the process there will be no gaps in clarity on whether the use of wild animals in static circuses is to be addressed. The detail that has been offered in response, indicating that new licensing requirements are planned to protect the welfare of wild and domesticated animals that are used in public performances and displays other than in zoos—which will cover static circuses—is again to be welcomed, as is the confirmation that a consultation will be undertaken and the affirmative procedure used for the subordinate legislation.

Finally, the committee believes that the decision to frame the bill based on an ethical basis has been difficult to justify, particularly in the light of evidence that would have supported a welfare-based approach. The committee does not question the value of the ethical arguments against the use of wild animals in travelling circuses, but it does not consider that they have been well utilised and, as I have stated, believes that the wisdom of what has been described as a “piecemeal” approach should be questioned. However, that does not detract from the fact—

**Roseanna Cunningham:** Will the member give way?

**The Deputy Presiding Officer:** I am sorry, cabinet secretary—the member must wind up now. [*Interruption.*] That is a fearsome look you are giving me, cabinet secretary, but I think that we really must move on. [*Interruption.*] Excuse me a minute—I am conferring with the clerk.

You may take a brief intervention, Mr Dey, but you will have to wind up very quickly after that.

**Roseanna Cunningham:** I would just like to ask my colleague whether he would seriously have preferred to have delayed all this for a number of years, because that would be the consequence of what he has just said.

**The Deputy Presiding Officer:** Briefly, convener.

**Graeme Dey:** As the cabinet secretary knows, I am reflecting the views of the whole committee, not just my own. I take her point on board, but that view was reached unanimously by the committee.

Regardless of what the report says, it does not detract from the committee’s support for the bill’s aims, and it looks forward to working with the

Scottish Government to ensure that the aims can be delivered as effectively as possible.

15:22

**Donald Cameron (Highlands and Islands) (Con):** I commend the committee’s report and the convener’s comments, which we have just heard. The Scottish Conservatives will support the Government’s motion, and I want to reiterate many of the points that the convener has already made.

However, before I do so, I feel it necessary to point out that it is customary for the Government to respond in writing to the committee’s report prior to the stage 1 debate. Such a letter arrived in my email inbox shortly after 9 o’clock this morning, but, with the greatest respect, I think that a 14-page letter containing detailed points and arriving a mere six hours or so before the debate is insufficient. The Government’s failure to give adequate notice of a position that committee members can analyse and scrutinise properly respects neither the committee nor the wider work of the Parliament. Given that the timetable to which we are operating on the bill is being driven by the Government, not the committee, having a stage 1 debate with only the committee report to go on and limited time to digest the Government’s lengthy response means, inevitably, that the debate itself is prejudiced. I, for one, have simply not had enough time in the course of the day to go through the Government’s letter in detail.

That aside, I want, first, to assure the chamber that the Scottish Conservatives are committed to the highest standards of animal welfare. We are clear that those who abuse and inflict cruelty on animals should be punished in accordance with the law. The Scottish Conservatives support a ban on the use of wild animals in travelling circuses on ethical and animal welfare grounds. We do not believe that the majority of the public are either comfortable or satisfied with that on-going practice, albeit that there is no evidence that such a practice is under way in Scotland at this time.

The Wild Animals in Travelling Circuses (Scotland) Bill was discussed at a committee meeting on 27 June. As I did not join the committee until after that date, I was not there in person, but my colleagues Finlay Carson, Maurice Golden and Alexander Burnett were present. At that meeting, the committee’s Conservative members made it clear to the cabinet secretary that, in tackling the welfare of wild animals in travelling circuses, the bill did not go far enough; it needed to tackle the welfare of animals in static ones, too.

Let me move on to the bill. We support the principles behind the bill, but I regret to say that it requires much improvement. Broad criticisms of

the bill include that it risks criminalising shows and events that have a good track record of animal welfare. Many examples of such events have been given, but they include reindeer at Christmas markets, falconry displays and llamas at the Royal Highland Show. This issue is a major concern across the country, but particularly for those of us who represent rural areas, where agricultural shows and Highland games are often part of the lifeblood of the summer economy. The cabinet secretary was trenchant in her views about that in committee and again today, but I venture that the bill does not give similar comfort.

I will concentrate on a couple of areas, the first of which is legal definitions. I can almost sense former colleagues in the legal profession rubbing their hands at the prospect of this legislation, given the issues of interpretation that the bill throws up in its present state. Strangely for a bill that is all about circuses, it does not define the word "circus". As the cabinet secretary said, there is sometimes sense in having a general, flexible definition, but I submit that there is not in this case. The bill defines "travelling circus", albeit that the word "circus" in that phrase is not defined. "Travelling circus" is currently defined as the public's perception of a travelling circus, which is vague, open to all sorts of interpretations and risks criminalising people who put on a show or event to which animals have to be transported. That leaves anyone who tries to comprehend the bill in great difficulty.

There is also an issue with the term "wild animal". The current definition of "wild animal" is an animal that is not "commonly domesticated" in the UK. Where does that leave reindeer from Scandinavia or llamas from South America, which would be classed as wild animals and might therefore be banned from being on show at public events?

Given those issues, I urge the Government to consider whether having a detailed list of defined species, which it could add to or subtract from at will through secondary legislation, would be a more sensible way forward. That might avoid some of the issues that my committee colleagues have mentioned and which I am sure others will go on to mention.

Unlike the Foreign Secretary, I will resist the temptation in closing to make reference to a roaring lion, but let me be clear that we accept that robust legislation must be in place to ensure that wild animals are properly protected. We welcome the creation of the offence and support the overarching principles of the bill, but it needs serious work before it is in a fit state to be enacted.

**The Deputy Presiding Officer:** Thank you very much, Mr Cameron. I hope that we have run out of

animal references, but we probably have not. I call David Stewart to open on behalf of Labour—have I just sabotaged something?

15:27

**David Stewart (Highlands and Islands) (Lab):** Thank you, Presiding Officer. I rise to speak in support of the general principles of the bill. However, a number of recommendations that have been proposed will, in my view as a member of the Environment, Climate Change and Land Reform Committee, improve the bill at stage 2. Like Donald Cameron, I have only just received the cabinet secretary's response to the committee's recommendations, so I have not had the opportunity fully to assess the Government's potential position at stage 2. Nevertheless, other members have referred to a number of key strands, including animal welfare versus ethics, the scope of the bill, definitions and enforcement.

Animal welfare organisations such as the well-respected OneKind believe that there are strong animal welfare justifications for a ban on the use of wild animals in travelling circuses. In its public petition to the Parliament, OneKind stated:

"A travelling circus combines a number of specific characteristics (including extreme confinement, frequent transport and relocation, and training for performance) which create an environment where the needs of wild animals cannot be met. This combination is not found elsewhere, even in zoos where wild animals are kept captive. It increases the risk of stress and, in some cases, ill-treatment of the animals, and makes effective inspection and regulation very difficult."

Investigations into UK circuses in recent years have documented shocking examples of severe habitual abuse of animals. For example, in 1999, individuals from Chipperfield's Circus were found guilty of cruelty to a chimpanzee and an elephant, and in 2009, Animal Defenders International filmed the beating of elephants prior to performance at the Great British Circus.

Earlier this year, a further exposé by the same organisation showed an aged arthritic elephant named Anne being repeatedly beaten and abused by a member of staff in the Bobby Roberts Super Circus. Video footage also showed a camel being spat at while tethered in its stall. Both of those animals have now been rehomed. Prior to that, however, they were regularly brought on tour to Scotland. The elephant was too ill to perform traditional tricks but was used for photographs in the circus ring, and the camel was also exhibited after performances.

Around half of Scottish local authorities have a policy of not letting public land to circuses with wild animals. However, the same circuses were shown to have used wild animals in defiance of specific

licensing or a licence condition that was imposed by some councils.

Since the time of the public petition, an authoritative review of the animal welfare issues—by Jo Dorning and others—has been published by the Welsh Government, and was referred to several times during evidence that was given to our committee.

In its 2014 consultation, the Scottish Government acknowledged the strength of public concern about animal welfare and the strong body of opinion that the animals' five welfare needs, as set out in the Animal Health and Welfare (Scotland) Act 2006, could not be catered for in relation to wild animals in a travelling circus environment.

Other members have talked about definitions, and I want to say a little about that issue as well. The Scottish Government's position is that anyone enforcing the legislation would know what a circus was and that the courts would be well placed to interpret that if there should be any doubt. However, I note the points that were made by local authorities regarding enforcement activities, where the court process is only the culmination of the process. Council officers need to have a clear basis for initiating action and must feel confident that the legislation is applicable before they act.

The discussion in the committee referred to the "Oxford English Dictionary" definition. However, that could cause confusion to anyone who was seeking to rely on Scottish Parliament proceedings for an interpretation. Under the circumstances, I endorse what the convener said about the necessity of including in the bill a definition of the word "circus".

The definition of the term "wild animals" in the Dangerous Wild Animals Act 1974 provides an interesting starting point, but it would require refinement. The bill's current definition of "wild animal" refers to an animal that is not

"commonly domesticated in the British Islands",

which accords with the existing definitions in the Animal Health and Welfare (Scotland) Act 2006 and the Zoo Licensing Act 1981. However, the definition of "domesticated" in section 2(2) is unclear and requires amendment. Domestication is a process that takes hundreds or thousands of years, and that is not reflected in the concept of "multiple generations of animals".

I am conscious of time, so I close by saying that local authorities need to be resourced to deliver on their animal welfare powers or they will not be able to use them effectively.

I believe that the bill is a step in the right direction for animal welfare. I urge the Scottish Government to make improvements to the bill at

stage 2, reflecting the recommendations of the Environment, Climate Change and Land Reform Committee. However, I support the general principles of the bill.

**The Deputy Presiding Officer:** We come to the open debate, and I ask for speeches of four minutes. One member who is due to speak has forgotten to press their request-to-speak button—I will not name them.

15:32

**Emma Harper (South Scotland) (SNP):** I am a member of the Environment, Climate Change and Land Reform Committee, which is responsible for scrutinising the bill, and I thank the members, the clerks and everyone else who has been involved for the work that they have done.

The Scottish Government has put forward an argument for a ban on wild animals in travelling circuses, using ethical grounds. That is outlined in the policy memorandum, and I support the Scottish Government's bill. Today, I will focus on the ethical arguments.

The three areas that it has been suggested have ethical implications are the impact of travelling environments on an animal's nature or behaviour; respect for animals; and the ethical costs versus the benefits. There is also the argument that of the five freedoms, which were developed by the Farm Animal Welfare Committee, the fourth and fifth freedoms—the

"Freedom to Express Normal Behaviour"

and the

"Freedom from Fear and Distress"—

are where the ethical concerns lie.

In considering the impact of the travelling component of the circus, we must consider the stress and trauma to the animals of being coerced out of the environment that they are normally in and being loaded into a vehicle, which is a strange, alternative environment, and the further stress and fear of the travelling itself—the movement, the vibration, the noise, the lights and the smells. Mike Flynn of the Scottish Society for the Prevention of Cruelty to Animals stated in evidence to the committee that the loading and unloading of animals was the issue that caused the stress. The requirement to secure animals, especially big cats, to keep the animals safe—and to keep the public safe from any potential escape—is also a concern.

I struggle to see how any of that could satisfy the animal's need for

"Freedom to Express Normal Behaviour"

and the

“Freedom from Fear and Distress”.

The ethical concern around respect is whether it is right and respectful to coax, coerce, train and tame wild beasts to perform for human entertainment or amusement. It is not normal behaviour for wild animals to perform for humans under the direction of another human.

I asked the cabinet secretary whether it is

“just time that we stopped having wild animals, such as tigers and lions, in circuses”.—[*Official Report, Environment, Climate Change and Land Reform Committee*, 27 June 2017; c 8.]

That is the third aspect that I will speak about today, with that same question: is it time? There was a time, about 100 years ago, when a wee lass who grew up in Stranraer, like I did, would have no way to see wild animals, such as lions or tigers, except for something like a travelling circus. There was no television or internet; there were no David Attenborough DVDs. That is no longer the case in 2017. I struggle to see the potential educational benefits outweighing the ethical costs.

There is already a history of displays or exhibitions in circuses being stopped on ethical grounds. We no longer display “Siamese twins”—conjoined twins—in circuses. We no longer exhibit “The Wolfman” or “The Bearded Lady”—that is a medical condition called hypertrichosis. We no longer display persons with birth defects such as Joseph Merrick, who was known around the world as the elephant man. There was a time when people like him were displayed in travelling circuses for the amazement, amusement and entertainment of paying customers, but, eventually, the time came when that archaic practice was no longer acceptable ethically.

I welcome the bill—I get the ethical argument and I get the fact that restricting the freedom to exhibit normal behaviour, which is what happens in a travelling circus environment, is not ethical, whether the animal is a lion, tiger, elephant or any other wild animal. Wild animals should not be tamed, trained or otherwise coerced to perform for the amusement of human beings. It is unethical and it is time to stop it. Nineteen countries have already implemented a ban.

**The Deputy Presiding Officer:** I am afraid that you must conclude now.

**Emma Harper:** I will conclude, Presiding Officer. Nineteen countries have already banned it, so it is time for Scotland to lead the way for the rest of the UK.

**The Deputy Presiding Officer:** Sometimes I do not win. [Laughter.]

15:37

**Peter Chapman (North East Scotland) (Con):**

The debate is about wild animals, so for once I do not need to declare an interest. [Laughter.] To be honest, when I am in a pen with a newly calved coo, I sometimes think that I would be better off with a lion.

I wonder why the bill is being pushed through Parliament, as Scotland has not seen a travelling circus that uses wild animals for many years; there is no possibility that we will see one any time soon. Nevertheless, I welcome the bill and I support the principle that a circus should not be allowed to use wild animals as performance pieces. However, although I welcome what the bill is trying to do, there are far too many loopholes and a lack of clear definitions. It is poorly drafted and simply not fit for purpose.

One of my main concerns is that the current bill might criminalise shows and events that display animals yet have a good record of animal welfare and are ethically sound—many local businesses might be concerned. The Ythanbank reindeer park at Ellon allows children to visit Santa’s real reindeer during the festive season. In May, alpacas from a farm in Fife travelled to the University of Dundee for students to visit in a destressing exercise to emphasise the importance of maintaining good mental health. Will all those travelling and seasonal events be impacted by the bill? Unless it is amended and more detail and clarity are provided on its poorly defined terms and what a “wild animal” is, all of those events are at risk.

The bill defines a “wild animal” as

“an animal other than one of a kind that is commonly domesticated in the British Islands.”

That is open to interpretation. The Royal Society for the Prevention of Cruelty to Animals defined wild animals used in circuses when it stated:

“Some circuses in Britain currently tour with wild animals, including zebras, lions, snakes, tigers and camels”.

I believe that the Scottish Government has a duty to take note of that and to list the animals that the bill seeks to protect. The bill should not be subject to interpretation. It needs to be much more clearly defined.

The bill provides no clear definition of “travelling circus” either, leaving it open to debate and the public’s and laymen’s perception of a travelling circus. Again, that is not something that should be subject to interpretation. There is no mention of static circuses, which is yet another loophole that would see the bill failing animals if a static circus were set up in Scotland.

The bill fails to address the issue of transportation. There is nothing in it to stop

travelling circuses moving through Scotland, as long as they do not perform. For example, they could travel through Scotland to get a ferry to Ireland.

I agree with the committee that the bill as drafted does not fully address the issues that it is supposed to cover and is at risk of capturing animal performances and shows that it might not be intended to capture. It is vital that the Government addresses those issues.

It is the Government's job to introduce clear legislation that does what it sets out to do, not legislation with loopholes and definitions that are subject to public perception—that is lazy and unacceptable. The Government needs to do better for the clear benefit of the animals that it wishes to protect.

15:41

**Clare Adamson (Motherwell and Wishaw) (SNP):** As an elected parliamentarian and councillor, I have been pleased to make links over the years with the Scottish Showmen's Guild. On a number of occasions, I have attended their annual lunch to hear about their history, traditions and commitment to the entertainment of our communities. On one occasion, I was thrilled to discover that the grandfather of my host had been a lion tamer in London. I say "thrilled" because it conjured feelings of the unexpected, the bizarre, the amazing and the exotic. As the granddaughter of a steelworker, I was suddenly within touching distance of a romantic, dangerous, alien history and a lifestyle that I knew of only from my story books and imaginings as a child, but which was so real for the families of the Showmen's Guild. I pictured Mucha-esque billboards with ringmasters in fabulous redder-than-red jackets, cartoon-like strongmen and exotic animal displays—images that are memories of a thankfully bygone era.

At a Showmen's Guild fair today, someone would not even find a goldfish in a bag as a prize. That was another era, and our values have changed, as my colleague Emma Harper so eloquently outlined. Modern society no longer has a taste or tolerance for the thrills and exhibits of the past. Documentaries such as "Blackfish" have altered our views on the display, captivity and ethical use of animals.

I am not a member of the committee, but I thank it for its substantial work on the bill at stage 1 and I am delighted that it supports the general principles. I would like to drill down into one area that the committee examined, which is the meaning of "wild animal". It is extremely important that we get that right.

My interest in the area comes from the work of Russian geneticist Dmitry Belyayev. He

hypothesised that the anatomical and physiological changes seen in domesticated animals could be the result of selection based on behavioural traits. He conducted an experiment on silver foxes over 40 generations. Animals were selected for the breeding process based on temperament and there was a control group. He rated each fox's tendency to approach an experimenter standing in front of its home pen, as well as each fox's tendency to bite or be aggressive towards the experimenters. They were able to breed out aggressive and fearful traits and change the foxes by selecting fewer than one fifth of them for breeding.

There were changes to the appearance and behaviour of the animals that were bred to be domesticated. They wagged their tails and they were happy or excited to see people. Further, their fear response to new people or objects was reduced. The first physiological change detected was in the hypothalamic-pituitary-adrenal axis. That system is responsible for the control of adrenaline, which is a hormone that is produced in response to stress and controls fear-related responses. The domesticated foxes had significantly lower adrenaline levels.

I give that example to the chamber because it explains domestication and informs us about what it—as opposed to training—means. To my mind, genetic and biological changes that took hundreds of thousands of years to make in domesticated breeds such as dogs cannot possibly have been made in animals—such as those held in circuses—that have not been selectively bred from a very small group. They are wild animals, and should be considered as such.

15:45

**Colin Smyth (South Scotland) (Lab):** Presiding Officer, as your deputy on the cross-party group on animal welfare, it is a privilege to speak in a debate that I hope will take Scotland a step forward in ending the cruelty and distress that are inflicted on animals in travelling circuses. Later today, I hope that we will be unanimous in our vote to approve the principles of the bill, so that we can progress to more detailed consideration and—crucially—amendment.

This week saw the birthday of one of the greatest practitioners of non-violence: Mahatma Gandhi. He did not distinguish who he included in that non-violence, and he once said:

"The greatness of a nation and its moral progress can be judged by the way its animals are treated."

There is nothing great about the treatment of animals in a travelling circus, from either an ethical or an animal welfare point of view. The animals are faced with cramped and restrictive

accommodation, without the space to recreate their natural behaviour, to explore, to socialise and to find food as they would in the wild. From stress, to ligament damage, to disease, the behavioural, psychological and physical impacts that such conditions have on the animals are clear, as is the impact of the work that they are forced to do in order to perform. So-called tricks are learned through intensive training and there are many well-documented instances of trainers using abuse and negative reinforcement.

The performances themselves, in the presence of human audiences, often cause distress to the animals. I am sure that we are all aware of examples of that in our constituencies and regions, and—I say this for the benefit of Peter Chapman—not that long ago. Although I did not attend, I remember the Bobby Roberts Super Circus touring Dumfries and Galloway with its aged, arthritic elephant, named Anne, who was mentioned earlier by David Stewart. Having been taken from the wild in Sri Lanka, Anne was used for entertainment for more than 50 years, right up until 2011, when her last trick was to stand and pose for photographs with audience members for £5 a time, before she was eventually rehomed after protests at the appalling treatment that she received. That example shows that existing regulation or monitoring of the industry did not and does not work and that, without a full ban, the mistreatment of animals such as Anne is inevitable.

That is a view that appears to have overwhelming support. Public consultation on the bill showed that 98 per cent of respondents supported a ban on travelling circuses keeping wild animals for performance and 96 per cent believed that a ban is the only way to end such cruelty. Respondents were clear in their comments about the physical and psychological cruelty to which animals are subjected, describing it as “archaic” and “barbaric”.

The bill is a positive step towards relegating that cruelty to the history books. However, I very much commend the work of the Environment, Climate Change and Land Reform Committee in highlighting problematic definitions, potential loopholes and, ultimately, the need for the bill to be strengthened, and I welcome the 20 recommendations in its report. In particular, I echo the committee’s calls for the bill to include a list, which can be easily updated and amended, of animals covered by the legislation, to ensure that ambiguity over the distinction between domesticated and wild animals does not prevent the bill from working as intended.

I also reiterate the importance of not only making enforcement of the bill statutory, but taking steps to ensure that local authorities have the

resources to enforce it. Council officials expressed to the committee their concerns about the practicality of enforcement, and Mike Flynn of the SSPCA expressed his doubt over whether enforcement powers would be used. The discretionary aspect of enforcement should be removed, but if the burden of enforcement is to be devolved to local authorities, they must also receive the necessary resources.

I hope that the Scottish Government will accept the changes to the bill that the committee has proposed, so that we will have a thorough and robust ban. I understand that the Government has now responded to the committee, but that that was only a few hours ago. I point out to members who are not members of the committee that we have not yet seen that response.

The bill is a step in the right direction for animal welfare but, in all sincerity, it is one that is badly needed. The failure of the Government to ban electronic shock devices or to consult on a ban on snaring, and its recent decision to reintroduce tail docking, together with concerns that it will not go beyond Lord Bonomy’s recommendations and ensure a proper ban on hunting, all seriously undermine its credibility when it comes to animal welfare. We badly need steps such as the bill if our “moral progress” as a nation is indeed to be judged in a positive light.

15:49

**Mark Ruskell (Mid Scotland and Fife) (Green):** As a member of the Environment, Climate Change and Land Reform Committee, I join the convener in thanking all the stakeholders who gave evidence and the clerks, who did a great job in herding the evidence into another excellent report for the committee.

This should be a victorious moment, because banning wild animals in travelling circuses is absolutely the right thing to do on both ethical and animal welfare grounds. Emma Harper really nailed the ethical argument in her speech. Green MSPs will back the bill at stage 1.

I moved an amendment to the Animal Health and Welfare (Scotland) Bill more than a decade ago that would have introduced a ban but, at the time, it was supported only—curiously—by SNP members. A ban is long needed and long overdue.

However, what should be a moment of celebration about the Wild Animals in Travelling Circuses (Scotland) Bill feels more like a headache because of some of the poor drafting. Many of us on the committee who started with very different positions on the bill have ended up sharing some of the same grounds for concern.

Let us take two of the most fundamental definitions. What is a “circus”? What is a “wild animal”? In evidence to the committee, the Scottish Government officials said that if it looks like a circus, walks like a circus and talks like a circus, then it is a circus. They also said that we should not expect people to “overthink” the definition of a circus—except, of course, that there are people who are paid exactly to do that, called lawyers.

We heard from a witness with a performance act with lions and tigers. He certainly talked like a circus when he gave evidence to the committee, but no one can tell him whether he would be a circus under the bill because he does not have a tent or clowns. Simply leaving it for the courts to decide is not good enough.

On the definition of “wild animal”, again, there needs to be much more clarity. The word “domesticated” is unhelpful and could be used by circus operators to argue that animals that have evolved over millions of years in the world are actually domesticated because they have lived in captive training environments for several generations. Certainly the taxonomy required to add a list of wild animals to the bill would not be too hard—a list would not have to name every individual wild animal on planet earth.

Given that more than a decade has passed since the wild animals in circuses issue was raised, I am perplexed about why the Scottish Government has not followed the Welsh Government route of updating legislation for all animal performances—of which travelling circuses are just one type—at the same time. That would have addressed the problem that the bill has in targeting the plight of wild animals in travelling circuses while simply ignoring those in static circuses.

We heard contradictory evidence from the cabinet secretary about the importance of the travelling environment being an ethical concern rather than an animal welfare issue, which had us, quite frankly, chasing our tails. Surely it would have been better to bring in a proper framework that places animal performances into categories that see them banned, regulated further or left alone.

The ethical basis for the bill was based on circuses being the top public concern, but no consultation or polling was conducted to understand the public’s view on greyhound racing, for example; yet those and many other types of animal performances raise ethical and welfare questions of varying degrees that need to be addressed.

The Government has much to do to make the bill look like a ban, walk like a ban and talk like a

ban. I look forward to amendments being introduced at stage 2.

15:53

**Liam McArthur (Orkney Islands) (LD):** I thank Graeme Dey and his colleagues on the Environment, Climate Change and Land Reform Committee for the work that they have done.

I recognise the overwhelming support in favour of a ban on the use of wild animals in circuses, and the Liberal Democrats will gladly support the bill’s general principles later today. We welcome the bill but, as many others have identified, we believe that there is room and considerable scope for improvement of it. The committee has helpfully highlighted a number of those areas.

The cabinet secretary reiterated the ethical basis for the ban. There are clearly ethical reasons for such a ban, but the committee is right to raise awareness of the shortcomings of that approach. Furthermore, the ethical basis is difficult to justify in the light of the evidence, which supports a welfare-based approach.

The British Veterinary Association has reminded us that the welfare of animals in circuses is emblematic of how we treat all animals that are under the care of humans. At stage 2, when the detailed scrutiny of legislation gets under way in earnest, considerable work has to be done in that regard. Similarly, notwithstanding the points in the cabinet secretary’s speech, more work is needed to address the ethical and welfare considerations that arise from the use of wild animals in static circuses—Mark Ruskell and others picked up that point.

The Scottish Government relied on the premise that ethical objections to the use of wild animals in travelling circuses do not apply to the same extent to other types of animal performance or display. The cabinet secretary may be justified in that assertion but, to date, not enough evidence has been set out clearly or compellingly.

The problem to which colleagues on the committee have drawn the most attention, as anyone who reads the committee’s report will see, is with the definitions of “circus”, “circus operator” and “wild animals”. In her opening speech, the cabinet secretary sought to offer reassurance on those definitions again but, at the moment, it looks as if the bill will open up a bit of a paradise for lawyers rather than provide suitable and appropriate protection for animals in circuses.

It is critical that we get the definitions right, not least—as David Stewart and others emphasised—because we need to ensure that local authorities, which will be left to enforce the new restrictions, have the clarity that they require. We do not want

decisions to be challenged in court, and the matter will fall to local authorities in the first instance. Whether the issues should be dealt with in the bill or in subsequent guidance, most of the work that needs to be done at stage 2 will focus on them.

The bill and the proposals that it seeks to introduce are welcome. They reflect our values as a society and the importance that we attach to the high standards of animal welfare that we want to see. I look forward to supporting the bill's general principles at decision time.

15:56

**Angus MacDonald (Falkirk East) (SNP):** As a member of the ECCLR Committee, I am pleased to contribute to the debate, not least because it is a further step towards Scotland leading the way for the rest of the UK in tackling the important ethical issue of the use of wild animals in travelling circuses. It is also welcome because the use of wild animals in circuses has been the subject of deliberation by campaigners for decades, with part of the existing framework dating back to the Performing Animals (Regulation) Act 1925.

The cabinet secretary alluded to this but, for the record, it should be noted that the UK Government announced in March 2012 that it would

“bring forward primary legislation at the earliest opportunity to ban circuses from using wild animals on ethical grounds.”

However, as of this year—more than three years after the initial offer of a joint UK bill—no date had been set for a bill to be introduced in the UK Parliament, so the issue seems to have gone off the UK Government's radar.

We have heard contributions from members that covered a number of issues, including the need to tighten definitions—particularly the definitions of “travelling circus” and “wild animals”. The ethical and welfare arguments have also been well aired. I will concentrate on enforcement and the need to support local authorities in their enforcement duties.

In its stage 1 report, the committee expressed the view that enforcement powers in the bill could go further, particularly given the evidence that we took from local authorities, which called for additional powers to intervene to prevent shows from taking place. The bill does not make it a statutory duty for local authorities to enforce the powers, so enforcement will, in effect, be discretionary.

I have some difficulty with that, and I wonder what the point of introducing the bill is if it will not remove the discretionary element of the local authority enforcement powers. However, I welcome the assurance that the cabinet secretary

gave in evidence to the committee that any non-enforcement of the bill by local authorities could be solved by ministers appointing their own inspectors. As she told the committee,

“The bill also allows Scottish ministers some flexibility to appoint inspectors, so it will not be up to local authorities alone to do that. There is a power in the bill for ministers to appoint an alternative inspector if we think that certain local authorities are not enforcing this legislation.”—[*Official Report, Environment, Climate Change and Land Reform Committee, 27 June 2017; c 13-14.*]

That would be fine if we were not dealing with travelling circuses but, as it says on the tin, they travel, so there is every possibility that, by the time a Scottish Government-appointed inspector was alerted to a local authority's non-enforcement, the travelling circus could have moved on. I therefore urge the cabinet secretary to re-examine the issue and consider removing the discretionary element of the local authority enforcement powers.

In addition, guidance is proposed to support local authorities in their enforcement duties. Given the importance of that document for interpretation, the committee considers that it should be available to councils as soon as the bill is enacted, if it is passed.

I look forward to further consideration of the bill at stage 2 in the hope that we can get it right by the time it reaches stage 3, so that, once enacted, it will enable the ban on wild animals in travelling circuses to be put into effect immediately. Implementation of the ban should be accompanied by the issuing of the appropriate guidance, which the committee has called for.

16:00

**John Scott (Ayr) (Con):** I declare an interest as an honorary member of the British Veterinary Association.

The Scottish Conservative Party and I welcome the bill's general principles. I know that the British Veterinary Association, OneKind and others have campaigned for a ban on the use of wild animals in travelling circuses for many years, as they and we believe that the needs of non-domesticated wild animals—in particular, their accommodation needs and their need to express normal behaviour—cannot be met in a travelling circus.

For the time being, Scotland's legislative benchmark is the Animal Health and Welfare (Scotland) Act 2006 and the five welfare needs of animals that it details. In this stage 1 debate, we seek to build on that position. That said, we note the 2007 review by the Department for Environment, Food and Rural Affairs, which found that there was a lack of evidence to support a science-based ban on the use of wild animals in travelling circuses. On the other hand, we note the

scientific review that was carried out for the Welsh Government post-2007, which concluded that

“captive wild animals in circuses and other travelling animal shows do not achieve their optimal welfare requirements”.

Although it is surprising that we in Scotland are relying on work that has been carried out elsewhere in the United Kingdom to support the bill, that is probably because no wild animals in travelling circuses are visiting Scotland at the moment and none is likely to do so in the foreseeable future.

The ethical case for the bill has, at best, been poorly made by the Scottish Government, notwithstanding Emma Harper’s valiant attempts to make it. It is much easier to make the case for such a ban on animal welfare grounds, and the Government’s response to paragraph 130 of the stage 1 report tacitly acknowledges that it would be much more sensible to take forward the bill on welfare grounds.

We must seek to improve the bill to make it fit for purpose, which it currently is not. As others have said, the term “travelling circus” must be properly defined, and I welcome the Government’s intention to provide a guidance note for the bill that will

“include guidance and examples around the definition of circus.”

I also welcome the Government’s willingness to consider appropriate amendments of the definition, although I might leave that possibility to finer legal minds than mine, given the parameters that the Government has set for its acceptance of such amendments.

In addition, a list of wild animals should be provided in the bill. It need not be exhaustive, but it should be indicative and it should be able to be added to or subtracted from by statutory instrument, as appropriate, over time. I note and welcome the Government’s response to that suggestion, but I nonetheless urge it to lodge an appropriate stage 2 amendment to create a list of wild animals.

When there is an opportunity for principles, policy and definition to be expressed clearly in any bill—not just this one—the opportunity should be taken and as little as possible should be left to subordinate legislation. My recollection is that the cabinet secretary adheres to that view.

Local authorities need clear guidance on the enforcement duties that will be expected of them under the bill, so I welcome the Government’s response to paragraphs 315 and 320 of the report. In particular—unlike my colleague Angus MacDonald—I welcome the level of discretion that it is intended will be given to local authorities and I

welcome the intention not to overburden local authorities with potential extra expenses.

We support the general principles of the bill, but there is still much work to do to make it fit for purpose. The Scottish Conservative and Unionist Party will, of course, work constructively with the Scottish Government and others towards that goal.

16:05

**Kate Forbes (Skye, Lochaber and Badenoch) (SNP):** It is great to have this debate in the chamber after lengthy discussions in committee. We spent a number of hours taking evidence on and discussing the bill—I can only presume that those who watched the live stream were tempted to whistle a mash-up of “Old MacDonald Had a Farm” and “In the Jungle” as we talked about sheep, cows, reindeer, llamas, camels and even, courtesy of Emma Harper, ligers.

To move on to the serious matter of the debate, it is clear that there was in the committee and continues to be in the chamber unanimous support for the principles of the bill. When the bill is passed, Scotland will lead the way for the rest of the UK in tackling the important ethical issue of the use of wild animals in travelling circuses.

I am pleased to follow a number of excellent speeches. In highlighting their support for the bill and noting areas where they feel that it could be strengthened—particularly around definitions—others have said much of what I might have said. To avoid going over the same ground, I will go back to basics and, as the last speaker in the open part of the debate, remind members why we are here in the first place.

I recognise the work of Mark Ruskell and others when a similar ban was proposed 10 years ago, and I agree with Liam McArthur that a ban on the use of animals in travelling circuses and our discussions around the issue reflect our values as a society.

The unanimity in the chamber reflects the broad consensus among the public around a ban on the use of wild animals in travelling circuses. In early 2014, the Scottish Government conducted a public consultation on the use of wild animals in travelling circuses in Scotland in order to identify ethical concerns and gauge public support for—or opposition to—a Scottish ban.

It is probably fair to say that the use of wild animals in travelling circuses has caused discomfort to many people for many years, including those who actively fight for animal welfare and those who have respect for animals. The majority of respondents to the consultation supported a ban: 98 per cent supported a ban on

performances by wild animals, and 96 per cent supported a ban on the exhibition of wild animals.

However, I accept that the consultation is not the main reason why the bill is before us today. I remind members of the three ethical arguments for introducing the bill. The first is the impact on our respect for animals that are forced to do unnatural tricks and acts for public entertainment that cause them harm. The second is the impact on wild animals of travelling environments, in which they are kept in temporary mobile accommodation for long periods and transported over long distances. Finally, there are the ethical costs and benefits—in other words, the weighing up of whether the ethical challenges, which are probably fairly obvious to us, had any benefit. When the benefit was seen to be minimal, it was deemed that we should introduce legislation to bring in a complete ban.

It is also important that we assure circuses, other shows and events more generally that the bill should not be a threat to their work or to entertainment services. I have been contacted by constituents—they know who they are—seeking confirmation that the bill will not affect the good work that they do. It is vital that we assure those who do not display wild animals and whose work does not constitute a travelling circus that they can continue to provide excellent entertainment services.

I am delighted that the bill will see Scotland leading the way in tackling the important ethical issue of the use of wild animals in travelling circuses.

16:09

**Claudia Beamish (South Scotland) (Lab):** Yesterday was world animal welfare day. As we have heard this afternoon, we should all work together to sharpen the bill and to develop further protections for the future.

OneKind reminds us that bans have already been introduced in at least 34 countries around the world, including 19 European Union member states. It says that banning the use of wild animals in travelling circuses in Scotland is a forward-looking and progressive act that will lead the way for the rest of the United Kingdom, and it urges members to support the bill at stage 1.

Although the ECCLR Committee and Scottish Labour support the bill's principles, as members have said, its present form has necessitated a significant amount of committee work and consideration, leading to our stage 1 report recommendations to the Scottish Government to make it fit for purpose. It is disappointing that the cabinet secretary's response to our report was

only available this morning, meaning that there has been little time to consider it.

I intend to focus on three issues: static circuses, definitions—about which I will make a brief comment—and enforcement.

When they gave evidence, the cabinet secretary and a Scottish Government official noted that the travelling aspect of the use of wild animals in travelling circuses was not a primary concern. It therefore seems illogical not to re-examine the use of wild animals in static circuses, too. I acknowledge that a stage 2 amendment would be inappropriate as that issue has not been consulted on in relation to the bill, but I ask the Scottish Government to seriously consider the issue as soon as possible.

In relation to the definition of “wild animal”, it is positive that in her response to our report, the cabinet secretary stated:

“I would be willing to explore a possible amendment giving a regulation-making power to exclude or include specific animals as ‘wild animals’ that might be used in cases of real doubt in future. Regulations could be used when necessary following the coming into force of the Bill to remove doubt in particular cases where there is uncertainty as to which category a particular kind of animal falls into. That could be either to include or exclude an animal as ‘wild’.”

Like a number of members, I still think that a list in regulations, at least, that could be added to and amended is the best way forward. I am also of the opinion that the removal of references to domesticated animals in the bill would bring clarity as we go forward.

As Angus MacDonald mentioned, the committee considers that the enforcement powers in the bill could go further and supports evidence that was received from local authorities calling for additional powers to intervene to prevent shows from taking place. David Kerr of Argyll and Bute Council said:

“as things stand, our only recourse currently would be to take the person to court. I do not know whether any of you have been involved in court cases recently”—

I hope that none of us has—

“but”

taking

“a case to court is not a quick process”.—[*Official Report, Environment, Climate Change and Land Reform Committee*, 6 June 2017; c 22.]

The committee recommendation is that the Scottish Government adopts that suggestion from local authorities and gives them powers to serve notices, to issue fixed-penalty notices and to obtain records.

I understand the argument in the cabinet secretary's response that

“the only question is whether or not the circus operator has caused or permitted a wild animal to be used in the travelling circus. All other activities ... are outwith the ambit of the Bill”.

However, I ask her to look very carefully at whether a stop notice would be as disproportionate as she said that it would be, or whether it would be possible to find a way forward on that issue to provide clarity.

I thank the clerks, and I reflect again on how well the committee appears to have worked together on this complex issue; it was perhaps more complex than it would have been if there had been more clarity in the bill at an early stage.

We support the principles of the bill and we will continue to support them and many other welfare and ethical issues involving animals in the future.

**The Deputy Presiding Officer:** I call Finlay Carson. You can have a generous six minutes, Mr Carson—but not too generous.

16:13

**Finlay Carson (Galloway and West Dumfries) (Con):** Today’s debate has been constructive with many valid and important points made about the bill. The committee convener addressed concerns over definitions, which raises the first question: is Graeme Dey a tame wild politician or a wild domesticated politician? Has his domestication taken place in this semi-circus over the many years that he has been here?

Graeme Dey mentioned the elephant in the room, and I wondered whether he was referring to Donald Cameron’s wonderful elephant design tie. We were also almost treated to some songs by Kate Forbes.

Although there have been plenty of puns during the debate, that should in no way detract from the seriousness with which the committee and my colleagues on the Conservative benches treat the subject of animal welfare. As my colleagues Donald Cameron, Peter Chapman and John Scott have eloquently set out during the debate, the Scottish Conservatives support the general principles of the bill. That support reflects my colleagues’ commitment to the highest standards of animal welfare. We support a ban on the use of wild animals in travelling circuses on ethical and welfare grounds through the delivery of robust legislation.

However, as we have heard today and in the committee, members of all parties have a range of concerns about the current drafting of the bill. I hope that the cabinet secretary takes those concerns on board.

We on the Conservative benches support the findings and recommendations in the

Environment, Climate Change and Land Reform Committee’s stage 1 report, which I take this opportunity to commend.

Why the rush? There are concerns that the apparent need to rush the bill through will result in yet another piece of weak legislation from the Scottish Government that will fall down or be ineffective in the courts. Angus MacDonald said that Scotland would be leading the way. That is all very well, but we need to show that legislation passed by this Parliament is good and robust. Such legislation might address Mr MacDonald’s concern about councils’ confidence in taking action in future.

As the committee’s report sets out, and as many of my colleagues have reiterated in the debate, travelling circuses that use wild animals in the circumstances covered by the bill have not visited Scotland for many years, and there is no indication that they are likely to do so any time soon. Therefore, is there any need to rush the bill through?

I cannot speak for other colleagues but, before the bill was introduced, I had not heard anything from anybody about wild animals in travelling circuses. I suggest that, unlike puppy trafficking and other animal welfare issues, it is not necessarily a hot topic. I understand that the cabinet secretary, in a rather late response received by the committee last night, disputes that point. Nevertheless, my point still stands. Why are we rushing the legislation? Why not hold off and introduce a bill in a broader context—a bill that takes account of static circuses and other animal welfare issues, as suggested by my colleague Mark Ruskell? Surely it would make more sense to introduce a cohesive, well-balanced and comprehensive piece of animal welfare legislation later on in this session of Parliament. Liam McArthur rightly suggests that the current draft of the bill would be a paradise for lawyers.

As a number of members pointed out, the bill does not define “circus” and inadequately defines “travelling circus”—although that is the entire premise of the bill. The concern is that the vague definitions risk criminalising those who put on a show or event that animals have to be transported to. That must be clarified.

Peter Chapman is quite right when he highlights the further concerns about the definition of “wild animal”. The vague nature of the definition leaves far too much room for interpretation. I echo colleagues from across the chamber in asking the cabinet secretary to seriously consider including a list of the animals that the bill seeks to protect.

We agree with the committee’s view that the current draft of the bill does not fully address the issues that it proposes to cover and is at serious

risk of capturing animal performances and shows that it may not have intended to capture.

Unlike Emma Harper, Colin Smyth and Clare Adamson, I have not spent any time exploring the use of the ethical argument or justifications behind the bill. That is because, across the chamber, we believe that public performance by wild animals is no longer acceptable. As Liam McArthur said, the bill reflects our values as a society. The majority of the arguments that have been made in the chamber this afternoon have involved concerns over the bill's poor drafting, and its potential to fail in what it sets out to achieve.

There is plenty for the Scottish Government to take away from stage 1, and I hope that it will consider all our concerns inclusively and constructively. Members on the Conservative benches support the general principles of the bill and look forward to the Scottish Government bringing forward a much more robust, comprehensive and carefully drafted bill following stage 2.

**The Deputy Presiding Officer:** I call Roseanna Cunningham to close the debate. Can you take us up to our 4.30 decision time please, Ms Cunningham?

16:19

**Roseanna Cunningham:** I will do my best.

I begin by thanking all the members who contributed to the debate, not only today or in the committee's considerations but in the wider considerations of Parliament. Once again I am struck not only by the depth of insight afforded but by the passion and genuine commitment shown here to ensuring that Scotland continues to be seen as a country that considers its animals with respect and compassion.

I thank members and stakeholders, especially those from animal welfare organisations—*[Interruption.]* Presiding Officer, the vagaries of the iPad will slow me down. I thank members and stakeholders for being pragmatic about the bill and what it will achieve. I might return to some issues to do with that, because some of the interventions that were made today run the risk of losing sight of that pragmatism.

The bill is not a complex piece of legislation. It is a short, focused bill that will address a distinct and particular ethical concern in the most timely way possible, making the most efficient and proportionate use of parliamentary time possible. The Parliament's commitment to tackling the issue head on has drawn praise from across the world and it would truly be a shame if we were to falter because of misunderstandings or technicalities that can be resolved.

I will remind members briefly of some of the key points that I made earlier. The bill will not interfere with the ownership, keeping or transport of wild animals by a travelling circus, as long as the animals are not performing or being displayed or exhibited. It will have no impact on the use of wild animals, whether they are sourced from a circus or otherwise, in film and TV production.

What the bill will do is ban the use, performance and display of wild animals in travelling circuses, reflecting the strong and clear mandate that the Scottish people gave us in our consultation on this matter.

I very much welcome the contributions that were made to the debate and the consensus from across the chamber that we should be at the forefront of this important issue.

I will now respond to some of the particular contributions that were made. Quite a few members, such as Graeme Dey, want to discuss issues with the various definitions, or, in their view, the lack of definitions. I repeat for the record that the definition of, for example, "wild animals" is consistent with the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012, the Animal Health and Welfare (Scotland) Act 2006, the Zoo Licensing Act 1981 and the Animals Act 1971.

There has been quite a lot of discussion about listing wild animals. I understand the desire to see such a list, but I truly caution members as to where we could go with that in the bill. I think that Mark Ruskell suggested that we should have a list of wild animals because taxonomy is straightforward. I am advised that taxonomy is not straightforward, that it is constantly changing and that people make scientific careers out of it. There is even further complexity when we consider hybrids and sub-species and so on. If we started to list wild animals that cannot be used in this fashion, such a list would never be comprehensive and it would need constantly to be reviewed and updated.

One can imagine that the list would constantly be subject to the imaginative use of animals that were not on it. Currently, we do not have performing tapirs. Would a list that we produced of wild animals in travelling circuses include a tapir? It would probably not, because we would not think of it as a standard animal to use in that fashion. However, if an animal is not on the list, the likelihood is that we would begin to see it being used in that way. That is my concern about starting to list animals.

**Mark Ruskell:** The cabinet secretary said that there are people out there who make their careers in taxonomy—in making these kinds of lists. Why

cannot the Scottish Government just ask them to produce a list?

**Roseanna Cunningham:** Ultimately, I suppose that it would be possible to have a list of every wild animal in the world, but there would always be some animals of which we are not currently aware. What I am trying to do is to caution people as to the unintended consequences of producing a list that then, by definition, excludes other wild animals because they are not on it. That is the problem that I want people to consider.

**David Stewart:** Will the cabinet secretary take an intervention?

**Roseanna Cunningham:** I will, as I have a generous amount of time, although it is not unlimited.

**David Stewart:** I understand the technical point that the cabinet secretary is making, but I presume that it would be easy to have a list of wild animals and a provision that ministers may use secondary legislation—the statutory instrument process—to add any exemptions that come to mind.

**Roseanna Cunningham:** As I have already said, the term “wild animal” is already widely used in legislation. What I propose as a concession is that we have the capacity to make specific reference if, perhaps, the use of unexpected wild animals suddenly pops up. I am making a point about what happens with legislation once it is black and white.

I made clear in my opening speech why I believe that the word “circus” should be left to ordinary interpretation. It is already in use in the Welfare of Wild Animals in Travelling Circuses (England) Regulations 2012. If someone believes that they can come up with a perfect definition that has previously been unavailable to legislators, we will of course look at it, but I am not sure that it is as easy as people think it is, and we already have the use of the word “circus” in legislation in the UK.

Understandably, many members, such as David Stewart and Peter Chapman, talked about the balance between welfare and ethics, and I get that point—I understand it. However, I remind people that welfare evidence tends to be species specific, so the welfare requirements of one species are not the same as those of another, whereas ethical arguments apply across the board. Many members veered from welfare concerns to ethical concerns and back again.

I just want to remind people of the timeline. The situation in 2014, when we consulted on the matter, was that the 2007 Radford report had ruled out a welfare-based approach, so we consulted on an ethics-based approach instead. Two years after that came the Dorning report, which is the Welsh

report that members mentioned. It provided more up-to-date evidence on welfare concerns for particular species in travelling circuses and other mobile animal exhibits but, as I said, that does not necessarily support a complete prohibition of those uses for all conceivable types of wild animals on welfare grounds alone.

If wide-ranging, accurate, detailed and robust welfare evidence had been available when we started working on the issue—I have to push back a little on the notion that the bill has somehow come out of the blue and we are rushing it through, as we consulted on the matter in 2014—perhaps we would have taken things forward on the basis of secondary legislation under the Animal Health and Welfare (Scotland) Act 2006. We could perhaps have followed that slightly different route if the welfare approach had not become too complicated because of the different species that are involved. However, I do not detect any desire on the part of stakeholders to delay a ban any further, and I do not believe that there is any need to do that, as the ethical arguments that have been put forward in support of the ban are valid.

I will conclude, Presiding Officer, to be on the safe side with you. We have seen successive Westminster Governments commit to a ban such as this and then be unable to see it through, for whatever reason. Perhaps that addresses some of the concerns that have been raised today. I am proud of the work that this Parliament has done to progress the issue this far.

I am conscious that I have not covered all the points that members raised. Some talked about the late arrival of our response, but I point out to members that we did not receive the final report until 22 September, so we have had to turn it round in quite a short timeframe.

In all truth, the practical impact of the bill will be minimal. There are no travelling circuses with wild animals based in Scotland, none has visited for some time and none is likely to visit in the future. The bill lays down an important and symbolic marker on how we value and treat all our animals. I commend the bill to the Scottish Parliament.

**Liam McArthur:** On a point of order, Presiding Officer, like John Scott, I should have declared that I am an honorary member of the British Veterinary Association. It was an oversight for which I apologise, not least because I quoted the BVA in my remarks.

**The Presiding Officer (Ken Macintosh):** Thank you for that helpful clarification.

## Decision Time

16:30

**The Presiding Officer (Ken Macintosh):** There is one question to be put as a result of today's business. The question is, that motion S5M-08062, in the name of Roseanna Cunningham, on stage 1 of the Wild Animals in Travelling Circuses (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Wild Animals in Travelling Circuses (Scotland) Bill.

**The Presiding Officer:** That concludes our business. I wish members a productive recess.

*Meeting closed at 16:30.*

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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