



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# MEETING OF THE PARLIAMENT

Thursday 6 June 2013

Session 4

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# Scottish Parliament

Thursday 6 June 2013

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

## General Questions

**The Deputy Presiding Officer (Elaine Smith):** Good morning. The first item of business today is general questions. Short and succinct questions and answers would be much appreciated.

### National Health Service (Digital Wards)

**1. Stewart Stevenson (Banffshire and Buchan Coast) (SNP):** To ask the Scottish Government what discussions it has had with national health service boards regarding the future integration of digital wards. (S4O-02215)

**The Cabinet Secretary for Health and Wellbeing (Alex Neil):** All boards are making progress in increasing the use of digital technologies, increasing access to information, improving efficiency and reducing reliance on paper across all clinical settings. NHS boards are committed to the provision of technology that positively improves the care that healthcare workers can provide in hospital wards and clinics. Boards are actively seeking to address that by using mobile, whiteboard and related technologies. Each NHS board has a delivery plan that outlines how that will be achieved. The Scottish Government regularly meets NHS boards to review progress and consistency with the national e-health strategy.

**Stewart Stevenson:** Is the cabinet secretary aware of the recent University of Edinburgh trial of home blood pressure telemonitors, which allow the general practitioner or specialist to receive and respond timeously to patient-collected data? Given that the trial suggests that there were improved health outcomes for participants, does he agree that further investment in digital infrastructure and the use of direct data feeds to GPs, especially in rural areas, may assist in reducing unnecessary deaths, particularly from stroke and heart disease, where infrequent monitoring may be an issue?

**Alex Neil:** I am aware of the positive results that emerged from the telescot trials and I am pleased that a growing body of evidence shows the effectiveness of supported telemonitoring in achieving clinically important outcomes in primary care settings. The fact that the trial was developed and researched in Scotland is just one reason why, in my view, Scotland is rightly held up across Europe as being in the vanguard in integrating telehealth and telecare into the delivery of services.

At a recent visit that was kindly hosted by East Ayrshire Council, I was able to see at first hand the benefits that home health monitoring brings, not only from enabling individuals to stay in their own home rather than be unnecessarily admitted to hospital, but from improving their health through better self-management. Both of those are key Government policy objectives. In that pilot, the rate of hospitalisation among those involved decreased by 70 per cent.

### Software Engineers (Demand)

**2. Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** To ask the Scottish Government how it plans to meet the increasing demand for software engineers suggested by recent surveys by ScotlandIS and e-skills UK. (S4O-02216)

**The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney):** The information technology and telecoms sector is important, as it directly contributes £3 billion to the Scottish economy. In its own right, the sector employs around 56,000 individuals and, with the enabling technology supporting and driving growth in other areas, the workforce involved totals around 73,000.

Skills Development Scotland is working with industry and public sector partners to finalise a skills investment plan for information and communication technology, based on robust evidence, to quantify the workforce needed in future. The skills investment plan will also identify any actions required, for example to support the increasing demand for software engineers and to increase the size and diversity of the talent pool, given that women are consistently underrepresented as employees and account for 17 per cent of the workforce. The action plan will be developed further through a process of consultation with industry stakeholders.

**Willie Coffey:** In his answer, the cabinet secretary clearly stated the substantial numbers of people employed in the IT industry in Scotland. We know that up to 65 per cent of companies surveyed in Scotland are reporting increasing demand for graduates in the industry, with a forecast 45,000 new entrants needed over the next five years.

Will the cabinet secretary consider what additional measures might be taken, for example in schools, to raise the profile of a career in software engineering? Average salaries in the industry are around £35,000, with contractors commanding about three times that amount. Will he agree to meet me and ScotlandIS to see how we can widen that discussion with our universities and colleges?

**John Swinney:** I meet ScotlandIS fairly frequently, but I would be delighted to have a meeting with Mr Coffey and ScotlandIS. I take this opportunity to compliment ScotlandIS on the consistent, positive and productive way in which it advances arguments on the industry's behalf.

There are significant opportunities in the economy for software engineers. This morning, I had the privilege of opening Plexus's new design and manufacturing facility at the Pyramids business park in West Lothian, which is a tremendous example of high-skill activity in the Scottish economy. Educational institutions in Scotland are very much focused on producing the necessary skill levels to support the industry. I entirely accept Mr Coffey's point that our school system needs to be involved in the process. In schools, we particularly need to take action to change the gender balance among those who enter the STEM subjects—science, technology, engineering and mathematics—and the engineering profession. The company that I mentioned is one important example.

### Equality Evidence Strategy 2013

**3. Roderick Campbell (North East Fife) (SNP):** To ask the Scottish Government what progress has been made in filling the equality evidence gaps in the equality evidence strategy 2013. (S4O-02217)

**The Minister for Commonwealth Games and Sport (Shona Robison):** Further to the release of the equality evidence strategy 2013, the Scottish Government published seven comprehensive equality evidence reviews that collated information from a wide range of published research to fill evidence gaps across all the protected equality characteristics. The Scottish Government is working with National Records of Scotland colleagues ahead of the release of equality tables from the 2011 census, which are due for publication from this summer. The census data will help to address evidence gaps across a number of equality characteristics and will provide that information at lower-level geographies.

**Roderick Campbell:** Can the minister advise me what feedback has been received regarding the equality evidence finder website, specifically from disabled groups? Does she believe that further engagement is required with any groups?

**Shona Robison:** The Scottish Government and disabled people's organisations have jointly established a working group that is aimed at improving the disability pages of the equality evidence finder. The disabled people's organisations within the group have been positive about the evidence finder, welcoming it as a new resource, but they and the Scottish Government recognise that more could be done to improve it.

The Scottish Government will continue to engage with the group to ensure that the evidence gaps are considered, prioritised and, importantly, filled where that is appropriate.

### European Union (Membership)

**4. James Kelly (Rutherglen) (Lab):** To ask the Scottish Government what recent advice it has received regarding membership of the EU should Scotland separate from the United Kingdom. (S4O-02218)

**The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon):** Unlike the United Kingdom Government and indeed some of those on the Opposition benches here, the Scottish Government has a very clear position on the European Union. Following a yes vote, we will notify our intention to become an independent member state of the EU, and we would secure that through negotiations in the period between the referendum and the first day of independence.

**James Kelly:** Can the Deputy First Minister confirm what Fiona Hyslop told "Newsnight" on 15 May, which was that the Government had indeed received legal advice on EU membership should Scotland separate from the UK? Can the Deputy First Minister also confirm that that advice states that EU membership will not automatically transfer in the case of Scotland separating from the United Kingdom?

**Nicola Sturgeon:** Yes, I confirm what Fiona Hyslop said—of course I do.

I point out to the member that there is a long-established convention, of both the UK and Scottish Governments, that law officers' advice is not published, and there are good and sound reasons for that convention. I also point out to him that the UK Government has not published law officers' advice; it has published academic legal opinion, one of the authors of which has described the timescale set out by the Scottish Government as—I quote—"realistic". There is a great deal of published opinion that supports the Scottish Government's position, from Sir David Edward, Graham Avery, former Taoiseach John Bruton and Lord Malloch Brown to name just a few.

However, at the heart of the issue is a political consideration. A no vote would risk Scotland being taken out of the European Union against its will. A yes vote will enable us to stay in the European Union as our interests demand, but crucially it will also enable us to speak with our own voice in the European Union, and that would be overwhelmingly in the interests of Scotland.

## Energy Skills Scotland

**5. Dennis Robertson (Aberdeenshire West) (SNP):** To ask the Scottish Government whether the Energy Skills Scotland project will provide job opportunities for people beyond the north-east. (S4O-02219)

**The Minister for Energy, Enterprise and Tourism (Fergus Ewing):** Yes, it will. Between new jobs from sector growth and replacement of existing personnel who will retire, I expect around 95,000 job opportunities to arise over the next seven years in the energy sector in Scotland. Energy Skills Scotland will work with industry, schools, colleges, universities and others to meet the energy sector's needs.

**Dennis Robertson:** The minister will be aware that, in the north-east in particular, much is being done to try to resolve the gender imbalance in the energy sector. Is he hopeful that, in the rest of Scotland, attempts will be made to mirror the efforts that have been taking place in the north-east to resolve the gender mismatch?

**Fergus Ewing:** Yes, I am hopeful that, throughout Scotland, we will encourage more females to enter the oil and gas, renewables and, indeed, chemical engineering sectors. As John Swinney said in reply to an earlier question, the issue applies across all sectors.

The Irish poet William Butler Yeats said that education is not about filling a bucket; it is about lighting a fire. Therefore, we want our inspiration, particularly for girls in Scotland, to be truly infernal.

## NHS Greater Glasgow and Clyde (Meetings)

**6. Paul Martin (Glasgow Provan) (Lab):** To ask the Scottish Government when it last met representatives of NHS Greater Glasgow and Clyde and what matters were discussed. (S4O-02220)

**The Cabinet Secretary for Health and Wellbeing (Alex Neil):** Ministers and Government officials meet regularly with representatives of NHS Greater Glasgow and Clyde to discuss matters of importance to local people.

**Paul Martin:** The cabinet secretary will be aware of Audit Scotland's findings on health inequalities, which highlight the lack of clarity and focus among health boards and local partners on targeting areas of greatest need. What action has the Government been taking in respect of that report?

**Alex Neil:** We are taking a range of action. For example, one of the best ways that we can deliver better primary care services for the more deprived areas is through the deep-end practices, many of which are in Glasgow and some of which are in the member's constituency.

We have received a set of proposals from the deep-end practices in Glasgow about how we can further expand their role in the community so that they can perform even better than they do at present on tackling the inequalities to which the member refers. I would be happy to send details to him once we make decisions on those proposals.

**Jackson Carlaw (West Scotland) (Con):** Has the cabinet secretary received a briefing from the health board on whether its passenger transport access plan to the new Southern general hospital is as comprehensive as it needs to be to afford access to patients from the whole of the health board area?

**Alex Neil:** No specific briefing has come to me so far but, if the member has concerns and writes to me, I will raise them with the health board.

**Jackie Baillie (Dumbarton) (Lab):** The cabinet secretary will be aware that NHS Greater Glasgow and Clyde is one of the worst-performing boards on the four-hour accident and emergency waiting time guarantee and that most cases of delay were due to a lack of beds. Will he tell me what action is being taken to increase bed capacity to deal with the problem?

**Alex Neil:** I have instructed greater Glasgow and Clyde NHS Board to review its bed capacity and, in particular, not to implement any policies for further reduction in bed capacity until it is entirely satisfied that it has enough beds not only to deal with any accident and emergency issues but to ensure that it continues to meet the treatment time guarantee.

## International Development Spending Priorities (Malawi)

**7. Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** To ask the Scottish Government what its priorities are for international development spending in Malawi. (S4O-02221)

**The Minister for External Affairs and International Development (Humza Yousaf):** Scotland has a special relationship with Malawi, governed by a co-operation agreement between our two nations. The agreement sets out the priority areas on which the Scottish Government and the Government of Malawi work together, which are health, education, civil society and governance, and sustainable economic development. Further priorities are always developing. Topics of mutual interest include renewable energy, water and climate change.

The Scottish Government has a minimum commitment of £3 million per year for projects in Malawi.

**Patricia Ferguson:** I thank the minister for that answer, but is he aware of concern among

international development charities and aid organisations about the fact that there will be no further applications to the Malawi fund until next autumn—that is, autumn 2014? I understand that some money has been released this year, but that that money is a carry-forward from an underspend last year. In effect, that means that no new money will be spent on Malawi until 2015.

**Humza Yousaf:** I thank the member for raising that concern.

There were several reasons for moving from a yearly to a triennial funding round. One was to avoid a £1.5 million underspend. In addition, the new timetable allowed five or six projects to get an extra £400,000-worth of spending. The new timetable also gives the Network of International Development Organisations in Scotland and the Scotland Malawi Partnership the opportunity to focus on preparing the small grants scheme, which will be launched in the autumn of this year.

I am more than happy to sit down with the member to clarify any specific concerns but, as I said, the commitment to spend £3 million a year on projects in Malawi is there and will remain.

**Liam McArthur (Orkney Islands) (LD):** The minister will be aware of the interest that exists in Orkney in the small grants scheme with regard to Malawi. Has there been any further thinking about the areas that the scheme will cover?

**Humza Yousaf:** Discussions are still going on with the Scotland Malawi Partnership, NIDOS and other stakeholders to ensure that we get the scheme absolutely right. I will endeavour to ensure that the member is kept up to date with those discussions. I hope that he will pass on my best to Pastor Kester from the Thyolo Highlands, which is twinned with Westray in his constituency.

#### **Automatic Electronic Defibrillators (Secondary Schools)**

**8. Siobhan McMahon (Central Scotland) (Lab):** To ask the Scottish Government what plans there are to install automatic electronic defibrillators in secondary schools. (S4O-02222)

**The Cabinet Secretary for Education and Lifelong Learning (Michael Russell):** The Scottish Government has no plans to install automatic electronic defibrillators in secondary schools, because—rightly—that is a decision for local authorities. I am aware that North Lanarkshire Council, in partnership with NHS Lanarkshire and Amey, has recently taken the decision to install defibrillators in all 24 of its secondary schools.

The deployment of publicly accessible defibrillators needs to be achieved as part of a wider community resilience scheme. The

community needs the skills, training and awareness in order to deploy such defibrillators effectively.

**Siobhan McMahon:** I thank the cabinet secretary for that answer, and I agree that training is required, as was highlighted in last Wednesday's debate.

However, the cabinet secretary will be aware that emergency situations are time critical and that every minute that passes without defibrillation reduces a person's chance of survival by 10 per cent. Will the Scottish Government therefore take the lead in encouraging other local authorities across Scotland to install AEDs in all their secondary schools?

**Michael Russell:** I know that the member has a long-standing interest in the subject, and I think that we are all in agreement that access to defibrillators is time critical and of extreme importance, but schools might not always be the best locations for them in communities. International guidelines require there to be a reasonable probability of an automatic electronic defibrillator being used at least once in two years.

There are some spectacularly successful deployments in other places. I pay tribute to Heather Munro, a girl guide in my constituency—indeed, in my own community of Glendaruel—who masterminded the installation of a defibrillator in a disused phone box, which was a tremendous thing for a small community. There are many such opportunities, all of which we should encourage.

#### **Local Authority Budgets (Role of Communities)**

**9. Bruce Crawford (Stirling) (SNP):** To ask the Scottish Government what it considers the role of communities should be in helping local authorities agree their annual budgets. (S4O-02223)

**The Minister for Local Government and Planning (Derek Mackay):** The Scottish Government welcomes all efforts that local authorities make to listen to the voices of local people when they shape their budgets. Our proposed community empowerment and renewal bill will look to strengthen the voice of communities in the planning and delivery of services across the public sector.

**Bruce Crawford:** Does the minister agree that it was foolhardy and wrong of the Labour-Tory run Stirling Council to proceed with cuts to bus transport subsidies before consulting any of the communities affected? Given that the cuts are impacting severely on people's ability to travel to work and education and to access public services, does he agree that that better together council should review its unsafe decision and consult the affected communities, even at this late stage?

**Derek Mackay:** It is thoroughly good practice to consult local communities on the provision of services. The renewed community planning arrangements should ensure that there is a focus on community involvement as part of the process of public sector expenditure in communities. Best practice is absolutely to communicate, consult and engage with local communities.

## First Minister's Question Time

11:59

### Engagements

**1. Johann Lamont (Glasgow Pollok) (Lab):** To ask the First Minister what engagements he has planned for the rest of the day. (S4F-01437)

**The First Minister (Alex Salmond):** Later today, I will have meetings to take forward the Government's programme for Scotland.

**Johann Lamont:** Is Aberdeen Donside the only place in Scotland that will not benefit from independence? Is that why neither the First Minister nor his candidate are mentioning the I-word there?

**The First Minister:** The Labour Party fought a by-election in Glasgow North East under the campaign issue that the Scottish National Party was neglecting Glasgow and giving lots of money to Aberdeen, but it is now fighting desperately to defend its appalling track record in the administration of Aberdeen City Council by suggesting that the SNP is giving money to Glasgow but not to Aberdeen. If only the internet had not been invented, this Labour campaign might have been successful.

**Johann Lamont:** Yes—but the First Minister is not talking about independence when he is in Aberdeen, although he spends all his life talking about it everywhere else. Is not it the case that the First Minister does not mention independence in Aberdeen because his case is falling apart? His economic advisers—with or without Nobel prizes—say that it is rubbish. Joe Stiglitz says that the First Minister's corporation tax policy will not work and Jim and Margaret Cuthbert say that his idea of independence is not independence at all.

John Swinney is exiled for saying in private—

**The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney):** Hello!

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

**Johann Lamont:** Well, we live in hope—  
[*Interruption.*]

**The Deputy Presiding Officer:** Order.

**Johann Lamont:** We live in hope that John Swinney will say in public what he has said to his Cabinet colleagues in private. If we remember, he said that an independent Scotland might not be able to afford the state pension—

**Members:** No!

**Johann Lamont:** He did say it. He did not say it to you, but he did say it. [*Interruption.*]

**The Deputy Presiding Officer:** Order. Speak through the chair, please.

**Johann Lamont:** John Swinney said in public that the SNP cannot say what currency the state pension would be paid in if we had one. Is not it the case that, although independence is the First Minister's passion, every time there is an election, it becomes the love that dares not speak its name?

**The First Minister:** First, I will introduce Johann Lamont to John Swinney. John Swinney, Johann Lamont. Johann Lamont, John Swinney.

**John Swinney:** It is a pleasure.

**The First Minister:** John Swinney is, apparently, not in exile—unlike the Labour candidate for Aberdeen Donside, who after his first television interview, when he suggested that he wants the right to increase the council tax in Aberdeen, which already has the highest council tax in Scotland, was exiled from television interviews, in case he repeated the gaffe.

The case for independence is articulated in terms of the economic progress and social justice that independence will bring to the people of Scotland. Unfortunately, the Labour Party—today of all days, and this week of all weeks—is in no position to talk about social justice, because it is tearing up its opposition to the Tory party's welfare reforms, I presume so that Alistair Darling will feel more comfortable at the Tory conference this weekend. [*Laughter.*] Let us hear no more "something for nothing" rhetoric from Johann Lamont.

**Johann Lamont:** That went down well. [*Laughter.*] That was an astonishing response from a First Minister who is to the right of George Osborne in giving cuts to big business. [*Interruption.*]

**The Deputy Presiding Officer:** Order. There is far too much noise in the chamber.

**Johann Lamont:** The last time I noticed, the First Minister was still saying that he would cut corporation tax by three points more than George Osborne, and he is the only person—he is unique in the whole United Kingdom—who, on the one hand, is offering tax cuts, but is saying that we will continue, on the other hand, to spend in the same way in public expenditure. That is simply not credible, and everyone knows it.

The First Minister's campaign started with a day at the cinema. A year on, he is going to the zoo. In our hearts, all of us know that his campaign is going nowhere. Scotland has a lot of sympathy for the panda, Sweetie. We know what it is to reject

the unwanted advances of a big beast with only one thing on its mind.

We also know that the Government has its priorities all wrong. That is why Mark McDonald asked more questions in Parliament about Japanese knotweed than about accident and emergency services in Aberdeen. Is not it the case that the Scottish National Party will not mention independence in Aberdeen because the yes campaign is not helping Alex Salmond to get his yes man back into Holyrood?

**The First Minister:** It is better to do the punchline at the end of the question rather than in the middle of it.

I want to read something to Johann Lamont.

"The worry is this is the top of a slippery slope towards US-type system of public services for the poor only ... The attack on pensioners' allowances leaves a big question hovering over the future of the welfare state: is it for everyone, or just for the poor?"

That was Peter Hain, this week. He was not talking about the Tory Government; he was talking about the Labour Party's change of policy.

In a week in which even former Cabinet ministers are openly doubting Labour's commitment to the welfare state, and on a day on which, as we are told in *The Times*, Ed Miliband is going to repeat Johann Lamont's rhetoric about a "something for nothing" society, I suppose that we should be proud that Johann Lamont is leading the Labour Party across the United Kingdom to the right.

The whole focus of the SNP programme is on a something-for-something society, to hold society together—on universal benefits; on the benefit to household incomes of the council tax freeze and free prescriptions; on the benefit to students of not having to pay tuition fees; of the benefit of free personal care; and of the benefit of free transport. Those are the policies that will win in Aberdeen and across Scotland.

**Johann Lamont:** That lecture would have been a little more credible if the First Minister was not the last man standing arguing for Reaganomics in this country. [*Interruption.*]

**The Deputy Presiding Officer:** Order.

**Johann Lamont:** The First Minister talks about his fantastic spending programme. Tell it to the would-be college student who cannot get a place. Tell it to the care worker who has a 15-minute visit on task and go. Tell it to the pensioner who cannot use their bus pass because there is no bus at all.

The fact of the matter is that, bizarrely, on the doorsteps in Aberdeen, the First Minister does not talk about the obsession that brought him into politics. When he is here, he and his ministers tell

us what they cannot do until they have independence, but when they face real people, such as the people of Aberdeen, they speak about anything other than independence.

**Members:** No.

**Johann Lamont:** Oh, yes. I think that SNP members will find that that is so, and that includes their own candidate. Is not that because the First Minister knows what the people of Scotland really think about his independence obsession? Perhaps the real reason why he went to see the pandas at Edinburgh zoo this week was to find out first hand from Sunshine how to deal with rejection.

**The First Minister:** On the question of the Labour Party's commitment to Aberdeen, let me quote the Labour leader of Glasgow City Council, Gordon Matheson. He said of the SNP in the *Evening Times* of 13 December:

"They have given up on Glasgow and decided to concentrate the nation's resources on ... Aberdeen for the SNP."

That was the Labour leader of Glasgow City Council. I know that it is a big embarrassment to Johann Lamont for people in the north-east of Scotland to be aware of the campaign that the Labour Party fronted to try to stop additional cash for the city of Aberdeen. Of course it is an embarrassment to have a Labour candidate who wants to increase people's council tax and—from the Labour Party's perspective—of course the new dental hospital in Aberdeen, the new emergency care centre, the green energy centre and the oil and gas academy centred in the city are embarrassments, but they are benefits that the Scottish National Party has brought to that city.

For the Labour Party across Scotland, its moving on to Tory ground on welfare policy after three years of continually attacking it at Westminster, and following the example of the "something for nothing" rhetoric in this country in Parliament from Johann Lamont, is a huge embarrassment, as Peter Hain identified.

As far as students are concerned, we have a record number of students in higher education in Scotland. In England, there has been a collapse in student numbers because of the tuition fees policy south of the border—which Johann Lamont says is the obvious thing to introduce in Scotland.

When the excellent policies that are being pursued in Scotland and the things that are being imposed on us from Westminster are weighed in the balance, the people in Aberdeen and across Scotland will vote to mobilise this nation's resources and the social justice that will come from an independent Scotland.

## Prime Minister (Meetings)

**2. Ruth Davidson (Glasgow) (Con):** To ask the First Minister when he will next meet the Prime Minister. (S4F-01434)

**The First Minister (Alex Salmond):** No plans in the near future.

**Ruth Davidson:** Last week, I asked the First Minister whether he would establish a public inquiry into the unfolding baby ashes scandal. In response, he replied that if I wanted to

"make the case for why a national public inquiry would benefit the bereaved parents"

he would

"of course look at that."—[*Official Report*, 30 May 2013; c 20505.]

This week, I wrote to him laying out that case. Parents are calling for a public inquiry and they are upset that they are not directly involved in Lord Bonomy's review. Further, it has emerged this week that crematorium workers who were involved in the disposal of babies' remains will not be called to give evidence. Lord Bonomy's review will not give those who have suffered loss the answers that they need and deserve. Does the First Minister agree that, in those circumstances, the case for a public inquiry is now stronger than ever?

**The First Minister:** I received Ruth Davidson's letter to me, which is dated 5 June, last night and I will give it due consideration, as she would expect.

From initially looking at her letter, I notice that Ruth Davidson has corrected her position from last week, when she suggested that parents are not represented on the Bonomy commission. In fact, the charities Sands and the Miscarriage Association are represented on the commission. Ruth Davidson will of course remember that it was a representative of Sands in Edinburgh who first brought the whole issue to light. I do not think that she can just dismiss those two important charities, which are represented along with other interests on the Bonomy commission.

The Bonomy commission has been established to take evidence, with that broad-based panel, so that we can get the situation across Scotland into order as quickly as possible. Lord Bonomy will report by the end of this year. It is about the future, best practice and the things that should be done so that, if necessary, we can have them in legislation to assure people that such activity and grief for parents will not happen again. That is really important.

On giving parents the answers to their concerns, that is of course what Elish Angiolini is doing in the independent inquiry in Edinburgh. Audits are taking place in the other places across Scotland

that are affected. I have the most enormous confidence in Dame Elish Angiolini, who was formerly Scotland's top law officer. There is no evidence whatsoever that her inquiry is being hindered in any possible way at present. When her inquiry is complete and when we have the proposals of the Bonomy commission, we will of course look to ensure that everything has been done correctly and that people have had their questions answered, as they are entitled.

I hope that, now that Ruth Davidson has that information, she will concede, first, that the Bonomy commission is indeed a broad-based commission and, secondly, that substantial efforts are being made to give parents answers, particularly in Edinburgh. I hope that she will also concede that the Bonomy commission has been charged with the responsibility of sorting out the position for the whole of Scotland.

**Ruth Davidson:** I thank the First Minister for that answer, but he does not appreciate that neither the Bonomy commission nor Dame Elish's investigation is looking at individual cases or from an historical perspective. The people who are involved and who are asking for answers want to find out what happened to the remains of their children. They understand the timeframe that is involved in a public inquiry and they are asking for one anyway, because they want answers on what happened to their children.

This is not a party political issue, and it is not the Scottish Conservatives' wont to call for public inquiries lightly, but I know that the First Minister has listened to such calls previously. Under him, his Government has held four public inquiries, two of which are on-going—one into hospital-acquired infections and one into contaminated blood products. Therefore, I want to press the First Minister. There are issues that are not covered either by Lord Bonomy's investigation or by Elish Angiolini's investigation, which is looking primarily at Edinburgh.

On reflection, the First Minister must surely agree that this matter, which has caused so much distress to hundreds of families right across Scotland and not just in Edinburgh and the Lothians, should have the kind of investigation on a similar scale that we had under the public inquiries that he set up in the past.

**The First Minister:** I believe that we can have confidence in Elish Angiolini's investigation in relation to Edinburgh and that it will indeed try to get parents the answers that they desire. The inquiry is under way. I have checked and found no evidence that it is being blocked in any way by a lack of information. We should have confidence that Elish Angiolini will conduct the inquiry as we know she can and in the way that she has demonstrated many times in Scottish public life.

On a point of detail, in her letter of last night Ruth Davidson expressed concern about whether parents in Aberdeen will have the opportunity to make submissions to Lord Bonomy's review. I can confirm that they will do. The date that she believed was the date for finalising the audit in Aberdeen is actually the date for the council debate; it is intended that the audit be finalised by the end of this month, and Lord Bonomy's commission will have the time and opportunity to take any submissions from parents in Aberdeen that come out of that audit. I hope that that gives Ruth Davidson some reassurance.

When Elish Angiolini has reported and the Bonomy commission has established for this Parliament the best practice that can quickly be introduced across Scotland, to assure us that this sort of thing shall not happen again, we will of course carefully weigh up whether outstanding matters require to be further investigated.

I think that the balance of interests for parents and for society is in allowing Elish Angiolini to get on with her work and the Bonomy commission to establish best practice for Scotland, and then in carefully and sensitively weighing up what is best to be done, given that information.

**The Deputy Presiding Officer:** There is a regional question from Rhoda Grant.

**Rhoda Grant (Highlands and Islands) (Lab):** The First Minister will be aware that a judicial review has ruled that the Scottish Government should not have stopped the Western Isles schools reorganisation. Will he reimburse the council for its lost savings and legal fees in pursuing the review, so that it can invest the money in the community?

**The First Minister:** I am not quite certain of where Rhoda Grant is going on this. The Scottish Government, in good faith, applied legislation because we were trying to establish that the correct procedures had been followed so that communities had, as is right and proper, the right to make submissions against school closures.

The judgment is as it is, and we are considering it in terms of, first, how to react, and secondly, whether improved legislation is needed, to get the balance of interests between the rights of councils that are looking to close schools and the rights of parents and others to object to closure and be given the proper reference for doing so. I am sure that Rhoda Grant wants parents to have those rights and that she will support legislation that ensures that they do. We will consider the judgment from the court and take appropriate action.

### University Research Funding (Independence)

#### 3. Murdo Fraser (Mid Scotland and Fife)

**(Con):** To ask the First Minister what the Scottish Government's position is on how an independent Scotland would maintain research funding for universities. (S4F-01440)

**The First Minister (Alex Salmond):** University funding is not exactly the Conservative Party's strong suit today. In *The Daily Telegraph* only yesterday—I know that Murdo Fraser reads it every day; I must confess that the article was pointed out to me—there was an extraordinary piece that showed the financial pressure on universities in England as a result of the collapse in student numbers that has been caused by the Conservative Party's policy on tuition fees.

In contrast, Scottish universities are in a strong financial position and Scotland has maintained a world-leading position on research quality. We have four universities in the top 200. We are committed to maintaining that research funding and excellence in an independent Scotland.

Of course, unlike Murdo Fraser's colleagues south of the border, we have demonstrated our commitment to university research. Most recent, just two weeks ago we announced an additional £13.7 million for key, world-leading research.

**Murdo Fraser:** We have 8.5 per cent of the United Kingdom population but our universities win 15 per cent of UK public and charitable research funding. A host of figures and bodies have expressed concern that the situation could be put at risk by independence, among them Professor David Bell of the University of Stirling, the Royal Society of Edinburgh, the Royal Society of Chemistry, and Professor Louise Richardson, principal of the University of St Andrews. Professor Richardson said:

"If we were cut off from national research councils, it would be catastrophic for this institution".

Without guarantees from the First Minister about the future funding of research in our universities, surely our academics would be better to conclude that we are better together.

**The First Minister:** That is why I just pointed out that this Government is committed to university funding and to university research funding, unlike the Conservative Party south of the border. Incidentally, I have dozens of quotations from university principals south of the border saying what they think of the Westminster Government and its treatment of the universities.

As Murdo Fraser suggested, we contribute to research funding—incidentally, more research funding for the universities comes from the Scottish Further and Higher Education Funding

Council. We contribute to the research funding from the various science councils.

Murdo Fraser seems to be giving a one-sided view of these matters—[*Interruption.*] Well, it is a one-sided view with the Conservatives and the Labour Party; I should say that it is a two-sided view in the better together campaign.

On 13 April in *The Times*, Professor Tim O'Shea, from one of the most successful universities—the University of Edinburgh—asked that very question. He said that there was no reason

"why any form of constitutional change should preclude participation in higher order research councils",

which of course make research grants on the basis of merit, as they will continue to do, backed by the Scottish Government.

I would think that it would be virtually impossible for the Conservative Party to find a single university principal in the whole of England who would tell them that universities are being properly funded under the tutelage of the Conservative Party. Let me repeat: university finances, according to that prime source, *The Daily Telegraph*, are collapsing, and student numbers are in free fall as a result of the student fees policy.

I merely mention those things to warn the Labour Party that its association with this lot—the Conservatives—will cost it dear.

**Linda Fabiani (East Kilbride) (SNP):** Does the First Minister agree that in an independent Scotland, Scotland's universities would not only continue to be world class but no longer face the threat caused by Westminster's damaging student visa policies—[*Interruption.*]

**The Deputy Presiding Officer:** Order. We must hear the question.

**Linda Fabiani:** —which have been described by the Scottish Council for Development and Industry as

"a huge challenge to universities socially and financially and to Scotland economically"?

**The First Minister:** I do agree with that, which is why I gave the assurance that I did. I agree with the university principals who say that English universities and, indeed, universities across Europe would kill for the funding settlement that this Government has given to Scotland's universities.

Quite rightly, the member points to the evidence to the Education and Culture Committee from the Scottish Council for Development and Industry, which drew attention to another Tory-Labour-Liberal threat to our university system—the student visa policy. The SCDI said that the biggest

source of concern for research in Scotland is Westminster's tightening of student visas and that the policy is

"a huge challenge to universities socially and financially and to Scotland economically."—[*Official Report, Education and Culture Committee*, 2 October 2012; c 1514.]

I agree with that. It is high time that the no campaign found someone who is prepared to speak up for the real interests of Scottish universities.

**Liam McArthur (Orkney Islands) (LD):** The Royal Society of Edinburgh and the Royal Society of Chemistry have questioned whether universities in an independent Scotland will be able to access research council, charitable and European Union funding. Does the First Minister believe that those bodies are guilty of scaremongering?

**The First Minister:** No, but I certainly think that the constituency MSP Liam McArthur is, given his mention of EU research funding.

Incidentally, the scientific adviser to the European Commission is the former Scottish scientific adviser, which gives an indication that we are well integrated into scientific research across the EU.

I thought that it would be dawning even on the constituency member that the threat to Scotland's position in Europe comes not from the SNP benches but from his colleagues on the benches at Westminster. The way to preserve Scotland's position in Europe and access to research funding is for there to be an independent Scotland, not for us to be dragged into an in-out referendum by his coalition partners in London.

## Budget

**4. Kenneth Gibson (Cunninghame North) (SNP):** To ask the First Minister what impact the United Kingdom Government's proposed spending reductions for 2015-16 will have on the Scottish Government's budget. (S4F-01442)

**The First Minister (Alex Salmond):** We will not know the full impact of the Chancellor of the Exchequer's third budget cuts until 26 June. However, we know that he set a target of a further retrenchment—further austerity—of £11.5 billion from the resource budget in 2015-16. The Scottish Government will continue to press the UK Government to take a different approach and instead outline a clear package of proposals to invest in jobs and growth. I hope that even the Conservative, Liberal and Labour members in this chamber can see the eminent common sense in that switch of policy, as opposed to the continuation of the austerity squeeze from Westminster.

**Kenneth Gibson:** Yesterday, Ernst & Young published its annual foreign and direct investment survey, which shows that Scotland has a "sparkling investment performance" and that

"there is no sign of investors being deterred from coming to Scotland"—

by the independence referendum—

"if anything, the reverse appears to be true."

The First Minister will know that the Institute for Fiscal Studies informed the Finance Committee that by 2018, if we remain in the UK, the standard of living will be lower than it was in 2001. Does he agree that the gains made for Scotland by his Government are now at the mercy of Westminster's austerity agenda? Shadow chancellor Ed Balls admitted on Monday that it would lead to even deeper cuts should Labour return to power, and Ed Miliband has confirmed today that he would end universal benefits. Does the First Minister agree that the only way to secure prosperity and social justice for Scotland is with independence through a resounding yes vote next year?

**The First Minister:** I thought that it was a fair calculation that today the words "inward investment" would not be mentioned by either the Conservatives or Labour, or Labour or the Conservatives—whichever way round it is these days.

Johann Lamont and Ruth Davidson have previously said that investors are being scared away from Scotland because of the independence referendum. However, the person who has said that most often is the Chancellor of the Exchequer, George Osborne. A year past November, he said that he knew of investors who were being scared away from Scotland. Now we have the best performance in 15 years—a "sparkling" performance according to Ernst & Young. Perhaps we could get a collective apology from bitter together about its unfounded scaremongering, exposed before the Scottish people.

## State Hospital (Recruitment and Retention Payments)

**5. Jackie Baillie (Dumbarton) (Lab):** To ask the First Minister what the Scottish Government's position is on recruitment and retention payments paid to senior management at the state hospital. (S4F-01449)

**The First Minister (Alex Salmond):** The recruitment and retention premium for staff at the state hospital, under the agenda for change terms and conditions, was put in place on 24 June 2005 by the Scottish pay reference and implementation group, operating under delegated authority from the then Scottish Executive ministers. That

premium applies to staff who have on-going access to the state hospital's secure environment, recognising the unique and challenging environment of working at the state hospital.

The terms and conditions for state hospital senior managers were published on 18 October 2006 and make clear that, unless specified otherwise, managers are also covered by agenda for change terms, which would include the retention premium.

**Jackie Baillie:** I encourage the First Minister to read all of the letter from the Scottish pay reference and implementation group of 24 June 2005, because it makes clear that senior staff in the state hospital are not part of the agenda for change pay scales. Senior staff do not qualify for the special payment, which applies only to front-line staff, yet all of the senior staff at the state hospital received an extra £7,000, backdated to 2005, at a time when pay was frozen for everybody else.

Does the First Minister share my anger that senior staff have taken it upon themselves to pay themselves more money, without knowledge or sign-off by the cabinet secretary, which is required? Will he therefore ensure that the matter is investigated independently of the state hospital?

**The First Minister:** I wish that Jackie Baillie had listened to the answer because if she had done so she would have heard me talk not just about the 24 June 2005 agenda for change terms and conditions but about the terms and conditions for state hospital senior managers, published on 18 October 2006, which make it clear that, unless specified otherwise, the managers are also covered by agenda for change terms, which would include the retention premium. That is the position that the civil service has come up with.

Jackie Baillie will have noticed that the terms of 24 June 2005 and 18 October 2006 follow the contractual obligations. She cannot seriously be suggesting that contractual obligations, particularly those that were negotiated under the previous Labour-Liberal Government, should not be followed through. Jackie Baillie should consider whether it is wise to impugn the integrity of people at the state hospital, given the indication that has been provided by the civil service that they were following the rules as laid down by the previous Labour-Liberal Administration.

### **Dementia (Treatment)**

**6. Jim Eadie (Edinburgh Southern) (SNP):** To ask the First Minister what steps the Scottish Government is taking to improve treatment for people with dementia. (S4F-01439)

**The First Minister (Alex Salmond):** On Monday this week, at Alzheimer Scotland's

dementia connections conference, we launched our second three-year national dementia strategy. The new strategy will further improve diagnosis rates, transform the quality of post-diagnostic support and take forward a national action plan on improving hospital care for people with dementia.

**Jim Eadie:** Does the First Minister agree that although Scotland has the best early diagnosis figures in the United Kingdom, there must continue to be a focus on improving post-diagnosis treatment, particularly in acute hospitals, so that people living with dementia and their families can have the support that they are, quite rightly, entitled to receive at what can often be a difficult time?

**The First Minister:** Diagnosis is the key that unlocks support for people with dementia and their families. Scotland has a good record on that front, with 64 per cent of people with dementia being diagnosed up to March 2012, compared with much lower percentages elsewhere.

The dementia commitment, which has been described as a world first by Alzheimer Scotland, includes the guarantee that everyone diagnosed from 1 April this year will be entitled to a named support worker for a minimum of a year to help them and their families to understand the illness, manage its symptoms and plan for future care. The new three-year national action plan on improving care for people with dementia in hospitals was announced last month. Supporting that, Alzheimer Scotland dementia nurse consultants have been appointed to boards across Scotland and more than 300 dementia champions are now in place.

Given the nature of the subject and the fact that, I suspect, every single person in the chamber has personal awareness of people suffering from dementia, that much needed progress should be widely welcomed.

**Jayne Baxter (Mid Scotland and Fife) (Lab):** A freedom of information request has revealed that in 2011, a patient with dementia was subjected to 13 bed or ward moves during a single stay in an NHS Fife hospital. Does the First Minister agree that that is unacceptable and will he give an assurance that, under his improvements, such high levels of moves for a single patient will not happen again?

**The First Minister:** That is unacceptable and I will certainly have the Cabinet Secretary for Health and Wellbeing look into that case. On a subject such as this, when a specific example is given, I would like to be able to give the member a comprehensive reply. If the member will bring the case to the health secretary, he will certainly provide that reply. What the member described is certainly unacceptable and I hope that the

changes that are being made will make the chances of such things happening again much less likely.

## Community-based Housing Associations

### **The Deputy Presiding Officer (John Scott):**

The next item of business is a members' business debate on motion S4M-05957, in the name of Paul Martin, on community-based housing associations, building the community. The debate will be concluded without any question being put.

### *Motion debated,*

That the Parliament commends the work of community-based housing associations and the role that they play in their communities; considers that in the Glasgow Provan constituency and throughout Scotland registered social landlords and housing providers provide high quality housing with affordable rents, while at the same time helping to build the communities in which they serve, and understands that, because of a Scottish Government reduction in funding, the development funding budget in Glasgow is to be reduced from £78.5 million in 2011-12 to £50.9 million by 2013-14, resulting in higher rents and higher borrowing costs for community-based housing associations.

12:38

**Paul Martin (Glasgow Provan) (Lab):** I thank colleagues for their support in allowing the debate to be brought to the chamber. It should be noted that, apart from the Scottish National Party, four of the political groupings in the Parliament supported the motion.

I welcome to the public gallery representatives from the various community-based housing associations throughout Scotland, including committee members and staff. They are here because they believe in the future of their communities. They will expect from the minister not warm words of encouragement or a carefully crafted speech written by civil servants, nor lame excuses, but a commitment to reverse the cuts that affect the future of their housing associations and make it impossible for those associations to continue the regeneration of our communities that has gone on for decades.

The motion was written on behalf of those housing associations, to amplify some of their concerns and frustrations. They want to know why they no longer receive the funding that would allow them to continue the regeneration of their communities.

**John Mason (Glasgow Shettleston) (SNP):** If the member wants cuts reversed, will he tell us where he wants the money to come from? Is it to come out of the health service?

**Paul Martin:** Like me, John Mason will receive every single day many requests from constituents who want to be rehoused by many of the community-based housing associations that are

represented in the public gallery. I do not want to hear excuses; I want to hear commitments to ensure that the housing associations' work can continue.

Since the 1970s, CBHAs have played a crucial role in regenerating our communities, particularly in Glasgow. There are many communities that would not exist today were it not for the vision, tenacity and determination of CBHAs. I can name many such communities, and the long list would include the Gorbals area, the Springburn area where I was brought up, south Dennistoun and the tenement properties in the area that John Mason represents. Those communities would not exist if it were not for the CBHAs' determination.

Not only did the CBHAs build houses; they brought forward projects to support the people in them. They built community facilities and used their expertise in development and attracting funding from various sources, including the lottery. They have been a boon for local employment, have strengthened local economies and have allowed social enterprises to flourish. All those social and economic achievements were led by community-based housing association tenants and owners who were members of management committees. That model has a proven track record of success.

What is clear from every piece of evidence that has been presented to the Parliament and from what we can see on the ground is that the community-based housing association model works. Yes, it requires public subsidy and support from the Government, and it might not be the cheapest option, but we get what we pay for. We got the cheapest option when we built housing estates such as the Red Road and Sighthill ones. They were described in their day as being cost-effective solutions to providing housing, but a lack of infrastructure and proper management has meant that those houses are being torn down as we speak. Had there been the community control there that we have had in the areas that I referred to, I am sure that those estates would have stood the test of time.

My motion refers to what is happening in the real world. Although demand for social housing is increasing rapidly, the Scottish Government is cutting the grant levels that are available to local housing associations for their development work to continue. The graphs on the piece of paper that I am holding up, which was provided to every member in the chamber, illustrate clearly the challenges that housing associations face. One graph shows that, when Labour left office in April 2007, the grant per new build unit was just over £76,000. The SNP Government has cut that to the present rate, which is just over £44,000 per unit, resulting in CBHAs across Scotland withdrawing

from development. They are doing so because they need Government financial support that will allow them to ensure that schemes stack up.

Those cuts are putting at risk the very existence of our community-based housing association movement. The current funding environment has led to the growth of housing organisations masquerading as housing associations when, in fact, they are big businesses that operate from outside Scotland. I am afraid that their interests are not the interests of our communities as seen in the community-based housing association movement; their interests are to ensure that they make a fast buck out of their investment. They might be able to come in to build the houses and meet the targets that the Government has set—they can do that as cheap as chips. However, they will not be able to do it in the effective manner in which our CBHA movement has done it for many years.

My call to the Scottish Government is clear: reverse the cuts that have been placed on our local housing associations and let them get on with the job of regenerating our communities and protecting the investment that has been in place for nearly four decades. That will ensure that many of our communities are able to provide good and ample social housing for people to live in.

12:45

**Kenneth Gibson (Cunninghame North) (SNP):** I congratulate Paul Martin on securing the debate.

The role of community-based housing associations is integral to the delivery and management of high-quality housing stock in Scotland. The Scottish Government has worked closely with housing associations and local authorities to increase the availability of socially rented and affordable housing across the country. Of course, the collapse in the housing market, and the United Kingdom Government's frankly misguided decision to cut public spending—both capital and resource—has had a profound impact and set particularly difficult challenges and problems that the Scottish Government has had to react to and mitigate.

The challenges in delivering a housing programme are many and varied. Changing demographics, energy efficiency, different housing types, changing household sizes and changes to the welfare system, financing and the blend between social renting and homes for ownership must all be taken into account.

Unlike Westminster, the Scottish Government has prioritised the delivery of social and affordable housing. It has achieved a great deal, despite a 26 per cent cut in available capital. In spite of

unprecedented budgetary constraints, we are two years into our five-year target of delivering 30,000 additional affordable homes. The Government is on course to meet that commitment, having worked with local authorities and housing associations to deliver almost 12,900 affordable homes so far, almost 10,000 of which are for social rent.

To encourage an increase in house building, the Government reduced the level of subsidy per unit delivered through the innovation and investment fund. That reflects the fact that building costs are significantly lower than in previous years, and it encourages providers to make full use of other resources available to them. That is a sensible approach during such straitened times and ensures a maximum return for taxpayers' money.

It should also be remembered that the Scottish Government recently launched a £10 million house-building infrastructure loan fund to unlock stalled sites. The fund has awarded loan support to nine projects across Scotland, with scope to deliver more than 1,100 new homes and the potential to provide a further 800 in subsequent phases. That will ensure increased provision of stock, which will help to satisfy demand and prevent increased rents.

In response to demand from councils and developers, a further procurement round of the groundbreaking national housing trust has been launched. The scheme allows developers and councils to jointly fund the purchase of new homes, with local authority loans under the initiative underwritten by the Scottish Government. Approvals have been secured for more than 1,300 homes, with 300 completed and hundreds more on site.

Although increasing the housing stock remains a priority, the Scottish Government has introduced many more measures to stimulate the housing market and improve existing stock. For example, it recently committed £120 million over two years to support a new shared equity scheme to help first-time buyers and those looking to buy a new home.

Additional funding in the previous budget was allocated to programmes such as those for adaptations, whose budget increased by 25 per cent on the previous year's figure, and for retrofitting properties with energy efficiency measures to reduce fuel poverty and improve tenants' lives. The Scottish Government is also providing £2.5 million to social landlords to help tenants to access the advice and assistance that they need following the implementation of the regressive bedroom tax.

As we know, the Labour Party has called continually for more investment in housing—as it has in every sphere of public spending. Indeed,

Ken Macintosh called for all additional resources received in Barnett consequentials to be spent on housing, at the expense of education, healthcare, justice and infrastructure, while Margaret McDougall called for tens of thousands of one-bedroom flats to be miraculously built in the six-month period running up to the bedroom tax's imposition.

The Scottish Government is pioneering new initiatives and innovative funding methods. It is evident that the Government is committed to improving and expanding Scotland's affordable housing stock. It will work with community housing associations, local authorities and others to ensure that its achievements thus far are built on.

12:48

**Elaine Murray (Dumfriesshire) (Lab):** I, too, congratulate Paul Martin on bringing this important subject to the chamber.

Community-controlled housing associations were first set up in Glasgow in the 1970s and 80s. They were characterised by the prevalence of tenants and residents on their boards and they specialised in the renovation of older housing stock and the regeneration of neighbourhoods, through accessing private sector funding that was not otherwise available to the public sector.

The model subsequently became a feature of the social housing sector in Scotland, but it remains particularly strong in Glasgow and the west of Scotland. When council housing stock was transferred to Glasgow Housing Association in 2003, the intention was to have a two-tier stock transfer process, with a smaller second-stage stock transfer to local housing associations, which would own and manage their own stock. That has happened to some extent, although perhaps not as quickly as was expected.

The community housing movement has delivered many benefits to neighbourhoods in Scotland. In addition to its central purpose of providing good-quality affordable housing through renovation and new build, community housing has delivered investment and employment, community empowerment and local accountability. The sector has also supported community enterprises, education and training, childcare and community cultural events.

Our smaller housing associations are particularly vulnerable to financial pressures. Paul Martin's motion highlights the cut in the development funding budget in Glasgow and the consequences for rents and borrowing costs.

Labour MSPs have on a number of occasions raised concerns expressed by the Scottish Federation of Housing Associations and others

about the reduction in the housing association grant from an average of £70,000 across Scotland to an average of £40,000. Coupled with the difficulties in accessing borrowing, that is making the building of new homes for social rent more and more difficult.

Payment after building instead of in stages adds more pressures. The SFHA estimates that the rent from a social rented property raises enough funds to cover only a third of the cost of borrowing. The HAG covers another third of the cost. In the past, the other third might have come from reserves and other sources, but they are running out, so that is not an option for small community-controlled housing associations.

That is one reason why last week I asked the Cabinet Secretary for Finance, Employment and Sustainable Growth whether the consequentials arising from the financial transactions announced in the UK budget, which have to be used for equity or loans and must be repaid to the Treasury, could be used to provide loans to housing associations at a lower cost than they can access through banks and other private sources, for the purpose of building homes for social rent. I hope that the Government is prepared to look into that possibility.

The current situation is likely to have one of two possible consequences. Community-controlled housing associations will be forced out of building and regeneration projects or, as Paul Martin said, they will be taken over by large housing associations from other parts of the United Kingdom, with the loss of the character of the Scottish housing association sector.

For example, 384 homes were transferred from Dumfries and Galloway Council to Irvine Housing Association back in 1999 after a vote by tenants—it was a very successful stock transfer. That took the housing association's stock to about 1,900 properties, and it invested something like £12 million in regenerating the area and modernising the properties. IHA took over a number of other properties and had about 2,000 tenants. Now, it has become part of Riverside, which is based in Liverpool and which has more than 85,000 tenants and residents. I do not know that housing association, which might be perfectly fine, but I am very concerned that smaller community-based housing associations will be taken over because they cannot survive in the current financial situation and that their essential character in their communities will be lost.

Scotland should be proud of our tradition of community-controlled housing associations but, unfortunately, the current funding regime threatens associations' ability to build new homes for affordable social rent and might threaten their continued existence.

12:55

**John Mason (Glasgow Shettleston) (SNP):** I thank Paul Martin for bringing this important subject to the chamber. I would have signed his motion, most of which I agreed with, but for the fact that he blamed the Scottish Government for the cuts, when it is clearly not to blame.

I worked for housing associations for a number of years and I really believe that they are a key player in our society and perhaps the key player in poorer areas and constituencies such as Paul Martin's and mine. I welcome a number of housing association representatives to the chamber. I know that West of Scotland Housing Association is here, as are Queens Cross Housing Association, Milnbank Housing Association and a number of others.

I know of no other type of organisation in the third sector in my constituency that combines such a high level of voluntary involvement with the level of professional resources that housing associations have. Having worked for and known housing associations of various sizes, I favour associations with a stock of less than 3,000, which provides a good balance between professionalism and tenant control. I was never in favour of Glasgow Housing Association at all, which was always going to be too big. I am disappointed when I hear of small local housing associations, including one recent example from my constituency, being swallowed up by giants from elsewhere.

Housing is the number 1 issue that constituents come to see me about and it remains the top priority for me in capital spending priorities. I especially welcome the fact that the Commonwealth games village in the east end of Glasgow will be turned partly into a care home and partly into social housing.

Another concern is the private rented sector. It can be very good at times, but some of our most vulnerable citizens suffer at the hands of dubious private landlords or agents in a way that I know would not happen if they were tenants of a community-based housing association.

The debate appears to be about yet another list of Labour wishes. Two weeks ago, Labour members told us that they wanted more money to be spent on expensive cancer drugs, even though that would presumably mean cuts in housing and transport budgets. Last week, they told us that they wanted more money for transport, even though that would presumably mean cuts in medicines and housing budgets. This week, they tell us that they want more money for housing, even though that would presumably mean cuts in drugs and transport budgets. When will Labour politicians join us in the real world?

The reality is that we have a pretty much fixed amount of money. All parties are welcome to tell us that they would spend more on housing and less elsewhere, but they should tell us where the savings would come from. On the other hand, they could spend the housing money differently. For example, we could have a higher percentage of HAG but fewer houses, or a lower percentage of HAG and more houses. Alternatively, we could have more specialist houses, which tend to be more expensive, but build fewer houses in total. That was suggested at the Finance Committee during our recent inquiry into demographic change. Those are all valid choices, but we expect politicians who disagree with our choices to give us their alternatives.

**Paul Martin:** Will the member give way?

**John Mason:** I am sorry; I have only four minutes and I am now in my last minute.

The reality is that some housing associations have free reserves on top of their cyclical and designated reserves. Of course such reserves can be used only once, but that is not to say that they should not be used at all. For example, a housing association in my constituency fairly recently bought flats off the shelf from a private developer. Those flats might not be up to the high spec that we normally get from housing associations, but that has meant more social rented housing in the area and I very much welcome that. If we can get more houses for less public money, even if only for a few years, that is a good route when money is tight. Having savings and reserves is a good idea—we need that throughout society—especially for housing associations. Of course there must be ring-fenced reserves but, if there are free reserves, let us see them used.

We should support community-based housing associations and make housing our number 1 priority, but we should also be realistic. Scotland's budget has been cut, and that is a sign that the UK system has failed.

12:57

**Alex Johnstone (North East Scotland) (Con):** I am grateful for the opportunity to take part in the debate, which I congratulate Paul Martin on securing. I apologise for not having signed the motion, which I might have overlooked on the basis that, at first glance, it appeared to be Glasgow Provan orientated. Having reread it before the debate, I can say that I would have been content to have added my name to it.

Community-based housing associations have played a major role in providing high-quality affordable housing for many years. Their sophisticated knowledge of local housing need means that their contribution to building

sustainable communities cannot be overestimated. With high levels of build quality, community-based housing associations also do fantastic work in helping to keep people above the fuel poverty line.

Housing associations do more than provide just bricks and mortar. As I have said in the chamber many times, awarding a tenancy to a household is not and never will be the only solution to the issues that tenants face. Housing associations really come into their own in the levels of support that they provide, which can help vulnerable households to maintain a tenancy for the longer term.

Although tenant participation is not the sole preserve of housing associations, it is an important area in which the sector excels. That gives people not only a real voice in their neighbourhood but an undoubted sense of empowerment, which can have a powerful impact in other areas of their lives.

Against the backdrop of that exceptional work by housing associations, the latest housing statistics that the Scottish Government released yesterday make for grim reading. Housing association starts show an astonishing 38 per cent decrease from the previous year. Completions by housing associations also make for grim reading, as they are down by 32 per cent.

That is not housing associations' fault. They find themselves in the position that Scottish Government subsidies have been slashed beyond reason. [*Interruption.*] That leaves them with stark choices for the future; many are choosing to mothball sites and cancel developments.

**Kenneth Gibson:** Will the member give way?

**Alex Johnstone:** Many people pay the price for those Scottish Government spending choices. People who are languishing on waiting lists, people who are employed directly by the construction industry and people who supply tradesmen with everything from sandwiches to cement are all paying the price.

Of course, the Scottish Government can point to an increase in local authority housing starts, which are up 45 per cent, but the sting in the tail is that completions are down by 13 per cent. I welcome the few positive figures, but let us look at the reality. Such is the funding landscape created by the Scottish Government that it is really only local authorities that can afford to undertake prudential borrowing to build. There comes a point, however, when it is no longer prudent to borrow. When that point is reached, neither local authorities nor housing associations will be building. That will leave us with the unedifying but increasingly common sight of the Scottish Government looking like a rabbit caught in the headlights of a rapidly approaching juggernaut.

I have heard during my speech the continuous complaints of SNP members about the fact that somebody else has dictated their budget to them—

**Kenneth Gibson:** Will the member give way?

**Alex Johnstone:** Yet anyone in the chamber who has taken the trouble to look at successive budgets in recent years will know that housing has been targeted for disproportionate cuts. The Scottish Government's decision that housing could do with greater cuts than other areas of expenditure takes the blame from any previous Scottish Government and from the current UK Government and brings it right back to the doorstep of the Scottish Government and the Minister for Housing and Welfare.

13:01

**Jim Eadie (Edinburgh Southern) (SNP):** I congratulate Paul Martin on securing this afternoon's debate. It is right that we recognise the vital work of community-based housing associations. I know that my constituency is far from unique in having dedicated housing associations that work to improve the communities in which they are based and which make a lasting contribution to people's lives.

The Scottish Government recognises the vital role that social housing plays. As Alex Johnstone said at the start of his speech—it went downhill from there—it is about more than bricks and mortar. It is about giving children a safe place to grow up, allowing young people the chance to get on to the property ladder, and providing older people with a comfortable and warm place to live.

The Scottish Government is committed to ensuring that that becomes a reality for all and, as John Mason reminded us, in a context of squeezed public resources we have seen the completion of almost 12,900 additional homes, and we are now two years into a five-year target to deliver 30,000 new social and affordable homes in Scotland. Almost 10,000 of the homes completed in the past two years are for social rent. By the end of April 2013, the Scottish Government had allocated £200 million in additional funding for housing supply, bringing the total investment to almost £860 million in the three years to March 2015. It is important to have those facts on the record.

**Paul Martin:** Does it concern Jim Eadie that community-based housing associations are withdrawing from development because of the lack of grant subsidy?

**Jim Eadie:** Paul Martin must recognise the financial realities in which the Scottish Government is operating, because of the difficult

circumstances that we find ourselves in: the swingeing cuts in the budget for housing supply imposed by Westminster; the challenges facing the housing construction industry, as Kenneth Gibson reminded us; the refusal of banks to release finance to housing associations, exacerbating the financial pressures on the smaller housing associations to which Dr Elaine Murray referred; and the welfare reforms that are set to penalise the most vulnerable people in our society. Those are the realities that we all face.

I cannot see how much time I have left, Presiding Officer.

**The Deputy Presiding Officer:** You have 90 seconds.

**Jim Eadie:** My constituency, Edinburgh Southern, is served by a number of housing associations, including Cairn Housing Association, Dunedin Canmore, Trust Housing Association, Viewpoint Housing Association, Castle Rock Edinvar Housing Association, and Bield Housing & Care, all of which make a contribution to providing tenants with affordable homes and a decent place to live, as well as providing the opportunity and support that people need to thrive in their communities. The Scottish Government continues to provide the necessary support and investment, despite the difficult pressures and the obstacles that are placed in its path.

One organisation that is making use of that support is Dunedin Canmore, which is headquartered in my constituency. I was glad to learn that it seeks to protect and empower communities that are affected by digital exclusion by launching the positive pathways initiative to provide computer access and intensive one-to-one support to help people who risk losing benefits because they do not have access to the internet or the skills to use it. That was made possible by a grant of £200,000 from the Scottish Government, representing only some of the £2.5 million that has been made available to help social landlords to help tenants to access such advice.

Likewise, Trust Housing Association, which is also headquartered in my constituency, provides 2,500 people in Scotland with a range of housing options. It has been actively contributing to the local community by accessing funds through the change fund to develop a meals service for the benefit of the whole community so that residents and local people alike can get a decent meal no matter what their personal circumstances are.

Castle Rock Edinvar has accessed part of the £1.5 million community jobs Scotland fund to give opportunities to young people in my constituency to gain valuable work experience. The chief executive of Castle Rock Edinvar, Alister Steele, stated that he found

“working with the Scottish Government to be a hugely positive experience”

and that he found the Government to be very supportive in the development of new funding models.

The Deputy First Minister said in evidence at the Infrastructure and Capital Investment Committee in November 2012:

“resources have been efficiently used and we have ensured that we get bangs for our bucks ... For every £3 that we invest, we are levering in £7.”—[*Official Report, Infrastructure and Capital Investment Committee*, 7 November 2012; c 1057.]

13:06

**Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab):** I thank my colleague Paul Martin for bringing this important debate to Parliament. I know of his long and strong commitment to the community housing association movement, and it is fitting that he leads our debate.

I offer a warm welcome to all the members of housing association management committees and staff who have come to listen to our debate. Housing association and housing co-operative members are volunteers who work hard to make improvements in their communities with support from staff members. For that, they deserve our sincere thanks.

The Glasgow Maryhill and Springburn constituency is blessed with a large number of excellent housing associations. Some are big and some are small, but they all make a substantial contribution to the life of our communities. I may not be able to mention them all in my speech, but I will provide some examples of the important work that they do that typify the contribution that they all make.

Housing associations are struggling to cope with the effect of the changes to the benefits system on their tenants. They are trying to mitigate the worst effects of those atrocious and ill-advised reforms by providing good advice to their tenants and taking practical steps, such as linking up with credit unions to help those who do not have a bank account. At the same time, they must try to ensure that their own income levels are not depleted as a consequence so that they can continue to provide the high level of service that is the hallmark of the housing association movement.

Over the years, I have witnessed some excellent innovation from the housing associations in my constituency, such as the self-build project operated by Maryhill Housing Association, in which local people built their own homes from

scratch and worked hard to help their neighbours to build theirs too.

Other examples include the commitment to excellent design that has been the signature of Queens Cross Housing Association's developments over the years and the efforts that NG Homes has made to incorporate community facilities and retail units into its new-build properties, helping to build communities, not just homes.

I also highlight the confidence that led Blochairn Housing Association to invest in its biggest-ever development on a difficult site in a community where new houses of mixed tenure were needed. The way in which housing associations in my constituency have renovated older properties, bringing them up to standard and saving important landmark buildings in the process, is also welcome.

However, in recent years, the picture has begun to change. No longer do we see new-build housing springing up all over the constituency from Spire View Housing Association, Copperworks Housing Co-operative Ltd and West of Scotland Housing Association. Housing associations are no longer building new homes, because HAG funding cuts make it practically impossible for them to do the job that they were created to do.

Yesterday, one housing association told me that it has identified a funding gap of £26,000 per unit, based on HAG levels and its existing rent levels. Without a proper level of development grant, it will have to expose itself to extremely high risk on the financial markets or make the decision not to build. Frankly, that is the decision that most of the housing associations that I know have already made. Unless they are given specific one-off grants for reprovisioning, they will no longer build new houses.

It is no wonder that headlines this week tell us that fewer houses are being built in Scotland now than was the case during the great depression. Compared with last year, there were 40 per cent fewer new starts in the first three months of this year. The irony is that the need for more houses to stimulate the economy and to provide local jobs has rarely been greater. The changes that have been brought about by the introduction of the bedroom tax mean that there is a pressing need for more smaller properties.

I hope that the minister will think again and restore the HAG to a level that allows our housing associations to grow and to thrive, and to build warm, affordable houses and good and stable communities.

**The Deputy Presiding Officer:** Because of the number of members who still wish to speak in the

debate, I am minded to accept a motion without notice to extend the debate by up to 30 minutes.

*Motion moved,*

That, under Rule 8.14.3, the debate be extended by up to 30 minutes.—[*Paul Martin.*]

*Motion agreed to.*

13:11

**Bob Doris (Glasgow) (SNP):** Even though I do not agree with the terms of Paul Martin's motion, I thank him for bringing an important issue to the Parliament. I could not sign the motion, because I believe that it is incomplete. It is in complete denial about the 26 per cent capital cuts that the UK Government has imposed. Under those circumstances, I simply could not support it.

I put it on record that the UK Government's welfare reforms are probably the greatest challenge that the housing association movement faces. I am referring not just to the bedroom tax, which has received much publicity, but to the reform of disability living allowance and the introduction of personal independence payments, which will deprive a lot more constituents of money that they need to pay their rent than will the bedroom tax, horrible though that is.

I also put on record my apologies for not being able to meet the representatives of Glasgow's community-based housing association movement earlier today. I was at a meeting about developing a fairer system for accessing new medicines, including end-of-life cancer drugs. I hope that members will appreciate that that was an important meeting for me to attend. That is why I could not meet the movement's representatives outside Parliament. I know that a number of people from community-based housing associations are in the gallery, and I hope to mention some of the work that they have done, if time allows.

I say gently to Paul Martin that I cannot take any lessons from the Labour Party on supporting community-based housing associations. There are larger, stronger community-based housing associations in north Glasgow because the SNP Government got the second-stage transfer from the GHA moving. We now have a larger Maryhill Housing Association, a larger Queens Cross Housing Association and a larger NG Homes because our Government got community-based housing associations motoring and delivered on second-stage transfer.

**Paul Martin:** Does the member accept that the graph that I provided—the graph that he has received a copy of—clarifies that the grant level that is provided to the community housing associations to which he referred has reduced

from £74,000 to £34,000 during the tenure of the Scottish Government since 2007? Does he accept that figure?

**Bob Doris:** I will come on to speak specifically about those figures, but I think that Mr Martin made a Freudian slip—he began by saying “the gaffe”. In denying the reality that we are building social houses in Glasgow and Scotland more widely, part of his speech was an absolute gaffe, so I will take no lessons from him on community-based housing associations.

Let us talk about some of the HAG realities. Mr Martin made a reasonable point when he said that either more capital expenditure has to be put into building new social houses, in which case other parties must say where that would come from—they have failed to do that—or the HAG level has to be lowered to allow more houses to be built. The alternative, as Mr Mason suggested, would be not to lower the HAG level unless houses are built. The SNP Government has made a political decision—incidentally, that is something that it would like to do more of—but no other party is prepared to do the same. That is a cop-out and it shows an Opposition party that is not fit to be in charge of housing policy.

Another thing that I wish to say to Mr Martin is that Labour Opposition members mention capital expenditure cuts when it suits them, but not when it does not. The real-terms increase to our national health service budget, for example, is a dramatic investment in the NHS, but the capital budget has gone down because of UK cuts. That is something that Ms Baillie, Labour's health spokesperson, fails to take into account when she is discussing the health budget. That is an inconsistent, incoherent message.

**Alex Johnstone:** Will the member take an intervention?

**Kenneth Gibson:** You never took any.

**Bob Doris:** I think that I am running short of time. I apologise to Mr Johnstone.

**The Deputy Presiding Officer:** You are in your last minute.

**Bob Doris:** I have one or two more things that I want to say. I want to consider some positive aspects.

**The Deputy Presiding Officer:** In fact, you should be drawing to a close, please.

**Bob Doris:** In the three years up to 2015, Glasgow will have received £181 million in housing association grant money and, on top of that, nearly £29 million of reprovisioning money through the Glasgow Housing Association for demolitions.

I would like to say that Glasgow City Council—

**The Deputy Presiding Officer:** Finally.

**Bob Doris:** I am in my final minute, Mr Scott—I realise that.

**The Deputy Presiding Officer:** You are in your final seconds, Mr Doris.

**Bob Doris:** Let me just put this in.

We need more flexibility on the grant arrangements under reprovisioning to allow greater access to local housing, whether it be in transformational regeneration areas in Maryhill or in Sighthill, where the youth Olympics is hopefully coming to town and an additional 400 social units will be built as a result of that.

**The Deputy Presiding Officer:** Excellent. Thank you very much.

13:16

**John Pentland (Motherwell and Wishaw) (Lab):** I thank Paul Martin for bringing the motion to the chamber and for highlighting the important role of community-based housing associations. In my constituency, there are several organisations with properties, such as the Garrion People's Housing Co-operative, the Forgewood Housing Co-operative and Wishaw and District Housing Association, all covering specific local areas. Others, such as Lanarkshire Housing Association and Clyde Valley Housing Association, cover bigger areas and are extending the geographical areas that they cover, while retaining strong community links.

Garrion and Forgewood are both community-based housing co-operatives, which were set up by stock transfer in 1990 and 1994 respectively. Garrion operates in the Gowkthrapple area of Wishaw; the other operates in the Forgewood area of Motherwell. They work closely with each other, sharing management and other resources. Both housing co-operatives offer a wide range of housing opportunities,

“consulting with and involving the community in key policy and other decisions.”

Gowkthrapple in particular has benefited from Garrion's creation of a community hub. Like all good housekeepers, the co-operative watches its pennies carefully to ensure that it can provide a value-for-money service. After all, its customers are its shareholders.

Wishaw and District Housing Association was established in the first wave of community-based housing associations in 1978. Its initial aim was to improve and rehabilitate local housing provision, starting with the turn-of-the-century tenement flats that lacked amenities and were often structurally problematic. Since 1990, the association has turned its attention to building new housing.

Wishaw and District Housing Association and the two co-ops aim to provide high-quality, affordable homes for rent. They also help people to own their own homes via schemes such as those involving shared ownership.

In more recent times, the organisations have been severely hampered by tight funding and reduced allocations per property. Grants per unit have fallen from 60 per cent of the cost of construction to below 40 per cent, and they have almost halved in cash terms. That has made new build more difficult, and it restricts housing associations' capacity to buy and develop new sites. Looking to properties with higher rents to offset that has been made more difficult by welfare reform, which is undermining income from existing tenants.

**Bob Doris:** Will the member give way?

**John Pentland:** I want to move on.

All organisations are being encouraged to use up their reserves, but those can be used only once, and they are then left without anything to fall back on in adversity. That runs counter to the prudential approach that was recommended by the Scottish Housing Regulator to meet the risks of the current economic climate. All organisations need to set aside contingency resources. To operate with fingers crossed and an assumption that nothing will go wrong is simply irresponsible.

Financial capacity has also been affected by the wider financial situation. Borrowing is more difficult, and some lenders are using more borrowing as a reason for seeking to reprice existing loans. Pressure is increasing on the existing stock and the ability of housing associations to undertake major repairs and renewals, including meeting higher energy efficiency obligations.

There is great strength in being community based in respect of accountability and responsiveness to local needs. The Scottish Government should not jeopardise that by stretching community-based housing association resources to the point at which it affects their ability to do the job that they have done so well for the past 40 years.

13:20

**The Minister for Housing and Welfare (Margaret Burgess):** I, too, thank Paul Martin for bringing the subject to the chamber. I do not want to shy away from the issue, which is important.

This morning, I returned from the SFHA's annual conference, where I paid tribute to housing associations for the positive differences that they make to people's lives and communities. I know that that would not be possible without the

dedication and commitment of the voluntary board members and the professionalism and hard work of their staff. I am pleased to reiterate that for the community housing association members who are here.

As we have heard, vibrant communities are about more than the houses that people live in. The Scottish Government recognises the huge contribution that community-controlled housing associations make to the wellbeing of their tenants and their neighbourhoods. For example, in north-east Glasgow, Wellhouse Community Trust's peoples gateway project, which is supported by Wellhouse Housing Association and Provanhall Housing Association, is helping to tackle antisocial behaviour and to provide positive outcomes for young people. Our £7.9 million people and communities fund will contribute to the total project cost and support that important work.

I think that Bob Doris said that Glasgow receives a significant share of Scottish housing resources. It has a three-year housing supply budget of £181 million. That is not all that we are spending in Glasgow. There is separate funding of over £28 million for Glasgow Housing Association, and there is the recent greener homes innovation scheme, under which housing associations got funding of over £5 million. We have shared-equity programmes that help first-time buyers. Over the past six years, the funding to Glasgow City Council has been in excess of £800 million.

To meet national targets, Glasgow needs to deliver strongly on housing, and the role of community-controlled organisations is vital in that. Housing associations face significant pressures. There is the impact of the cuts from the Westminster Government, which we have heard about, and there are the impacts of welfare reform. Alex Johnstone's party in Westminster has imposed those things on Scotland, and he has a bit of a brass neck to suggest that, in some way, it is the Scottish Government's fault and my fault in particular. We are taking no lessons from the Tories and what they are doing.

Housing associations have responded magnificently. They understand the pressures that we are under. We will continue to encourage those strong community anchor organisations to explore further financial and service innovations.

**Paul Martin:** The minister refers to housing associations. I will pose a question that they posed to me. Will you reverse the cut in the housing association grant from £74,000 to £34,000?

**Margaret Burgess:** If Paul Martin can come up with a strategy and show me where that money is in our settlement from the Westminster Government, which is the same settlement that

your Government is going to carry on with, I will talk to you more strongly.

**The Deputy Presiding Officer:** As the debate becomes more heated, I invite members to speak through the chair, please.

**Margaret Burgess:** Despite swingeing UK Government cuts to our capital budgets, more than 6,000 affordable homes were completed in the last financial year. That brought the total additional affordable homes delivered in six years of SNP government to more than 40,000, which compares with the fewer than 32,000 that were delivered in the previous six years by previous Administrations. Some 8,000 more families have been helped into affordable homes by the SNP Government. The figures back that up.

Members may be aware of the lobby outside Parliament today by the Glasgow and West of Scotland Forum of Housing Associations—indeed, some members may have attended it. Its paper from last autumn called for rolling three-year housing programmes, which we announced in March. It asked us to look again at subsidy rates, funding for acquisitions, payment on completion and management of risk, and we are discussing all those issues with the sector, including the GWSF, right now. I am clear that we need to address those challenges and to do so together. I recently set up a short-life working group to advise on issues such as affordable rents and financial capacity, and housing associations and councils are represented on the group. We look forward to receiving the group's advice. Its first two meetings were positive and took full account of the evidence on current issues from all involved.

I emphasise that, every time that the Scottish Government has had an opportunity to increase housing investment in Scotland, we have done so. By the end of April, we had allocated £200 million of additional funding for new affordable homes, bringing the total investment to almost £860 million in the three years to March 2015.

**Kenneth Gibson:** In his introductory speech, Paul Martin mentioned Labour's abysmal record in Glasgow of building poor-quality houses that had to be dynamited in their tens of thousands in subsequent years. Can the minister confirm that social rented houses are now being built to the highest possible standards?

**Margaret Burgess:** Absolutely. The houses are being built to very high standards. When I visit housing associations and new developments, I take great pleasure in seeing that we have those standards and that people have homes.

**Patricia Ferguson:** Will the minister take an intervention on that point?

**Margaret Burgess:** Sorry. I would have taken an intervention, but I am running out of time, and I have a few things to say. The Scottish Government has been criticised, but we are working with the sector to try to deal with the challenges together. We have not said that there are no challenges.

Specifically on welfare reform, I have written to Westminster's Scottish Affairs Committee with evidence of the problems that the reform will create for social tenants and landlords in Scotland. I will continue to press the UK Government as hard as I can on that, and particularly on the bedroom tax. As political issues have been raised in the debate, I have to say that the SNP is the only party that has said that it will scrap the bedroom tax. No one else has said that. That should get out there. The Labour Party has not said it. The other day, we heard Ed Balls making it clear that Labour would continue with the bedroom tax, as will the Conservatives and Liberal Democrats. Members say that they want some truth and facts, and that is a fact.

We are doing all that we can to lessen the impacts of welfare reform, but there are no easy answers. We still need strong programmes to meet growing housing needs, and we must continue to use public money effectively. We might be five years on from the credit crunch, but we are still dealing with the problems from its fallout, not least of which are the problems that housing associations face with bank lending conditions. I will raise that matter next week with lenders, because they have to be told about the issues that the situation is causing for jobs and for housing associations and financing.

At this time of financial constraint, the focus should be on what we can achieve together and not just on providing the same amount of money as in the past. It is about how we deliver efficiency and value in the housing programme while continuing to meet housing needs across Scotland to ensure that people live in high-quality affordable homes in sustainable communities.

13:28

*Meeting suspended.*

14:30

*On resuming—*

## **Scottish Parliamentary Corporate Body Question Time**

### **“Managing early departures from the Scottish public sector”**

**1. John Wilson (Central Scotland) (SNP):** To ask the Scottish Parliamentary Corporate Body what action it is taking in light of the findings of Audit Scotland's report, “Managing early departures from the Scottish public sector”. (S4O-02227)

**Mary Scanlon (Scottish Parliamentary Corporate Body):** The Scottish Parliamentary Corporate Body exemplified the principles of good practice that the Audit Scotland report identifies when it ran its early severance and retirement scheme in 2010-11. The scheme achieved a reduction of 37 posts and fully paid for itself within two years, with on-going reductions in the staff pay budget. The results were fully disclosed in the SPCB's 2010-11 annual accounts.

**John Wilson:** I thank Mary Scanlon for her full answer, in which she noted that 37 posts have disappeared from the corporate body's make-up. Were confidentiality agreements signed as part of those settlements?

**Mary Scanlon:** I cannot be precise about the exact settlements in 2010-11, but I can tell John Wilson that the corporate body has used compromise agreements. They are a useful means of protecting the organisation from legal challenges relating to departures, but are used only in exceptional circumstances.

### **External Security Facility (Delivery)**

**2. Alex Johnstone (North East Scotland) (Con):** To ask the Scottish Parliamentary Corporate Body whether the external security facility will be delivered on time and on budget. (S4O-02230)

**Liam McArthur (Scottish Parliamentary Corporate Body):** I can confirm that the project is on track to be delivered on time and within budget. The decision to proceed with the project was not taken lightly, and was based on the Scottish Parliamentary Corporate Body's corporate and legal responsibilities to ensure the safety of more than 400,000 visitors annually and up to 1,000 daily pass-holders, who include staff, members of the Scottish Parliament, the media and contractors.

**Alex Johnstone:** I express my delight that, contrary to the establishment of the main part of

the building, the new facility will be established on time and on budget. Will Liam McArthur confirm that the project will be completed and that the building will be back to its full and normal usage in time for the festival of politics in late August this year?

**Liam McArthur:** I certainly understand that Alex Johnstone bears the scars of that early experience, but I hope that he draws some reassurance from the fact that the security facility is scheduled to become operational by August this year.

The project as a whole, including the closure of the existing entrance, is due to be finished by the end of the summer, but the building will be operational in time for the festival of politics.

### People with a Sensory Impairment (Participation)

**3. Dennis Robertson (Aberdeenshire West) (SNP):** To ask the Scottish Parliamentary Corporate Body what steps it has taken to ensure that people with a sensory impairment can take a full and active part when visiting the Parliament or attending external events. (S4O-02226)

**Mary Scanlon (Scottish Parliamentary Corporate Body):** The Scottish Parliamentary Corporate Body has undertaken a number of steps to ensure that all visitors can take part fully and actively in any meeting or external event of the Parliament. For example, induction loops and infrared systems are available in the chamber and in committee rooms, and we have television screens throughout the building to enable the viewing of business.

Additional provision has been put in place to reflect the needs of people with sensory impairments. For example, we have information leaflets for witnesses and other visitors in a range of formats, including audio and British Sign Language, and we have a contract for BSL and other communication support to enable us to access provision such as note-takers, palantypists and BSL interpreters as and when it is requested.

**Dennis Robertson:** The corporate body is probably aware that, in some cases, those with sensory impairments and those who are profoundly deaf and rely on BSL cannot take a full part in visiting the Parliament. In particular, our television screens do not have appropriate text or BSL to enable those visitors to witness what is going on. Will the corporate body consider looking at other means, or at improving the facilities for our BSL users in the future?

**Mary Scanlon:** I am aware through officials of the particular instance of a recent parliamentary committee visit to Stornoway, when members of the public were able to drop in to meet committee

members before the formal meeting but we were unaware of the needs of some members of the public.

When bookings are made for the Parliament, we always ask whether any level of support is required. When we reviewed our provision for BSL and other forms of communication support, it was decided to provide an interpreter automatically when there is a debate or meeting in relation to deaf issues. However, anyone can request a BSL interpreter or any other form of communication support for any meeting of the Parliament. We will look to meet any request, provided that sufficient notice is given.

### Parliamentary Cat

**4. Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP):** To ask the Scottish Parliamentary Corporate Body whether it will consider procuring a resident cat as a humane mouse deterrent. (S4O-02228)

**Members:** Miaow!

**Linda Fabiani (Scottish Parliamentary Corporate Body):** No. The Scottish Parliamentary Corporate Body has no plans to procure a resident cat.

**Members:** Shame!

**Linda Fabiani:** We do, however, have a specialist pest control contractor who visits the building regularly.

**Christine Grahame:** I am dispirited by that response, given that we already have an established practice of setting nature on unwanted residents in the form of the hawk versus the pigeons, and given that my question was prompted by the experience of a member of the corporate body, who shall remain nameless. Is the corporate body really satisfied that the mice are under control, given the increasing sightings as they flaunt themselves in public in broad daylight? If there are more rodent rompings, will the corporate body reconsider and provide some homeless felines with meaningful employment?

**Linda Fabiani:** May I say to the member that she is not half as dispirited as the poor wee mice were, with the panic in their breasties as they saw Misses Scanlon and Grahame advancing upon them in Queensberry house? We have considered the suggestion of having a Parliament cat, but lots of issues arise, such as the issue of the security doors and the issue of cruelty, in fact, to a resident cat, which would not be able to get out and about the building. In addition, members have said to us that they have an allergy to cats.

We are satisfied that the pest control measures that we can undertake are sufficient to stop the

infestation of mice that Mrs Grahame is obviously terribly concerned about.

**Jim Eadie (Edinburgh Southern) (SNP):** My colleague Christine Grahame is to be congratulated on her question, which has set the cat among the pigeons.

Pest control is a serious issue and not to address it would be a mousetake and could even have catastrophic consequences for the health and safety of those who work in the building. Perhaps we could investigate the issue of a security collar for the cat, which might overcome some of the problems that Linda Fabiani identified.

**Linda Fabiani:** We do not have problems in ensuring that we are in control of any potential mouse sightings in the Parliament, and therefore the answer to Mr Eadie is naw.

**The Deputy Presiding Officer (John Scott):** Thank you—edifying.

#### Parliament Building (Wooden Spars)

**5. Richard Lyle (Central Scotland) (SNP):** To ask the Scottish Parliamentary Corporate Body what work is being carried out on the wooden spars—or shutters, if you want to call them that—on the Parliament building, at what cost and in what timescale. (S4O-02225)

**Linda Fabiani (Scottish Parliamentary Corporate Body):** No work is currently being done on the timber louvres; the word is louvres, rather than shutters, Mr Lyle—I am afraid that I gave the member the wrong advice earlier.

Maintenance work is planned to take place during the summer recess. That will include the removal and maintenance of the timber louvres on the MSP and Canongate buildings at a cost of approximately £25,000, and in situ recoating of what we call the bamboo poles, but which are actually oak veneer, at the public entrance canopy at a cost of approximately £2,000. External timber maintenance is an on-going requirement that is budgeted for in the long-term maintenance plan. The timber of course is part of the palette of materials used in the overall Parliament complex.

**Richard Lyle:** I thank Linda Fabiani for telling me that they are louvres.

If someone stands in committee room 2 and looks towards the windows in committee room 6, they can see that the outside spars or shutters—or louvres—are in a bad state of repair and are weather beaten. I suggest that the member goes up and takes a look. The windows also require attention. What steps will be taken to ensure that the louvres are fixed?

**Linda Fabiani:** I am tempted to ask Monsieur Allard to intervene and tell us the correct pronunciation of louvre.

Richard Lyle makes a serious point. I feel very strongly that we have an absolutely wonderful parliamentary complex. Visitors and construction professionals often comment about the quality of the finishes and the palette that we have used. There must be on-going maintenance with a zero tolerance policy towards defects so that we do not let things look shabby.

I am a wee bit concerned about what Mr Lyle has said about the shabbiness of some of the louvres and windows. I will take a look, and I will ensure that the Parliament's very professional maintenance and procurement teams have a look, too, and that they consider what can be done in our on-going and cyclical maintenance to ensure that we never allow our parliamentary complex to look in any way less than its best.

#### Energy Use (Reductions)

**6. Murdo Fraser (Mid Scotland and Fife) (Con):** To ask the Scottish Parliamentary Corporate Body what reductions in energy usage have been achieved across the campus over the last three years. (S4O-02231)

**Linda Fabiani (Scottish Parliamentary Corporate Body):** It seems to be me again, Presiding Officer.

We are pleased that we have reduced the total energy used in the building by 12 per cent over the past three years. We have done that by reducing electricity consumption by 15 per cent and gas by 7 per cent, which has delivered savings of around £200,000 a year. We have reduced the Parliament's carbon footprint by 19 per cent over the same period.

**Murdo Fraser:** I very much welcome the progress that has been made over the past three years by the corporate body. Is there room to make further progress? If so, what additional steps might be taken to improve matters further?

**Linda Fabiani:** The process is on-going. We all have a responsibility to meet the Government's target: members of the Parliament have agreed that that is right; the Parliament, as an institution, has agreed that, too.

We have plans for further action. We have an ambitious target to reduce carbon emissions by 42 per cent by 2020 compared to 2005-06 levels. In fact, the corporate body approved at yesterday's meeting a carbon management plan to ensure that we achieve that target, which we are on course to meet. We will do that by reducing electricity consumption by 40 per cent and gas by 14 per cent.

Of course, it is important that, as technology develops, we invest in new equipment that delivers energy savings when there is a good business case to do so. We had an interesting discussion yesterday about LED lighting in that regard. We will be improving control of equipment in the building and making the heating and ventilation more responsive to requirements.

### Queensberry House Lounge

**7. John Lamont (Ettrick, Roxburgh and Berwickshire) (Con):** To ask the Scottish Parliamentary Corporate Body what the average number of customers using the Queensberry house lounge is on Tuesdays, Wednesdays and Thursdays before 4 pm. (S4O-02229)

**Linda Fabiani (Scottish Parliamentary Corporate Body):** Although I am in there a lot, I do not make a point of sitting at the door and taking notes of the numbers using the lounge.

We do not record the number of customers who use the Queensberry house lounge on Tuesdays, Wednesdays and Thursdays before 4 pm. We record the number of transactions that take place, but that does not tell us the number of people who use the lounge because a single transaction often involves multiple individuals. Members—as I and a lot of my colleagues do—and their guests can use the Queensberry house lounge as a meeting area without purchasing any refreshments.

**John Lamont:** I thank Linda Fabiani for that answer, but I am disappointed that she is not counting the customers as they arrive and leave. My conversations with the staff in the lounge suggest that on some days only four or five transactions take place before 4 pm. Does the corporate body accept that figure? Will it consider lifting the restrictions on who can access the lounge before 4 pm?

**Linda Fabiani:** If our staff tell us that that is the situation, of course we accept it. However, I repeat that there are members who use the lounge as a private meeting place without making any purchases. I have seen members buy coffee at the coffee bar outside and wander into the Queensberry house space.

The corporate body felt that it was very important that members of this Parliament have somewhere they can take people to have a meeting that is private. We felt that the best way of achieving that to the benefit of all was to say that before 4 o'clock the lounge would be for members and invited guests only, in order that there could be a degree of confidentiality for meetings with constituents who come to visit us at the Parliament. The corporate body has not reconsidered that, because we feel that it is a very important principle.

## Crofting (Amendment) (Scotland) Bill: Stage 1

**The Deputy Presiding Officer (John Scott):** The next item of business is a debate on motion S4M-06798, in the name of Paul Wheelhouse, on the Crofting (Amendment) (Scotland) Bill.

I invite the minister to speak for a generous 13 minutes.

14:46

**The Minister for Environment and Climate Change (Paul Wheelhouse):** It is a well-known fact that crofting tenure forms an important part of our environmental, cultural and social heritage and that crofting traditions are close to the hearts of so many. As a consequence, the topic of crofting often inspires emotion and debate, and the Crofting (Amendment) (Scotland) Bill is no exception, even though there is general agreement on its purpose.

Those involved in crofting will know that the Crofters (Scotland) Act 1993 has already been amended by the Crofting Reform etc Act 2007 and the Crofting Reform (Scotland) Act 2010. We are now seeking to amend it further through the Crofting (Amendment) (Scotland) Bill, but for very good reasons.

I am sure that those involved in the introduction of the 2010 act did not imagine for one moment that we would be here today addressing an unintended consequence of it, but crofting legislation is renowned for its complexities—as minister with responsibility for crofting, I can certainly vouch for that.

As many members know, the issue is with the provisions allowing crofters to apply to decroft land. The 2010 act was intended to allow decrofting by both tenant and owner-occupier crofters, but legal advice received by the Crofting Commission said that, in fact, the act does not provide for decrofting by owner-occupier crofters. Therefore, on 25 February this year, the commission announced that it could not accept any further decrofting applications from owner-occupier crofters.

When the flaw in the legislation was identified, there was widespread support for solving the problem, and solving it quickly. The Scottish Government listened to the concerns raised. It then took swift action to bring forward this bill to ensure, first, that owner-occupier crofters could once again apply to the Crofting Commission to decroft their land and, secondly, that the direct impact on those affected would be addressed as quickly as possible.

As I indicated to Parliament on 28 March this year, there are known examples of people being negatively affected by the flaw in the legislation. Some are unable to start building their houses until the land is decrofted, and deadlines for completion are approaching because of time-limited planning consent. Others are unable to decroft to increase the size of their house site to provide sufficient garden ground. A young crofter is unable to proceed with acquiring part of an owner-occupier crofter's croft because of the uncertainty around being able to decroft part of his new croft to build a house. A young crofting couple who are planning to start a family are unable to decroft a house site to sell in order to finance a larger house while remaining on the original croft. Those are just a few examples of real people being directly affected by this decrofting issue.

This bill, once enacted, will provide a solution for those people and many more in similar circumstances. That solution is required urgently to ensure that owner-occupier crofters are given similar rights and are treated in a similar way to tenant crofters and landlords.

Before I go into the detail of the bill, I welcome the Rural Affairs, Climate Change and Environment Committee's stage 1 report, which was published on Friday 31 May. I congratulate the committee on its thorough consideration of all the issues raised. Bringing forward legislation quickly does not mean that parliamentary scrutiny should be compromised. In fact, I place enormous importance on both stakeholder engagement and parliamentary scrutiny. For that reason, in a moment, I will cover the main issues raised in the committee's stage 1 report.

The Scottish Government has taken time carefully to consider the best way forward and has produced a bill that meets the key aim of allowing owner-occupier crofters to apply to the Crofting Commission to decroft. That aim attracted widespread support during stage 1. The original intention in the 2010 act was to align decrofting by owner-occupier crofters with decrofting by landlords, which comes under the vacant croft provisions in section 23 of the 1993 act. However, that intention does not work because of section 23(10) of the 1993 act, which provides that, if a croft is occupied by an owner-occupier crofter, it is not vacant. The existing legislation does not work as intended.

The bill will remove decrofting by owner-occupier crofters from the vacant croft provisions and insert new stand-alone sections 24A to 24D into the 1993 act. Some people have suggested retaining the link between owner-occupier decrofting and the vacant croft provisions, even when the croft is not vacant. However, in the Scottish Government's opinion, the new provisions

that we propose will provide a greater degree of clarity and legal certainty.

The bill sets out what the Crofting Commission can do when it receives an application to decroft. The commission can of course grant or refuse the decrofting application. However, if the Crofting Commission is already taking action against the applicant for a breach of crofting duty, the bill provides for the commission not to consider the decrofting application in the meantime. That mirrors the equivalent rules for landlords of vacant crofts.

Section 25 of the 1993 act sets out the matters that the commission must take into account when determining a decrofting application. The bill will apply most of section 25 to owner-occupier crofters in as similar as possible a way to how it applies to tenant crofters and landlords. However, the bill purposely leaves out the provisions in section 25 that relate only to tenants, such as the provisions relating to a crofter's right to buy.

The bill will also extend to owner-occupier crofters the existing right of a tenant crofter to decroft the site of the dwelling-house, where they have not already decrofted a house site. There was of course a question over what to do with the 159 decrofting directions that were already issued by the commission and—I can update Parliament on this—the 44 applications that are currently held in abeyance. The observant will have noticed that the figures have changed slightly from the earlier announcement in Parliament on 28 March—the number of outstanding applications has reduced from 50 to 44 as a result of checks undertaken by the Crofting Commission at our request, which have verified that six of the outstanding applications did not in fact relate to owner-occupier crofters.

I turn now to the issue of retrospection. In the bill, the Scottish Government has proposed retrospective provisions that will allow the legislation to apply to cases from 1 October 2011, when the definition of owner-occupier crofter was introduced. The provisions will place those involved in the 159 cases where they expected to be—and, crucially, where Parliament intended them to be—and will allow the 44 outstanding applications to be fully processed as soon as the bill comes into force.

The bill will also make consequential modifications to the 1993 and 2010 acts, as a result of new sections 24A to 24D, mainly by adding cross-references to the new provisions. The consequential modifications will ensure that the new provisions work as intended alongside the existing legislation. That is an important safeguard.

**Tavish Scott (Shetland Islands) (LD):** Does not this whole issue prove that, as the Rural Affairs, Climate Change and Environment Committee has suggested, there is a desperate need for consolidation of all crofting legislation into one act?

**Paul Wheelhouse:** I will deal with that later in my speech, but I certainly acknowledge the member's point. The committee makes the fair point that crofting law is horrendously complex—in some ways, it is impenetrable to the uninitiated—and there is clearly a case for looking at some of the problems that we know currently exist. However, I hope that I have set out today the rationale for keeping the bill tightly defined to ensure that we get a quick solution for the benefit of constituents in Mr Scott's constituency and elsewhere.

As I said, the consequential modifications will ensure that the new provisions work as intended. They will also ensure that the crofting register provisions in the 2010 act will apply to decrofting applications submitted by owner-occupier crofters in the same way as they apply to other decrofting applications. The consequential and retrospective provisions were largely welcomed at stage 1, and I welcome the committee's support for them in its stage 1 report.

Lastly, it has been suggested that some people might have intended to appeal against a decrofting decision but decided not to do so as a result of the Crofting Commission's announcement in February. We have therefore included a right of appeal for applications that were determined within the 42 days before the commission's announcement, which is in line with the normal appeal arrangements. Again, I note that the committee in its report welcomes and supports that provision.

I turn to some of the concerns that were raised at stage 1. Concern was expressed that passing the right to decroft the site of a dwelling-house from one owner-occupier crofter to another might lead to speculative development. In fact, that is already the position with tenant crofters and it does not appear to have created any issues. However, the matter can be considered further if it becomes a problem.

Some have criticised the fundamental drafting of the bill. It is only natural that there will be differences of opinion on that. Given the range of views that were expressed in evidence, I have some sympathy with the committee's position that it is difficult to give a definitive view on the validity of some of the drafting concerns that have been raised. As I said to the committee on 22 May, there is more than one way to draft a bill, and length is not the only consideration.

**Alex Fergusson (Galloway and West Dumfries) (Con):** Does the minister accept that several of the concerns about drafting were raised by lawyers who are eminent in the field of crofting law—I admire them for being so—and that there are serious issues here? Will his Government look at them seriously before stage 2?

**Paul Wheelhouse:** I am just about to come on to that. If I do not address Mr Fergusson's point, I will let him come back in later.

Some stakeholders have indeed suggested alternative drafting that would be shorter and might, perhaps, deliver the policy intention. However, with the greatest of respect to the eminent lawyers that Mr Fergusson mentioned, "perhaps" is not good enough. We have to be clear. The bill addresses a flaw in the legislation. That being the case, we have to be sure that what we do will address the key issue in respect of decrofting and provide the same treatment of owner-occupiers as is provided for tenants. That is why the Government's bill is drafted in the way that it is.

Our view that the bill will resolve the issue is supported by others. During the committee's stakeholder evidence session, Sir Crispin Agnew said:

"I think that the bill will solve the particular problem by making it clear that the Crofting Commission can decroft owner-occupier crofts."

During the same session, Derek Flyn of the Scottish Crofting Federation said that legislation is needed and that the bill appears to answer that need. We heard the Crofting Commission's view that

"the bill addresses and solves the problem".

There was also support from others including Scottish Land & Estates and the National Farmers Union Scotland, which recognises the need for legislation to deal with the problem quickly. However, I recognise the point that Mr Fergusson makes. It is perhaps something that the committee will come back to.

On consultation, some have questioned whether there was sufficient time for proper consideration of the bill. In the circumstances that we faced, the Scottish Government had to strike a balance between dealing with the issue urgently while carefully considering the options and ensuring that key stakeholders had the opportunity to contribute. Our stakeholder consultation was very short indeed compared with normal procedures, but that was entirely due to the urgency of the issue.

We heard at stage 1 that NFU Scotland considers that it

"had ample opportunity to respond"

and that

“the consultation with regard to the draft bill has been fine.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 15 May 2013; c 2200, 2194, 2203.]

The Crofting Commission’s view was that the consultation had worked, as the problem itself is “very defined”. I therefore believe that the right level of consultation was applied to the bill under the circumstances and given the tight focus of the bill.

I note that the committee welcomed the Scottish Government’s attempts to seek stakeholders’ views once the problem had been identified and once the bill had been published. I also note the committee’s view on public consultation on any further changes to crofting law.

On the individual cases of crofters who are affected by the inability to decroft, I note the committee’s recommendation that the Crofting Commission should process the outstanding applications as swiftly as possible, and that should apply also to any applications that it has not been possible to submit in the interim. As I said to the committee on 22 May, section 6 provides for the legislation to be effective immediately following royal assent. That will enable the commission to process the 44 outstanding applications, and any newly submitted applications, as early as possible.

I recognise that a number of issues have been raised that are outwith the scope of the bill. I also recognise the need, as indicated by the committee in its stage 1 report, to address those other issues in the future, and I assure members that they will be addressed. I give an undertaking that, subject to the bill’s parliamentary passage, once it has been enacted, my officials will investigate, in consultation with stakeholders, what the best method might be for dealing with the outstanding issues. Depending on the outcome of those investigations, the Scottish Government will consider what further legislation might be required as we develop our future legislative programme.

However, I encourage members to focus on the issues that are relevant for this bill and to work towards a mutually agreeable way forward. That will ensure once and for all that owner-occupier crofters can apply to decroft their land. The scope of the bill is deliberately tightly focused on owner-occupier decrofting. Any deviation from that would fail to respect the expedited approach agreed for it.

As always, I will leave further scrutiny of the bill to the Scottish Parliament. I have no doubt that the committee and the Parliament as a whole will continue to apply the high standard of scrutiny of legislation to which we are accustomed,

irrespective of the tight timescales that apply to the bill.

I am grateful to all who have contributed to bringing us this far. That includes stakeholders, who assisted in the early stages by providing information, those who gave evidence to the committee and, not least, the committee and its clerks. I thank my own officials for their hard work.

I look forward to continuing to work with all parties during the remaining stages of the bill. I hope that the committee will be reassured by my confirmation that appropriate consideration is being given to all views expressed on the bill in advance of stage 2 next week. That includes, of course, the committee’s stage 1 report.

The principles of the bill will deliver its intended purpose. I commend the bill and the committee’s report to the Parliament.

I move,

That the Parliament agrees to the general principles of the Crofting (Amendment) (Scotland) Bill.

15:01

**Rob Gibson (Caithness, Sutherland and Ross) (SNP):** I speak on behalf of the committee. Crofts, as it is said, are small pieces of land surrounded by thick, prickly hedges of legislation. That has never seemed more appropriate than in scrutinising this bill, which the Scottish Government introduced under an expedited process to correct an anomaly that was uncovered in the 2010 act, which itself amended the 1993 act.

The 2010 act intended to put the newly created category of owner-occupier crofters on an equal footing with tenant crofters and landlords and, as a consequence, to allow such crofters to apply to the Crofting Commission to decroft their land. The relevant provisions of the act were brought into force in October 2011, and the Crofting Commission began to accept and process decrofting applications from owner-occupier crofters. All was well—or so it appeared.

Some 159 applications had been considered when it was identified that there was, in fact, no provision in the law for such decrofting applications to be considered. Following legal advice, the commission suspended consideration of applications from owner-occupier crofters until the situation was resolved.

We now know that 44 applications had been made but not decided upon when that happened. Therefore, 44 or more crofters are currently waiting on decisions that would allow them to use their land for suitable purposes. The suspension of the applications took place back in February, so now more owner-occupier crofters might be

waiting for the matter to be resolved so that they can make applications.

**Paul Wheelhouse:** Given the expedited process, it would perhaps help to clarify that we understand that 31 additional applications have been processed but returned to the applicants.

**Rob Gibson:** That is useful to know.

The law must reflect the policy intention of the 2010 act, which was that all crofters should be able to decroft land, subject to the safeguards that the act introduced to protect croft land, ensure the sustainability of crofting and stop speculation.

Most of the evidence that we received agreed that the problem needed to be addressed. Admittedly, there was some disagreement about whether the current legislation could be read as already permitting such decrofting applications, but most agreed that the bill was the best way to settle the issue beyond doubt.

The committee had some regret about the very short time for written views to be sent to it. We received a significant number of responses in the week or so during which the opportunity was available. For that reason, we strongly recommended that the Government consider carefully all the evidence that was sent to the committee ahead of this debate.

All who gave evidence to us agreed that the bill would achieve its desired outcome. That is a key point to remember during the debate. Is there a consensus that a problem exists? Yes. Is there consensus that the bill will fix that problem? Yes.

The bill also ensures that its provisions will be applied retrospectively, as if it had been in force in October 2011, as the 2010 act intended. In this instance, the committee is supportive of applying provisions retrospectively, as that will ensure that all owner-occupier crofters have been, and will be, treated fairly and appropriately.

The bill will also ensure that the appeals process that is available following the Crofting Commission giving a decrofting direction is applied fairly to those who have made applications but who have yet to receive a decision. I am sure that that issue will be raised repeatedly in the debate, but we should realise that it is important to quite a number of people, which is why we are taking it so seriously.

More thickets and brambles awaited us. Lawyers who are experts in crofting law said that the bill was unnecessarily complex and that, in places, it required amendment to avoid further difficulties with legal interpretation in the future. We strongly urge the Government to consider those points carefully in determining whether amendments are needed at stage 2 to ensure that the bill is clear and competent.

Additional issues were raised about the definition of what makes an owner-occupier crofter, as opposed to the owner-occupier of a croft, and how multiple owners of distinct parts of the same croft can proceed if all of them do not agree on one owner-occupier seeking to decroft their piece of that land. Those issues stem from the pre-devolution 1993 act. Because of the expedited process, although the issues are listed in our stage 1 report, there was no examination of how to resolve them.

**Tavish Scott:** I entirely agree with Mr Gibson's conclusion on the issues that are still outstanding. Does his committee have any plans to have another look at those matters and to provide advice on how we could deal with them?

**Rob Gibson:** In its report, I think that the committee was minded to say that we should do that, although, given the complexity of the issues, we might have to hold two meetings a week in order to do so, and I am not sure whether the parliamentary authorities would allow us to do that.

The committee asked the Scottish Government how it would address the issues and to inform us of how it intended to proceed. Would any changes to legislation be made in primary or secondary legislation? Would use be made of powers in the Crofting Reform (Scotland) Act 2010 or the Public Services Reform (Scotland) Act 2010? We recommended the adoption of a clear timeframe.

We heard in evidence that the current crofting law was "a mess" and "a shambles" or, as we Gaels would say, a bit of a boorach. Calls were made for the Scottish Government to hold an urgent review of it. Several crofting lawyers told the committee about their difficulties in interpreting the law for their clients. The fact that we have had layer upon layer of legislation has made crofting law overly complex and impenetrable, as the minister mentioned. How can we expect crofters and other members of the public to understand it? The Scottish Government must respond to those concerns.

Some witnesses called for a consolidation of the law, but that would not address the issues of simplification, comprehension and consistency. What might be required for crofting law is codification—a restating of the policy, but in revised and simplified terms. That will take time and we will have to plan for it.

The committee calls on the Scottish Government to indicate how it intends to address those criticisms. Although it recommends that the general principles of the bill be supported by Parliament, it believes that crofting legislation—the current state of which it heard being described as "a mess" and "a shambles"—needs to be urgently reviewed. Those were the sentiments that were

expressed to us. It is now up to all of us—the Scottish Government and the Parliament—to listen and to act.

15:09

**Claudia Beamish (South Scotland) (Lab):** Scottish Labour will support the Crofting (Amendment) (Scotland) Bill at stage 1.

To be honest, I am one of those people who did not know a great deal about crofting before the bill's introduction, unlike, I am glad to say, many of the committee's members. I have since discovered that there are about 17,700 crofts in Scotland, mainly in the Highlands and Islands, and that around 33,000 people live in crofting households.

The Scottish Government website reminds us:

"Crofting plays a vital role in maintaining the population in remote rural areas, it provides a secure base for the development of small businesses and maintains and supports a range of unique habitats."

In 2010, the Scottish Government issued a press release that stated:

"The Scottish Parliament has passed the Government's Crofting Reform (Scotland) Bill which aims to tackle absenteeism, neglect and speculation and protect crofting for future generations."

I found that an interesting quote.

Our committee is optimistic, in spite of the complexities involved, that the bill, if passed, will rectify the problem that is faced by those who have been affected by the flaw in the Crofting Reform (Scotland) Act 2010 in relation to owner-occupier crofters and the decrofting of land.

I add my voice to the comments that have already been made about the bill by our convener, Rob Gibson, and by the minister. It is important that the bill goes through an expedited process in order to end the state of limbo that has been imposed. The minister highlighted many of the reasons why that is very important for the people who are affected. However, that means that the challenge for the committee in analysing a complex range of legal views in evidence on potential amendments to the bill will be time-truncated. It was helpful for the minister to have outlined a response to our report already. I thank him for that—I am sure that the pressure is on the minister, too.

I will highlight two of the committee's recommendations, which, together, indicate the committee's agreed position clearly and inform the Parliament where we think we are in the determination to get things right in relation to what happens next—especially in view of Rob Gibson's remarks about thickets and brambles.

The stage 1 report states:

"The Committee notes the criticism of the drafting of the Bill, particularly by those who will be left to interpret and advise on the law. The Committee is not expert in the legal detail and potential inconsistencies within crofting law and it is therefore difficult for the Committee to give a definitive view at this stage on the validity of some of the concerns raised."

I identify myself strongly with that paragraph of our recommendations.

The report continues:

"It is clear to the Committee that there are concerns which require to be considered. The Committee strongly recommends that the Scottish Government give appropriate consideration to the evidence submitted to the Committee with a view to determining whether any of the issues raised require to be addressed by amending the Bill at Stage 2"

or stage 3.

As the minister acknowledged, there are specific concerns about the drafting of section 1 in relation to the definition of "decrofting direction". Our committee recommends

"that the Scottish Government gives careful consideration to these specific issues ahead of Stage 2."

I appreciate the challenges that that involves, but I would hope that it is possible.

As the Aquaculture and Fisheries (Scotland) Bill progressed, there was a lack of opportunity for robust parliamentary scrutiny of evidence from stakeholders on Scottish Government amendments at stage 3. That put Scottish Labour and some other parties in the somewhat difficult position of feeling obliged to abstain on those amendments at stage 3. That was in spite of there being agreement in principle with the amendments.

Scottish Labour is clear that, in the case of the Crofting (Amendment) (Scotland) Bill, it is even more vital for the Scottish Government amendments to be available for consideration at stage 2 if possible. I appreciate that there are pressures of time on the minister, but it would be extremely helpful.

The issue of retrospection has been raised by both the minister and our convener. As a clear-cut group of people have been affected since the current provisions came into force in October 2011, it is very important that they are allowed to decroft, just as owner-occupier crofters must be in the future.

The committee calls for swift processing of the 44 cases that have been put on hold and of any that are not put into the system by the Crofting Commission, if the bill becomes an act. The minister has committed to that today, which is very helpful.

I will make some remarks about the future. That is perhaps presumptuous, as I am an outsider to the crofting counties and a newcomer to the complexities of crofting law, but as an MSP who, along with other members from throughout the chamber, is committed to ensuring a vibrant future for crofting, I hope that the perceptions of an outsider—albeit a rural dweller—might be of some use.

From my experience, living in South Scotland and supporting my constituents in facing their challenges, I am keenly aware of the difficulties that rural dwelling can bring and of the isolation that can come with it. That includes difficulties with access to work, services, education and leisure.

The Scottish Government's website tells us:

"Crofters may benefit from conventional agricultural and environmental schemes and from EC funded programmes. The Scottish Government provides specific support to crofting counties worth around ... £7 million"

a year through schemes such as the crofting cattle improvement scheme. The website says that that scheme

"is open to groups of at least 2 crofters ... and provides good quality, high health bulls in areas where it is impractical to keep bulls and over winter them and where no alternative hiring facility exists."

Scottish Labour is clear that it is right for a range of support to be specifically targeted at groups of crofters and, indeed, individual crofters.

There are enough challenges for crofters without their being unnecessarily pressurised by the complexities of crofting law. That can occur when legal changes need to be made, for example so that people can build another house for the next generation, develop small-scale renewable energy facilities or diversify in some other way. There is an obligation on members across the chamber to grapple with how best to proceed.

If we look at decrofting alone, we will see that there are other issues of significance that will not be dealt with in the bill. As we said in our report, the committee believes that that is right in view of the lack of time for consultation, among other things. It is important that there is an opportunity for consultation on issues, foremost among which are

"The definition of what legally constitutes an owner-occupier crofter, and issues facing multiple owners of distinct parts of the same croft".

The minister's agreement to the committee's recommendations that

"the Scottish Government reviews all of the issues raised with the Committee"

and

"the Scottish Government identifies a clear timeframe for the review and provides the Committee with progress updates on this work once it is underway"—

the convener of the committee, Rob Gibson, highlighted that issue—

is welcome.

The committee's discussion about how best to move forward on the complexities and the opaque and—to use the minister's word—sometimes "impenetrable" nature of crofting law more generally led to our comment that

"Consolidation would place all of the law in one place, to make it easier to access, but not necessarily to understand. What may also require consideration is codification of the law, i.e. restating the policy in revised, simplified, terms."

We discussed that in the committee. It is a major challenge for all of us in the Parliament, particularly those of us who have not yet experienced the complexities of crofting law but perhaps also for those who have. We owe it to the future of the crofting communities to meet that challenge.

The committee of inquiry on crofting reported in 2008, and the Scottish Government set out five key principles that are central to securing the future of crofting. Those were:

"Maintaining and increasing the amount of land held in crofting tenure";

"Ensuring that land in crofting tenure is put to productive use";

"Ensuring that housing in the crofting counties makes a full contribution to the local economy";

"Giving more power to local people to determine their own futures";

and

"Assisting young people and new entrants into crofting."

Ensuring that crofting law is better law will help to progress many of those principles more easily, although there are many other ways in which they can be progressed. We must rise to the challenge as parliamentarians.

**The Deputy Presiding Officer:** I call Alex Fergusson. You have up to eight minutes.

15:18

**Alex Fergusson (Galloway and West Dumfries) (Con):** Thank you, Presiding Officer. The time available seems to be increasing by the second.

I am eternally grateful that I am taking part in the debate early, because I suspect that a high degree of duplication is inevitable in debating a narrowly focused amending bill. I suspect that every member will, in effect, try to find a different way of saying essentially the same thing. That is not a

criticism, because I think that it is almost impossible to do otherwise in such a debate.

It probably says almost everything that we need to know about crofting law that, during the previous session of Parliament, no one spotted the anomaly that arose out of the Crofting Reform (Scotland) Act 2010 while it was undergoing its due parliamentary scrutiny. That act introduced the category of owner-occupier crofters into the Crofters (Scotland) Act 1993. The anomaly or unintended consequence of the legislation is that owner-occupier crofters are not permitted to apply to the Crofting Commission to decroft the croft unless the croft in question is vacant. That sentence alone summarises quite accurately the complexity of the law.

We on the Conservative benches will certainly support any bill that is designed to sort out the problem. This short and focused bill is designed to do just that and no more—and yet, if the evidence that the committee received is anything to go by, even that seems to have given rise to a lengthy debate and even some controversy among those who inhabit the strange world of crofting legislation.

As was discussed earlier, eminent lawyers, all of whom are experts on crofting law, were unable to agree on even such an apparently simple question as whether a bill is required to sort out the problem. Some say that it is, while others contend that the issue could just as easily be addressed through subordinate legislation. To be totally honest, I do not know and, frankly, if the bill really sorts out the problem—as most agree that it will—I do not care, either. The fact is that we created a problem and we need to address it. We commend the minister's intention to do so quickly and effectively.

Given past experience, which suggests strongly that it is virtually impossible to pass any law in crofting without giving rise to several other issues, I am willing to bet that the bill if passed—as I am sure it will be—will not be the end of the matter. Already, the crofting lawyer Brian Inkster has identified and highlighted the issue of multi-ownership of crofts, a subject that I think was first raised in the Parliament by my colleague Jamie McGrigor.

The number of people who are affected by that issue has been identified to the committee as around 700. As Brian Inkster puts it in his blog,

“there we have it. There are 700 owner-occupiers compared to say 3,500 owner-occupier crofters. Thus, due to the interpretation put on the Crofting Reform (Scotland) Act 2010 by the Crofting Commission, one sixth of owner-occupiers (if for present purposes we take it that owner-occupier crofters are a sub-set of owner-occupiers) potentially cannot decroft land they own. Furthermore, they

still will not be able to following the enactment of the Crofting (Amendment) (Scotland) Bill”—

the bill that we are debating this afternoon—

“which, as currently drafted, addresses only decrofting by owner-occupier crofters and not decrofting by owner-occupiers who are not owner-occupier crofters.”

If I may say so, that is another example of the complexity of the legislation. In anyone's language—even the almost incomprehensible language of crofting law—one sixth of anything is a significant proportion. We should not take any comfort from the fact that, in trying to address the one small and focused problem that the bill seeks to address, we will probably fail to address several others.

That really is the crux of the debate. No one questions the honest intention of the bill to fix a problem that we created and that no one picked up at the time. Yet in the all-too-brief time that the committee has had to get our heads round the issue, it has become obvious that crofting law is a very sick animal indeed and one that is in urgent need of major surgical operation, rather than simply more and more bits of sticking plaster to try to fix the wound, as Tavish Scott said in his earlier intervention.

One day in the not-too-distant future, a Scottish Government will have to grasp this thistle, pull it out by the roots and start all over again. I am immensely encouraged by the minister's hint in his opening remarks that the Government will consider doing exactly that, or at least start that process. All of us on the committee would welcome that.

At one stage of the committee's evidence gathering, I described crofting law as being like the Hydra, the mythical multiheaded serpent that grew two heads every time one was cut off. In yet another Brian Inkster blog—as I am sure most members know, there are many of them—he described one category of crofter as aliens. Crofting and crofting law have therefore attracted descriptions ranging from the ancient mythology of history to the futuristic world of science fiction. Again, that says everything. Crofting law is a monster that was created in the past, and it will exist long into the future unless it is effectively destroyed and replaced.

In mythological times, it was Heracles who overcame the Hydra, although he needed a bit of help from a friend. With the greatest of respect, I think that the minister will need more than one friend if he is to be the Heracles who condemns this particular Hydra to the mists of time. We will of course support the bill at stage 1. I wish that I could say that I was looking forward to stage 2, but I am not entirely sure that I am.

15:24

**Graeme Dey (Angus South) (SNP):** During one of the Rural Affairs, Climate Change and Environment Committee's evidence sessions on the bill, Alex Fergusson confessed to being a complete layman in crofting legislation. Given Mr Fergusson's experience in the Parliament and on rural matters, I was not sure quite where that left me. As an east coast of Scotland resident all my days, I have had little contact with crofting, so I came into the process with minimal understanding of the legislation that covers the area.

I thought that my work as a member of the committee that scrutinised the bill would enable me to develop a clear understanding of what crofting legislation entails. I am sad to say that that was not the case. The more that I have learned, the more confused—perhaps it is more accurate to say “bemused”—I have become.

Courtesy of the head shaking that I witnessed among MSP colleagues on the committee, I am reassured that my confusion is due not to my being slow on the uptake but to the regime under which our crofters operate and its associated definitions being so confusing as to be almost impenetrable for anyone other than the most skilled specialist legal brains. Even for those legal brains, it seems that the law is open to interpretation.

If any member doubts what I said about the complexity of the issue, I draw their attention to the evidence that Derek Flynn, from the Scottish Crofting Federation, gave to the committee on the need for the bill in response to the suggestion that it was not needed:

“The point is that owner-occupiers are not entitled to occupy their crofts, which can therefore be held to be vacant, and they can be asked to take tenants. However, owner-occupier crofters are entitled to occupy their crofts and must intimate to the commission the fact that they are owner-occupier crofters. Instead of their being persons who have to give notice, they are persons who give notice as owner-occupiers as well as intimating the fact that they are owner-occupier crofters.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 15 May 2013; c 2191-2.]

Members of a certain age might remember the hit United States comedy, “Soap”, the scene-setting preamble for each episode of which concluded with the words, “Confused? You will be.” Such a phrase might reasonably preface crofting legislation. I acknowledge that Mr Flynn had the good grace to admit that the issue is complicated.

Crofting lawyer Brian Inkster argued that either existing legislation could be read as providing for owner-occupiers to decroft their land or secondary legislation could be enacted. As I sought to come to a view, I was struck by what Sir Crispin Agnew said to the committee. He told us:

“It is good that we are putting this right and beyond doubt.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 15 May 2013; c 2192.]

The committee concluded in its stage 1 report:

“On balance, the Committee is satisfied that legislation was required, and that given the desire to resolve the issue quickly, a bill is the most appropriate vehicle for dealing with the current problem.”

Sir Crispin and others expressed concern that the bill is unnecessarily complex. As our report made clear, the committee is not expert in the legal matters and cannot judge the merits of some of the concerns that have been expressed. If people whose role it is to advise on the law are voicing concern about aspects of the drafting, it is to be recommended that the Government consider the issues in detail, so that it can be sure.

The minister said that the bill is as it is

“to reduce the scope for misinterpretation and disagreement”,

and to provide

“consistency of language between the bill and the provisions of the 2010 act”.

He said:

“The bill might not be the shortest one that we could have produced, but I hope that it gives the greatest possible clarity about the intent and therefore less room for an alternative interpretation to emerge.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 22 May 2013; c 2268, 2261, 2260.]

Given the circumstances that brought us to this point, that is a compelling defence. However, I am sure that the Government has listened carefully to views that have been expressed and will consider whether amendments should be made, in particular in relation to the language.

The committee asked the Government

“to ensure that the Bill is clear and competent and does not add further complexity to an already complex body of legislation, or have the potential to give rise to further unintended consequences.”

**Paul Wheelhouse:** I made the point that the bill is drafted in such a way as to mimic, as best it can do, the provisions for tenant crofters. It is important to say that the current practice of decrofting for tenants appears to be working comparatively well. Policy is stable and the system is being administered fairly easily. Therefore, we hope that transposing the mechanisms so that they apply to owner-occupiers will bring not just clarity but a stable process for applicants to go through.

**Graeme Dey:** I thank the minister for his intervention. However, Sir Crispin Agnew offered helpful advice on wording, and it is not often that a learned QC offers advice gratis.

I cannot pass up the opportunity to comment on the verdict that Mr Inkster delivered in his blog on the stage 1 report and the committee. He decided to mark the report in the style of “Strictly Come Dancing” and award marks out of 10 for aspects of our work as well as for the finished product. Overall, the committee was given six out of 10, with the explanation:

“They could have done better. However, no doubt they could have done worse.”

At the risk of appearing thin-skinned, it is tempting to award Mr Inkster two out of 10 for humility, given that his opinion is only an opinion, albeit an expert one. However, these are serious matters, which are worthy of serious comment.

Mr Inkster has taken issue with the committee for not recognising the significance of his fear of a possible problem in the bill concerning

“de-crofting by owner-occupiers who are not owner-occupier crofters”.

Paragraph 121 of the committee’s report shows that, although it recognises that there is an issue to be considered, it should not be tackled through this expedited bill process.

Far from ducking that and other matters, the committee states in paragraph 122 of its report:

“The Committee urges that, outwith this Bill, the Scottish Government reviews all of the issues raised with the Committee, in order to determine the extent and effect of each issue, consulting widely where necessary ... The Committee recommends that the Scottish Government identifies a clear timeframe for the review and provides the Committee with progress updates on this work once it is underway.”

That seems to be the appropriate way to proceed—not rushing to legislate on something that may or may not be a problem and could no doubt be the subject of different interpretation. I welcome the minister’s commitment on that today.

The bill is about tackling a specific matter and doing the right thing by owner-occupier crofters, affording them the status and decrofting rights that I am sure that everyone who was involved in the 2010 act thought had been delivered. It is imperative that that is done as quickly as possible. Let us not forget that the lives of 44 people and their families are at least to some extent on hold.

15:31

**Rhoda Grant (Highlands and Islands) (Lab):**

I, too, welcome the bill, but I am concerned about its complexity. It has already been said that specialist crofting lawyers have warned the Rural Affairs, Climate Change and Environment Committee that the bill is unnecessarily complex and could create unintended consequences to add to those introduced by the 2010 act.

I heard what the minister said in his opening speech, but I urge him to get round the table with those who expressed those concerns and ensure that the stage 2 amendments deal with them. Perhaps he could include the bill team in those discussions, as well. There is no harm in testing and debating the bill, because it is in all our interests to get it right. Given the short consultation, I do not think that it would be remiss of us to do that.

I turn to some of the anomalies in the 2010 act that also need to be sorted out. I understand why those anomalies are not being sorted out in this bill, because it deals with an urgent issue, but they could become just as urgent.

It was recently brought to my attention that the bill will make it illegal for anyone other than the registered crofter to work their croft. The Crofters (Scotland) Act 1993 act stated:

“The crofter shall, by himself or his family, with or without hired labour, either or both (a) cultivate his croft; (b) put it to some other use, being a purposeful use, so that every part of the croft either is cultivated or is put to such use.”

The 2010 act amended that to say:

“A crofter must comply with each of the duties set out in subsection (2)”,

which says

“the crofter (a) must (i) cultivate the croft”.

The unintended consequence of that is that the crofter can no longer cultivate the croft with the help of his family or indeed hired labour. That flies in the face of crofting, which is very much a family activity, and it misses the essence of crofting, which is normally carried out collectively in a community. That work has been restricted to just the crofter and not the family, community or indeed hired help, which has created an anomaly. It might not be policed or reported on, but there is an anomaly in the law.

Others have mentioned other anomalies—Alex Fergusson might have already spoken about a very similar anomaly to the one that I am going to describe. I give the example of the crofter who has bought a croft, crofts the land, has a home and garden on that land and subsequently decides to sell the house and garden but keep the croft. The home and garden are not decrofted, but change hands. The new owner goes on to try to sell the house, only to discover that although he is the landlord of his home and garden, he is a tenant of the crofter—the original owner of the house. The new owner cannot apply to decroft, because he is the landlord, not the crofter. Such anomalies need to be sorted.

It is my view and certainly the view of others that elements of the 2010 act were simply not required. With regard to the use of grazings committees, the

body that should organise collective working in a crofting township became the body that polices other crofters. That is a very difficult issue to deal with.

We need to look at the 2010 act and start to unpick it.

**Rob Gibson:** Does the member realise that the Crofting Commission is consulting on the means by which grazings committees make such reports? In any case, the commission requires only a very outline report, which will not be a threat to people working together.

**Rhoda Grant:** It all depends on what is required in that report—what its contents will be. Those who live and work in small communities know that stresses and tensions can exist, and the report could be used as a way of giving voice to those stresses and tensions and thereby could ramp things up to the point where the community is no longer cohesive or working together.

When we review crofting law, we need to look at the role of smallholders and tenant farmers in the crofting counties. A person's status in those counties depends on a twist of fate with regard to how their land was categorised when the crofting laws came into force, and many tenant farmers and smallholders in those areas are keen to have the same protections offered by crofting.

There is a degree of unity in the Parliament about the need to review and rewrite crofting law. However, that work must be done by those who understand crofting. Too often, those who draft crofting legislation have no understanding of the system and are simply looking in from the outside. Although their genuine aim is to make things better, they manage only to make things worse. We must remember first principles: crofting is an economic driver that was introduced to deal with the excesses of and imbalance in Scottish land ownership that we debated yesterday, and it provides crofters with security of tenure, a home and, indeed, an income. However, recent legislation regulates and polices crofters instead of empowering them, and crofting law should offer protection and empowerment to ensure that we create sustainable economies in our most marginal areas.

The 2010 act has also, and for no good reason, imposed costs and put up more barriers and hurdles. I am not saying that this is my party's position but I certainly feel that the act should be repealed and that we should then look at how we can simplify previous legislation. I stress again that that work must involve those who understand crofting.

Of course, that will be no mean feat. Crofting has evolved differently in different areas and means different things to different communities, so

it will be almost impossible to define it in legislation. However, any new legislation must enshrine security of tenure, in return for which the crofter must work their croft. Legislation needs to provide not only a high level of protection but the flexibility to allow crofting and crofting communities to work as they have evolved.

It is right that the bill has come before Parliament and that it is processed with haste because of the cost to those who suffered from the anomaly that it deals with. However, there are many other issues to be sorted out and I look forward to the minister's bringing forward an action plan on how he intends to deal with those anomalies.

15:38

**Angus MacDonald (Falkirk East) (SNP):** I am very pleased to contribute to today's debate. One would be forgiven for thinking that, hailing from the Isle of Lewis, I would be clued up on all things crofting. However, it has become increasingly apparent to me that very few people fully understand the complexities of crofting law and that that must be remedied in the not-too-distant future by simplifying current crofting legislation.

A number of submissions to the committee's short evidence taking on the bill have described the legislation as a "mess" and a "shambles"—or, more appropriately, a "boorach", which is a good Gaelic word that was used by my colleague Rob Gibson and which describes the situation well. The layer upon layer of legislation, from the Crofters (Scotland) Act 1955 to the 1993 act and the 2010 act, have created a complex system that need not have been complex in the first place.

Although the Crofting (Amendment) (Scotland) Bill is needed—and needed quickly—some have described it as

"yet another layer of incomprehensible extra sections and consequential amendments to an Act which was consolidated 20 years ago, and which has been ... amended numerous times."

I do not agree with that assertion, but I can understand why someone would come to that conclusion.

As we have already heard, we are where we are because, earlier this year, a flaw in the 2010 act was flagged up by the Crofting Commission, which stated that the new legislation did not give it the power to issue a decrofting direction for croft owner-occupiers. A decrofting mechanism is necessary to enable tenants and owner-occupiers to release a site for the building of a house; otherwise there can be complications with securing a mortgage. However, the commission flagged up that the act removed the power to decroft owner-occupied land. The bill therefore

amends the Crofters (Scotland) Act 1993 and the Crofting Reform (Scotland) Act 2010, with the single purpose of providing for owner-occupiers to be able to decroft all or part of their crofts.

The bill also makes retrospective provision in relation to the currently suspended applications that have been made by owner-occupiers to decroft. I believe that there are around 50 of those applications, although the figure 44 was mentioned earlier, with 159 decrofting directions going through before the problem was identified.

During the bill's progress to date, there has been considerable talk of consolidating current crofting law, which would go some way towards simplifying matters. There has also been talk of starting again with a blank sheet of paper but, having put that idea to a number of crofters in general conversation, I know that it has not been met with any particular enthusiasm.

Consolidation or codification would seem to be the preferred way forward, although some in the legal profession are of the view that the 1993 act should be deconstructed and then redrafted in a simple, user-friendly way. It is therefore imperative that the Government takes steps to deal with the wider problems in the 1993 act to ensure that that act is fit for purpose.

There have been conflicting views. The original problem was flagged up by an expert in crofting law, but the point was subsequently questioned by a solicitor specialising in crofting law, who wrote an article in the *Journal of the Law Society of Scotland* arguing that there was no problem and that legislation was not needed. It is no wonder that the vast majority of people are confused.

In the short timescale that was given for evidence gathering, the RACCE committee received some evidence that suggested that

“a commitment should be given by the Scottish Government to introduce a bill”

to deal with

“the various other anomalies in crofting law ... created by the 2010 Act.”

It was further suggested that

“an act that is a readable document and can be easily understood is essential and a simplification of the 1993 Act should be considered by Parliament. The present Act is a rehash of older Acts, amendments to Acts and does not address the true issues of modern crofting.”

Another valid point that was raised was that a single approach does not suit the different characteristics of the different areas and that the same criteria should not be applied to all situations. For example, there are more owner-occupied crofts in Orkney, Caithness and Shetland than there are in the Western Isles, and the characteristics of crofting in those areas are quite

different. The crofts in Orkney, Caithness and Shetland are larger units, with a crofter in Orkney, for example, being able to make a living from his croft, whereas, nine times out of 10, a crofter on my home island of Lewis will require a second job to earn a half-decent living.

It is worth highlighting the committee's view that it strongly recommends that the Scottish Government carefully considers any amendments that may be required to the bill at stage 2 to allow for full scrutiny and to ensure that the bill is clear and competent. We need to ensure that the bill is clear and competent—quite frankly, the last thing we need is the addition of further complexity to an already complex body of legislation or the creation of further unintended consequences.

Let us get this right, and then look at getting the rest of the complex crofting legislation right in the not-too-distant future. I welcome the minister's commitment to include crofting legislation in future legislative programmes.

I am afraid that I have not quite used up my time, which must be a first.

15:44

**Tavish Scott (Shetland Islands) (LD):** Mr Gibson mentioned hedges in his definition of crofts. The definition of a croft that we usually use in Shetland is a piece of disputed land, surrounded by legislation, into which one pours money. The same principle broadly applies.

I have been very taken with the number of speeches that have, in effect, characterised crofting law as a charter for lawyers. I suspect that the concern of many of us who represent crofters across the crofting counties is that more and more of crofters' time is taken up with seeking legal advice rather than heading to the department's office to try to sort out the single farm payment. In a sense, that is the Government's biggest challenge.

The minister gave a very fair answer to earlier questions about consolidation—or, as Rob Gibson put it, codification, if that turns out to be the way forward—but, to be frank, all Governments have ducked the issue so far. The Government of which I was a member ducked it, and the current Government has not yet found time to address it either.

I do not know whether any Government will decide to take on such a mammoth task, not least because, in the context of Scotland as a whole, the issue is awfully small beer. As Claudia Beamish said, we are talking about only a relatively small number of people.

However, as legislators we impose legislation on people, and at present—for the reasons that

the minister gave for introducing the bill—our legislation is causing difficulties and preventing people from going about their normal, agricultural and crofting way of life. Given what crofting entails, I am sure that Rob Gibson would strongly agree with that point.

**Nigel Don (Angus North and Mearns) (SNP):** Tavish Scott makes the fair point that the issue does not affect a huge number of people in Scotland. However, I am sure he would agree that the real issue is the land. One cannot get rid of land, and it does not go away. It is where people live and put their feet. The law of the land is fundamental to the people who live there.

**Tavish Scott:** I do not disagree with that assessment, although the land is not much use if it does not have people on it. My concern is—and has always been, not only since I have been in Parliament but long before, when I was an NFU Scotland member and a farmer at home—that successive bills on crofting, as we have heard, just add layer upon layer of legislation, and the purpose of crofting is forgotten.

The Government is quite right to introduce the bill, as I made clear at an early stage. I thank the minister for progressing it as quickly as he can, given the constraints that Governments face.

The only point on which I disagreed with Alex Fergusson during his interesting romp through ancient mythology was that I am not sure that someone should not have picked up the issue in 2010. After all, that is why we employ lawyers. The loophole came to light—I am sure that Paul Wheelhouse will correct me if I am wrong—only because the Crofting Commission's own lawyers found it. We could have a long, irrelevant and pointless debate about how big the loophole is, but it has been found. That raises the question of why the Crofting Commission's lawyers did not find it during the passage of the 2010 act.

**Alex Fergusson:** I hope that Tavish Scott accepts that I did not say that the loophole should not have been found; I said that it was a measure of the complexity of the issue that it had not been found.

**Tavish Scott:** I am sorry—I was so taken with Alex Fergusson's run-through of various features of mythology and trying to remember my schoolboy Greek that I lost his point, but I take note of what he says.

I will briefly address the wider points that other members have raised, which relate not only to the bill but to other issues. I have sent most of the correspondence that I will mention to the minister, so I will not go into any detail, but I note that there are significant problems in other areas. I am grateful to Rob Gibson for suggesting that his

committee may consider those issues, and to the minister for his earlier reply in that regard.

I will give an example of one particularly go-ahead crofting couple at home in Cunningsburgh in Shetland. They run a very good agricultural business and a bed and breakfast, and they have built self-catering accommodation. They have done all the things that, in terms of public policy, we expect them to do, and have turned a small unit into a successful and thriving unit on which to bring up their family. However, they now face a situation in which the Crofting Commission views them as joint landlords of a vacant croft, and they cannot decroft any land without agreement. In the email that I received from them just the other day, they point out, with some justification—this may answer Graeme Dey's question about how widespread the problem is—that there will be hundreds, if not thousands, of examples of the problem in Shetland alone. Landlords and crofting landowners have given or sold land for gardens, house sites, sheds, garage grounds, polytunnels, driveways—you name it. In the circumstances, it seems remarkably unfair that, in the case that I mentioned, the system stops that couple making progress simply because of the way in which it is now being ruled by the Crofting Commission.

Worse than that, the couple took up the issue with the Land Court and got a letter back just the other day in which the very helpful clerk to the court advised them that, whether as individuals or as a crofting couple, they could not challenge the Crofting Commission's policy in the Land Court, although they could pursue a judicial review in the Court of Session. That makes the case, does it not? The best advice that, as legislators, we can give a crofting couple who are making a real go of their business is that they can go to the Court of Session. I think that we need to do a bit better than that.

I hope that the Government can introduce some concrete plans to deal with the other anomalies that Rhoda Grant and others mentioned, which I also believe need to be sorted. It is important to deal with the reality of the crofting counties. Angus MacDonald made absolutely the right point about differences across the crofting counties. I hope that the minister will reflect on the situation, which I am sure that he has seen in his own visits around the crofting counties. Recognising those differences will be absolutely the key to whatever the Government decides to do. I hope that the bill will be passed quickly and that we will quickly get on to other matters that need to be addressed.

15:50

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** I welcome the progress that has been made with this essential amendment of

the 2010 act, and I am glad that we are already at stage 1. Although we must ensure that no mistakes are made, the sooner we complete the legislative process, the sooner our owner-occupiers will be able to get on with their plans for new homes and suchlike.

My constituency is home to about 3,000 of Scotland's crofts, predominantly on the west coast, Skye and the small isles, but also in the farmland around Dingwall, the Black Isle and Badenoch. On Skye, crofters account for around 65 per cent of households, so crofting is clearly an exceedingly important issue for my constituency and me.

Since the decision to halt applications for decrofting was taken in February—the only possible decision, in view of the legal consequences—I have been contacted by constituents who are concerned about the halt and its impact on their plans to build new homes and to secure mortgages. That shows why it is so important that amendment of the 2010 act, in the form of the bill, will comprehensively fix the legal difficulty and put the solution in place as quickly as possible so that all those who have been affected can resume their applications as soon as possible.

After the minister's recent statement on the plans for legislation, I asked what plans had been considered to allow the Crofting Commission to deal with the backlog that has built up since February. I was reassured by the minister's answer that the Crofting Commission has been asked in the meantime to process pending applications as far as possible, so that once we have robust legislation in place they can be concluded quickly in order to minimise the disruption that is being caused to crofters.

My constituents have expressed concern that information has not been forthcoming on how quickly the backlog will be tackled. I therefore hope—and expect—that the Crofting Commission will put its back into dealing with the backlog in order to clear it as quickly as possible. I am sure that that will be done.

The Rural Affairs, Climate Change and Environment Committee stated in its stage 1 report that it is important to ensure that the legislation will apply retrospectively. Obviously, that must be the case. The Scottish Crofting Federation, in an article in its in-house magazine *The Crofter*, described the Scottish Government's plans to introduce the bill as

“the correct (and only) way forward.”

I am pleased that we are already at stage 1. Given the disruption that the current situation is causing crofters, our priorities for the legislation must be to ensure that it is, in order to avoid the

need for amendment again in the near future, of high quality and in place as soon as possible.

In evidence to the Rural Affairs, Climate Change and Environment Committee, there were a number of suggestions that wider reform of crofting legislation would be desirable. I agree with those calls and look forward to the Government's response, because there is no doubt that crofting legislation could do with consolidation. We have had the Crofters (Scotland) Act 1955, the Crofters (Scotland) Act 1961, the Law Reform (Miscellaneous Provisions) (Scotland) Act 1968, the Crofting Reform (Scotland) Act 1976, which gave crofters the right to purchase their crofts, and we have had supposed consolidation through the Crofters (Scotland) Act 1993. Then, the Scottish Parliament had a crack with the Crofting Reform etc Act 2007, and a second go in 2010 with the Crofting Reform (Scotland) Act 2010. Now we have this bill, and I have probably missed something out. On top of all that, there are many regulations and there is guidance.

As Tavish Scott said, consolidation has been needed for some time, but previous Governments have ducked the issue. No one has been brave enough to tackle the issue, as Sir Humphrey may have said. Perhaps Minister Hacker—I am sorry; I meant Wheelhouse—will be the one to do so.

As well as consolidation and simplification of the law and regulations governing crofting, there are a number of other opportunities that we could take to improve life for crofters, particularly those in Skye and Lochalsh. Please forgive me for mentioning the recent study that was commissioned by the Scottish Crofting Federation and funded by the Scottish Government, which concluded that a Skye and Lochalsh abattoir could return a modest profit if the capital costs were funded. What has that to do with the bill? It is to do with sheep, cattle and pigs, without which there would be no crofting, in which case the bill would not be needed. The abattoir would have a maximum capacity for 4,000 sheep, 200 cattle and 130 pigs a year, with projected initial throughput of 800 sheep, 100 cattle and 130 pigs. The challenge will be to secure the funding to cover the capital costs. I intend to do all that I can to support that proposal, and I hope that the minister will look at it favourably.

Crofting is an important part of the heritage and identity of the Highlands and Islands; it is also the lifeblood of about 33,000 people across the country. The Highlands and Islands have some of the least favourable land for cultivation, so it is vital that we support our crofters and thereby ensure that, in return, the country always enjoys the security of producing good-quality foodstuffs for our own consumption, while benefiting the environment. We all rely on agriculture to give us

the basic ingredients that make life possible, so we must all ensure that agriculture gets the support that it deserves. I am pleased that Parliament will back the bill.

15:56

**Jayne Baxter (Mid Scotland and Fife) (Lab):**

When I became an MSP for Mid Scotland and Fife I did not imagine that I would spend some of my first few months considering the complexities of crofting legislation. There was a lot that I did not anticipate doing as an MSP, but that issue was certainly well down the list of possibilities, because in much of my region it does not come up much in conversation when I speak to voters on the doorsteps.

I did not imagine that we would also have to spend a considerable portion of committee and parliamentary time in my short time in Parliament revisiting legislation that has only recently been passed, but which has in recent months been unravelling. As someone who respects and honours the role of Parliament's committees in scrutinising legislation, that has made me reflect on that process and on whether we can ever be sure that we know enough about a given topic to invite the right witnesses or to ask the right questions.

I suppose that the answer to that is that nothing is guaranteed, and all that we can ever do is work with the available advice, information and evidence. That is how we have found ourselves dealing with the unintended consequences of the Crofting Reform (Scotland) Act 2010.

I have said that the 2010 act unravelled, but it is probably more appropriate to say that it has found itself tangled in a complex knot. That legislative knot—and how we unpick it—has been the cause of considerable debate in the legal opinions that were given to the Rural Affairs, Climate Change and Environment Committee during its consideration of the bill. I am well aware that it is not uncommon for lawyers to come up with several different interpretations of the law, but it is perhaps uncommon for witnesses giving evidence to a parliamentary committee to describe the law as “a mess”.

I am pleased that the committee puts that point at the front of its stage 1 report on the bill. I was also pleased that during the committee's evidence taking it appeared that it was not just me who finds crofting law opaque and confusing. Indeed, the report highlights “significant frustration” and is

“concerned with the increasing complexities of crofting law.”

I was not a member of the Parliament when the Crofting Reform (Scotland) Bill was passed in 2010. Colleagues who were here may recall the

debates at that time. In going back over the history of the legislation, I came across a speech by Peter Peacock, who made what has turned out to be an extremely prescient contribution to the stage 3 debate on the bill. Unfortunately, the opinion of Peter and other members that we would not see another crofting bill for some time proved to be too optimistic. His closing comments are worth recalling. He said in the debate:

“Future Parliaments would do well to address the deep and enduring economic challenges that people in many parts of our crofting counties face. Until those challenges are met, there is little that legislation can do other than impose more complexity, regulation, bureaucracy and cost on crofters. The bill exemplifies all those features. If it passes on to the statute book, it could be held up as a warning, not an example.”—[*Official Report*, 1 July 2010; c 28193.]

I hope that we can keep in mind those “deep and enduring ... challenges” to people and crofting communities as the bill progresses.

The Scottish Government responded to the report of the committee of inquiry on crofting in 2008 by laying out the five key principles for securing the future of crofting. Those relate to maintaining and increasing the amount of crofting land in tenure, ensuring that it is used productively, considering the role of housing and its contribution to the local economy, encouraging new entrants into crofting and—perhaps most important—empowering people to make decisions about their future and the future of their communities. Those are laudable aims with which it is hard to disagree. Unfortunately, it seems that although the steps that the Crofting Commission is taking are an attempt to achieve those goals, the legislation surrounding crofting is dense. As I have noted, it has been described by some witnesses in less than flattering terms.

I hope that the Scottish Government will note the Rural Affairs, Environment and Climate Change Committee's recommendation that it pay close attention to witnesses' concerns about the current crofting legislation. Having listened to the witnesses' evidence, I fully support the point that is made in the report that consideration should be given to the possibility of not just consolidating crofting legislation but making sure that crofting policy, based on the law, is stated in “revised, simplified terms.”

The minister will recall concerns that were raised about a bill that the committee considered previously—the Aquaculture and Fisheries (Scotland) Bill. Many members rightly highlighted their concerns about the Government lodging unscrutinised amendments at stage 3. I therefore look forward to the minister heeding the committee's recommendation to not just write to the committee to indicate how the Government will respond to the points that are made in the report

and the debate, but to give thought to what amendments should be lodged at stage 2 to allow thorough consideration of a complex and very technical area of legislation.

16:02

**Richard Lyle (Central Scotland) (SNP):** I welcome the bill. As a member of the Rural Affairs, Environment and Climate Change Committee, I fully support the bill—and the Government's swift action—because I believe that it is the right thing to do.

However, not everyone is of that belief. There are people outside Parliament who think that the bill has been hurried through. I ask them to think of the landlords, crofters and other people who are affected and who require that the change be made. Now is not the time for indecision; it is the time for effective, proper and right legislation that helps to fix the problem that those people face.

The bill should not be a party-political issue, and I sense that members across the chamber will agree to let the bill proceed at decision time. I am sure that we can all agree that the bill should be about the people who are affected by the issue that we are debating.

I want to return to what crofting is. To echo the point that Jayne Baxter made, when I was appointed to the committee, I did not know what crofting was either, but I am starting to learn what it means to so many people. Crofting is a system of landholding that makes a significant economic, social and environmental contribution to remote and rural areas, and it is part of our history. I am informed that there are 17,725 crofts in Scotland, mainly in the Highlands and Islands, and that about 33,000 people live in crofting households.

The bill is needed to address a problem that occurred with a provision in the Crofting Reform (Scotland) Act 2010. I am sure that everyone has repeated this. The 2010 act introduced the term "owner-occupier crofter" into the 1993 act. I listened intently to the point that Dave Thompson made earlier about the various legislation on crofting that has come in over the years, and to the point that Angus MacDonald made with regard to what needs to be done, which was identified by the minister, the convener of the committee and other speakers. That provision in the 2010 act has had the unintended effect that owner-occupier crofters are not allowed to apply to the Crofting Commission to decroft land unless the land is vacant.

I note that there have been several criticisms that those who will be affected by the bill have not been consulted on its proposals. However, I re-emphasise my earlier point that those who are affected by the current situation desire that it be

fixed, which will happen through the bill. Despite the tight parliamentary timetable, the Government attempted in the time that was available to seek views from the stakeholders on the proposals, as the minister ably reminded us. I make that point merely to highlight the fact that the Government has made every attempt to involve people in the decision-making process.

One prominent issue that is worth noting, and on which there is some strength of opinion among lawyers and crofters—as Graeme Dey said earlier, we got perhaps the only free legal advice that we will ever receive from lawyers—is that the current state of crofting law is poor. I think that everyone accepts that. If I, as a member for Central Scotland, recognise that, it must be poor. However, I am confident that the Scottish Government and the minister will look at that in detail.

The bill seeks to right a problem and to close a loophole. As other committee members do, I believe that despite the concerns that have been raised the bill will achieve its policy aim; it will do what it sets out to do and enable owner-occupier crofters to apply to the Crofting Commission for a decrofting direction.

As my final remarks in this stage 1 debate, I say that I hope that the bill will close the current loophole and bring much-needed assistance to the people who are affected by the problem. Once again, I congratulate the Scottish Government on introducing the bill and I welcome the swift action that it has taken. The Government's action, along with the work that was done on the stage 1 report by the members of the Rural Affairs, Climate Change and Environment Committee—under the able stewardship, as I said yesterday, of our convener—are to be commended. The bill highlights the Scottish National Party Government's commitment to getting things right for the people of Scotland, whom we serve.

16:07

**Jean Urquhart (Highlands and Islands) (Ind):** I, too, commend the minister and the Scottish Government for the manner in which, and the punctuality with which, they have addressed this serious issue. The problems surrounding decrofting require our most serious attention and have caused real concern among crofting communities in my constituency, so I thank the Scottish Government for acting swiftly to fix the anomaly.

I also thank the RACCE committee and the Scottish Parliament information centre for their helpful reports on the bill, without which many laymen and laywomen would struggle, even more than they do already, to digest the purpose and

necessity for the amendments that the bill proposes.

The bill seeks to extend the legal right to decroft to individuals who have purchased their croft and have become owner-occupiers. I do not think that the Government, or anyone else for that matter, intended through the 2010 act to deny decrofting rights to owner-occupiers. The bill will maintain the intention and purpose of previous crofting legislation by correcting a lack of legal rights that should never have been lacking to begin with. The bill deals with one of the more anomalous legal issues, which is rightly being corrected as quickly as possible.

As well as giving owner-occupiers, via the codification, the legal right to decroft, the bill will retrospectively validate the 159 applications to decroft from owner-occupiers that were accepted by the Crofting Commission from 1 October 2011 onwards. The bill will grant legal certainty to those 159 owner-occupiers by reassuring them of the validity and legal status of their croft's current situation.

It is important to bear it in mind that the intentions of this amending bill are limited in scope. It seeks to bring owner-occupiers back under the umbrella of normal crofting legislation by extending to them the legal right to decroft while requiring the same pre-conditions before application, and by giving them the right to the same appeals process as applies to tenants who make decrofting applications.

As a member of the cross-party group on crofting, I am aware of the legal complexities that surround crofting, as they surround few other subjects that I know. I note that, in its stage 1 report, the RACCE committee calls on the Government

“to ensure that the Bill is clear and competent and does not add further complexity to an already complex body of legislation”.

Some of the people who are involved in crofting law believe not only that the bill is unnecessarily complex, but that it is unnecessary in the first place. I am no expert on the legal detail of the bill, and although I believe that new legislation is the correct action to take in this instance, the criticisms that have been made by some people about drafting are cause for concern.

Given the nuances and peculiarities of crofting, and given the various legal interpretations that have been offered during the committee's evidence gathering and the expedited nature of that process, I trust that the Government will be responsible and will listen to all views as the bill progresses. I also trust that the Government will continue to do what it can to clarify and simplify crofting law, in the near future. Decrofting was

obviously a pressing issue, so I appreciate that to tack on other crofting legislation issues to the bill would have slowed down the process considerably. I hope, however, that the experience of scrutinising the bill has highlighted for many people the fact that there is in Parliament a will on the need for crofting legislation to be reassessed, and for the legislation to be, as the RACCE committee says,

“clear, competent, consistent and fit for the 21st century”.

I would therefore be keen to see the Government continue to consult the crofting community on the possibility of introducing further legislation after the recess. I hear everybody groan at the notion of further legislation, but it could consolidate and simplify existing legislation. We must pass the bill expediently for the benefit of the crofting community. After the recess, we can focus on the other areas of crofting legislation that need change.

I know that the Minister for Environment and Climate Change is recently appointed to his post, but I believe that, in the three years before the end of the parliamentary session, he could make his name as the minister who fixed crofting law once and for all. I support the bill.

16:12

**Nigel Don (Angus North and Mearns) (SNP):** I start by heeding the comments of the Minister for Environment and Climate Change, who would like us to focus on the bill. I will do that, but I will go back to a subject that I mentioned briefly when the committee interrogated officials before we spoke to the minister. I am extremely concerned that we get the transition and the transitory provisions right. They have come back to bite us before—in crofting law, but in other areas.

I refer the minister to IO and LO v Aberdeen City Council—a family law case in which the policy behind the act involved assumed that the transition from the previous situation to what was intended would take place within a specific period. Unfortunately, it did not guarantee that that would be the case, and it became convenient for some lawyers to drag out their cases, so we finished up in a position where the law was in a complete mess, because it had been assumed as a matter of policy that the transition would be completed.

I am sure that the minister's officials are well aware of that, as is the minister, but sections 4(2)(c) and 4(4)(b)—and section 5, which is a transitory provision—contain dates. I am sure that they have been carefully thought about, but I encourage the minister and his officials to reflect on whether the things that those sections are intended to cover are absolutely guaranteed to fall within those dates. If they are not, the obvious

implication is that we might have overspecified in the provisions, which would be extremely unfortunate.

I shall now stop taking the minister's advice to focus on the bill, because everything that can reasonably be said has been said. Alex Fergusson got that absolutely right some considerable time ago, and I have no desire to repeat what has been said, other than to say that the Government has done precisely the right thing by dealing with the issue as promptly as it has.

I will elaborate slightly on the concerns that have been expressed—some of them by people who know a lot more about crofting law than I ever will—about the position in which we find ourselves, and I will comment on how we might deal with it. However, I will start by going back.

Nobody has mentioned the Shucksmith report yet, but I will. It is probably a good thing that Michael Russell is not present, because his hair might go even whiter very quickly. Beside paragraph 2.1.5 on page 15 of that report, at the side of the page, an unattributed quotation says:

“all croft land is a bequest to us from the past and it is our duty to pass it on to the future generation and not over exploit our inheritance for short term gain”.

So say all of us, I suspect. I do not hear anybody concerned with land reform—we had a considerable debate on that yesterday, of course—saying that we should somehow get rid of crofting. That is not part of anybody's agenda.

Back on page 8, another unattributed quotation in the margins says:

“There is a desperate need for the regulations surrounding crofting to be modified and hopefully simplified which would encourage the advancement of crofting.”

Again, it is probably a case of so say all of us.

I will quote fairly extensively from the foreword to the Government's response to that report. It said:

“In reforming crofting, we need to focus on what crofting can contribute to the development of a successful rural Scotland. We have to recognise that circumstances in the 21st century are quite different from the circumstances in the 19th century when the first Crofters Act was brought into force. The first Crofters Act was introduced to give tenant rights over the land they occupied to enable them to stay in their communities”—

I think that we are with the script all the way through this.

“Agriculture was a dominant feature of crofting but as we have moved into a more competitive, global market, crofting agriculture has declined and crofts have been put to wider uses.”

I note Dave Thompson's comments that we might get back to more agricultural uses if the appropriate facilities existed.

“Today crofters exercise control over much of the land in their communities and trade their crofts and croft tenancies on the open market as demand for housing increases.”

We all recognise that housing is needed. It is not possible to populate an area if appropriate houses are not available.

“The consequence of these trends is that traditional crofting practices are in decline and more and more land is being taken out of crofting tenure as crofters exercise their right to buy and realise the value of these assets in the open market.”

**Rhoda Grant:** Nigel Don makes a valid point. Crofting has changed and crofters are using the land to do something because it is basically an economic lever and they need to lever in an income from the croft. One of the problems is that crofting never gets its fair share from agricultural grants, the common agricultural policy and all the systems for helping to pay for agriculture to address its disadvantage. Until we address the economics of crofting, it will never go back to being land based.

**Nigel Don:** Rhoda Grant makes an interesting and enormously complicated point in an already enormously complex area. I cannot disagree with her that, if we are going to stick with crofting—I am not suggesting for a moment that we should not—we must think about how the land law and the economics work.

I will continue the quotation:

“Crofting is now at a crossroads and we need to decide which direction to take in order to secure the future of crofting. Bringing new blood into crofting communities and releasing their energies to help secure sustainable economic growth will be key.”

That is crucial to any proposals that we make to revise crofting land law because, in exactly the same way as in yesterday's general land reform discussion, it comes down to the economy at the end of the day. The land is merely where somebody plants themselves and digs a hole in the ground. It will ultimately come down to the economic use of land, and we must not lose sight of that.

I note that, in the overview that followed the foreword, the Government set out five principles, which were:

“Maintaining and increasing the amount of land held in crofting tenure”;

“Ensuring that land in crofting tenure is put to productive use”;

“Ensuring that housing in the crofting counties makes a full contribution to the local economy”;

“Giving more power to local people to determine their own futures”;

and

“Assisting young people and new entrants into crofting.”

I suggest that that summarises in five lines the direction in which we will have to try to go.

I will pick up one other thought, which is at the back of the Government's response to the Shucksmith report. I do not think that this is a party-political issue. Recommendation 3.15.1 of the report said:

"We believe new legislation is needed to replace, simplify and clarify the accumulated laws which set the framework for crofting today."

The response was:

"The Scottish Government is sympathetic to the aims of this recommendation. However, in view of the complexity of crofting law, the process of simplification would, if properly undertaken, significantly delay the implementation of these policy proposals."

Therefore, the Government's view was—these are my words, rather than a quote—"We're going to do this little bit now and we'll worry about the rest of it some other time." We are still in that position. The point is that we will always be in that position unless the minister is prepared to take on what would be described in the jargon as the heroic task of trying to sort the whole thing out.

I am grateful to other members for pointing out that there is a difference between consolidation and codification. It is important that we get our minds around that. Fundamentally, consolidation involves putting the words that we already have in the right order on one piece of paper. That might help. I suspect that, largely, that is done by those who produce such things commercially and make them available.

I am absolutely sure that what we need is codification. I note that Rhoda Grant suggested that we should repeal the 2010 act and go from there. I seriously suggest that we should repeal all the crofting legislation and rewrite it from the policy upwards—ensuring, of course, that we have transitional arrangements that ensure that everything still works. Unless we can work out what the policy is meant to be, I suspect that we will just add another layer.

Somewhere in the documents—in recommendation 3.15.2 of the Shucksmith report, in fact—it is stated that

"No change should be made to those rights given to individual crofters in the 1886 Crofters Act",

so we have been at it for a while. That has probably all been repealed, but it makes the point that we are dealing with fabulously old stuff. [*Interruption.*] I missed that—I apologise.

**The Deputy Presiding Officer (Elaine Smith):** You need to begin to draw to a close.

**Nigel Don:** I commend a couple of other thoughts to the Parliament. My colleague Angus

MacDonald pointed out that there is different policy in different areas. That is why we need to go back to the policy before we write the law; the law will reflect the policy. Someone—forgive me, but I have forgotten who—made a point about things having to be sorted out in the Court of Session. That must be madness. If a decision has to be taken in the Court of Session, we have failed. We must write the law and not expect the Court of Session to sort it out for us.

16:22

**Jamie McGrigor (Highlands and Islands)**

**(Con):** I am pleased to close the stage 1 debate for the Scottish Conservatives. I thank the members and the clerking team of the Rural Affairs, Climate Change and Environment Committee for producing a thorough and extremely useful stage 1 report in such a short timeframe. Thanks should also go to Tom Edwards of the Scottish Parliament information centre for his excellent briefing; he never lets us down.

Not long ago, I attended a meeting of crofting lawyers in the Signet library, at which an eminent lawyer assured the brethren there that there would be much work for them in crofting law for the foreseeable future. I am beginning to understand why he said that. Someone once memorably described crofting as a small island surrounded by a sea of legislation. Here we are adding another piece of legislation to the swell of that great ocean. I suppose that it would be fair to call the bill a wee burn rather than a big river; nonetheless, it is necessary.

Like the committee, I regret that, because of a lack of clarity and a number of omissions in the existing legislation, the Crofting Commission decided that there was no legal basis for it to make determinations on applications by owner-occupier crofters to decroft. As we have heard from other members from the Highlands and Islands, that has caused considerable difficulties for a number of our constituents across the crofting counties. Therefore, it is right that the Government determined to introduce legislation to remedy that state of affairs as swiftly as possible, and it is appropriate and sensible that that should apply retrospectively to all those who have previously made applications or who have applications that are pending but on hold as a result of the legal concerns.

We have had consensus in the debate that the bill, which is on the specific issue of decrofting, is definitely required. However, I share the concerns of other members and of the committee that there is a considerable body of legal opinion that this short bill is too complex and that it might need

amendment to avoid further difficulties in legal interpretation in the future.

I am not a lawyer or a legal expert so, like the committee, I can only urge ministers to take on board and address the concerns that have been expressed by eminent figures such as Sir Crispin Agnew QC and Brian Inkster. Ministers should, if required, lodge amendments to the bill at stage 2 so that we do not find ourselves having to enact yet another amendment bill in a few months or years. We must try to avoid that at all costs.

I note the committee's reference to the significant number of outstanding crofting issues that many people believe require to be addressed. Some of them are separate from the specific decrofting issue that the Government is addressing in the bill and some are more connected with it. They include detailed concerns about the legal definition of an owner-occupier crofter and about the legal position of decrofting when a croft has been divided and there are multiple owners—I raised that issue with the minister in the chamber at the end of March.

I agree with the committee's recommendation that ministers should identify how they intend to address those issues and that they should set out how they will proceed. Like other members, I welcome the minister's commitment to establish a group to consider how those issues might best be addressed.

More generally, the committee's report reflects the widespread concern among crofters and their representatives about the complexity of crofting law. I share that concern, which has been brought up again and again at the cross-party group on crofting, which I convene.

The consolidation of crofting legislation remains a sore. It is a constant agenda item, at the request of CPG members. At each meeting, we raise the matter and talk about it.

The minister told me earlier this year in response to a written question:

"The Scottish Government will consider the consolidation of crofting legislation after it is satisfied that all the provisions of the Crofting Reform (Scotland) Act 2010 are working as intended."—[*Official Report, Written Answers*, 4 March 2013; S4W-12989.]

Can he confirm that that remains the case—that it means consideration of consolidation when the provisions of the 2010 act and those of what will shortly be the crofting (amendment) (Scotland) act 2013 are working as intended?

For that matter, when will we know whether those provisions are working as intended? Who will judge that? There could be considerable arguments between people in different townships over what is and is not working. The minister will

have to consider that. His answer says that he will do something, but he might not be in a position to know what is and is not working.

**Tavish Scott:** I take Mr McGrigor's argument about who would have to make that call. In his analysis, is the real danger that it would again be lawyers who made that call, and none of the rest of us?

**Jamie McGrigor:** As I have said before, there appear to be a few people with smiles on their faces, and they are not particularly the crofters—which leaves the lawyers, I suppose.

As I pledged to the minister in response to his statement on decrofting on 28 March, the Scottish Conservatives will support the bill, as we recognise the urgent need for legal clarity that will allow owner-occupier crofters to enjoy the same rights as croft tenants.

We look to the Scottish Government, working closely with crofting law experts, to do everything possible at subsequent stages to ensure that the bill has no unintended consequences. We want ministers to address the other issues that the committee identified—especially those that badly need attention.

Crofters and the crofting communities have many other challenges to overcome, especially this year, with the rigours of a bad winter and the increases in animal feed prices. At the very least, they deserve clarity from their legislators.

When I look back, my experience of crofters has always been good. Fifteen years ago, I canvassed many crofters across the Western Isles when I was a candidate there, and I found that, whatever their politics might have been, they were very welcoming. However, their dogs were sometimes not as welcoming. I once entered a kitchen that revealed a Mary Celeste situation. There was an uneaten breakfast on the table and the news was on the radio. I realised that the house was empty but, before I could exit, growls from the doorway revealed two enormous sheepdogs, which would not let me out until the owners arrived an hour later.

Another time, I went to canvass a crofter who was feeding his sheep in a field. He shouted at me that I would not have his vote until I went back to Westminster and got John Major to do something about the sea eagles. I know that we have mentioned sea eagles a lot.

Crofters face many issues, which are practical. The lives that we live here do not involve going out at 6 in the morning and feeding cattle and sheep in muck, rain, wind and other difficult things. It is up to those of us who sit in the comfortable chairs to give crofters at least the legislation that they deserve.

16:31

**Claire Baker (Mid Scotland and Fife) (Lab):** I thank all those who worked on the stage 1 report, which was done quickly. I know that the committee has a very busy work programme, and we all support its efforts to resolve the recent problems as soon as possible. The committee's stage 1 report highlights the challenges in taking evidence within such timescales. The complexity of the evidence that the committee received and the desire of many stakeholders to talk about wider issues with the 2010 act and other crofting legislation have been highlighted.

At the time of the statement, it was identified that 179 crofters had already decrofted and 60 were in the process of decrofting. I welcome the updated numbers for the current picture.

At the beginning, the minister gave real-life examples of people who have been impacted on in the current situation. That emphasised the need for swift action. The situation has added to the financial pressures for those crofters, and it is good that we are on track to provide legal clarity before the summer recess. That is particularly important for those who have been caught by this set of circumstances and those who have planning permission that is running out.

There has been a period of uncertainty, and there has been uncertainty in the committee. As other members have highlighted, there was a debate on whether the bill is necessary. The crofting lawyer Brian Inkster, who has been mentioned a few times, argued that the matter could be resolved in a different way, while the chair of the Scottish Crofting Federation, Derek Flynn, supported the bill as the right way forward. In conclusion, there was an agreement that the bill is the way we should proceed, and we support efforts to resolve the issue as quickly as possible through the bill, which is subject to stage 2 scrutiny.

The experience has lessons for the future. Like Jayne Baxter, I looked back at the stage 3 debate on the Crofting Reform (Scotland) Bill. She has already quoted what Peter Peacock said then, but I will repeat his final line. He said that if the bill

“passes on to the statute book, it could be held up as a warning, not an example.”—[*Official Report*, 1 July 2010; c 28193.]

Members' contributions this afternoon on the complexity of the bill have raised questions about how we should go forward on crofting legislation. There were concerns about the scrutiny of the 2010 bill at the time, and we abstained with the Liberals in the final vote as an expression of our concerns. We recognised the Government's intentions, but we had concerns about the

implementation of the bill. I would rather that we did not return to the legislation so quickly.

Many made the point in evidence at stage 1 that there is perhaps a need to look at the 2010 act as a whole to guard against any future flaws or unintended consequences that may come to light. There have been concerns about future unintended consequences or anomalies.

**Rob Gibson:** Does the member recognise that the 2010 act is consequential on various other acts, particularly the 1993 act, which is where the definitions of terms such as “owner-occupier” originate? If we are going to look at those issues, we will have to take into account all the acts and not just the 2010 one.

**Claire Baker:** I appreciate the complexity of crofting legislation and the fact that the 2010 act is dependent on previous acts. It would be good if the Government could provide more detail on its thinking on the issue. As Rhoda Grant described it, we need support for an action plan. It would be good to know that the minister is working constructively with the committee on how we make progress on the broader issues. The committee's stage 1 report asked for a clear timetable for that. We all recognise the complexity. However, particularly with the 2010 act, the Parliament did not make a unanimous decision, and some parties expressed concern about the scrutiny that was carried out at that time.

Frustration has been expressed during the debate. Rhoda Grant suggested that we should repeal the 2010 act and Nigel Don went so far as to suggest that we repeal all crofting legislation and start from the beginning. That reflects the complexity and the frustration that members feel, which arises from their experience with their constituents. Tavish Scott talked about consolidation, although it has been recognised that simply bringing together all the provisions might not lead to simplification. Whether we look at consolidation or codification, there is certainly a need to consider how we progress on the matter.

The committee made a number of recommendations in its stage 1 report, which members have highlighted. There are concerns that the bill as drafted is unnecessarily complicated. Rob Gibson, the committee convener, talked about the bill being overly complicated. There might be a need to lodge amendments at stage 2 to avoid future difficulties with legal interpretation. The minister says that he believes that the level of complexity in the bill is necessary to provide the clarity that is needed, but I encourage him to consider the issue in a bit more detail at stage 2 and to work with those who suggest ways to simplify the bill. The committee also highlighted the definition of the term “decrofting direction” and the protection of access

to crofting land as issues that need to be addressed at stage 2.

There are significant other outstanding issues on crofting, many of which have been highlighted by members. It is sometimes difficult to know how widespread those difficulties are. One is the definition of the term “owner-occupier crofter”; another is the complexities that arise when there are multiple owners of distinct parts of the same croft, which we know potentially involves about 700 people. Rhoda Grant raised further concerns with the minister relating to unintended consequences over who cultivates a croft. I encourage the minister to correspond with Rhoda Grant on that.

As Rob Gibson said, crofting law is complex. It has developed over generations and centuries and is not down to only one act. However, we are currently dealing with the 2010 act, which changed the definition of a crofter so that crofters who have bought their crofts—which they have been able to do since the Crofting Reform (Scotland) Act 1976—have the same rights or conditions of occupancy as crofters who remain tenants. As others have said, crofting law has been described as “a mess”. Jamie McGrigor has been around for longer than I have but, last night, I read that a croft is often described as a small piece of land that is surrounded by legislation, which I thought was a good description.

**Jamie McGrigor:** I inform the member that I once gave a surgery in Portree at which a crofter arrived with a bundle of papers, which he threw down on the table in front of me, saying, “That’s the story.” I looked at the paper on the top of the bundle and it said, “Secretary of State for Scotland, 1948”.

**Claire Baker:** That is a good example of how long we have all been involved with the issue. If Jamie McGrigor was involved in politics in 1948, that perhaps shows the generational gap that exists between us.

In evidence to the committee, Derek Flynn said:

“More than a century ago, a textbook said that crofting law was more complicated than the tax laws. Every time there is a reform, it is always stated that crofting law is to be simplified but, every time, we get another layer on top of what has gone before.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 15 May 2013; c 2198.]

We have intricate, complicated and historical legislation, in which it seems that proportionality has been completely lost. The committee asked the Government how that could be addressed and asked

“how it plans to ensure crofting law is as clear, competent, consistent and fit for the 21st century as possible.”

The committee took a sensible approach. It had to balance the need for speed with the need for accuracy, in recognition of the pressing need to rectify the anomaly that prevents owner-occupier crofters from applying to decroft. However, the committee acknowledged the need for full scrutiny at stage 2, to guard against the introduction of further complexity and the potential for unintended consequences.

Tavish Scott talked about a crofting couple who are involved in legal complexities when their time and effort would be better spent in getting on with doing what they do. Although we have focused on the bill today, the broader point is that no legislation will resolve the challenges that crofters face, which are economic and not regulatory.

Some 18,000 crofts in Scotland house more than 33,000 people, and a large proportion of Scotland’s natural heritage and designated sites—nearly 70 per cent of our national nature reserves and more than 60 per cent of our sites of special scientific interest—lies within the crofting counties.

Last night, I was at RSPB Scotland’s high nature value farming event, at which there was a discussion about how to support crofting and vulnerable farming. It was argued that there needs to be a clear link with productivity, which was interesting.

CAP reform and agricultural support are actively being discussed. In the context of the move from historic to area-based payments and the changes that we can make to the Scotland rural development programme, there might be opportunities to provide greater support to crofting communities.

There were interesting exchanges on Twitter last night—as there always are. The site @ScotVoices highlights a different Scot every week, and this week it was Donald Macsween, from the Western Isles, who is a crofter. Various issues have been discussed, such as absenteeism, which people said is now easier to detect and deal with.

During the passage of the Crofting Reform (Scotland) Bill in 2010, Peter Peacock made a perceptive comment about absenteeism. He said:

“the bill—for example, in being tougher on absenteeism and neglect—seeks a regulatory action to what is essentially an economic question. If crofting provided more of a living and there were more economic strength and diversity in our crofting areas, we would probably not need to debate absenteeism.”—[*Official Report*, 1 July 2010; c 28191.]

Dave Thompson talked about a proposal for a local abattoir. It is about having the modern infrastructure that can support crofting communities and ensure that they are sustainable.

Neglect was discussed on Twitter last night. Neglect blights land that has the potential to be worked and damages crofting communities, landscapes and biodiversity, but it is difficult to address. How is neglect monitored or judged? More action might be needed in that regard.

The increasing cost of crofting leases was also mentioned. The comment was:

"My 7 acre croft cost approx £5k nearly 10 years ago. 2.5 acre croft next door for sale just now, looking for £10-15k".

How do we make crofting not just economically viable but accessible to people who want to croft? As Angus MacDonald said, crofting is a difficult life and it is not often that a crofter can sustain their way of life without having more than one job.

Crofting has been and remains a critical means of sustaining and retaining populations in some of our more remote communities. There needs to be a focus on legacy building. In the recent BBC programme "Hebrides: Islands on the Edge", crofting was discussed. The programme did a good job of helping people to understand crofting. We saw how local schoolchildren are learning crofting skills in a scheme that is proving popular and is offering a means of legacy building and connecting the community with crofting.

We know the benefits that crofting can bring. Crofting communities are strong and work collectively to work the land and keep it for future generations. We must work together to ensure that crofting remains viable. This is an essential debate about how we solve a fairly technical problem, but the bigger question is how we support crofting and economic development in rural areas.

We need more targeted resources in the less favoured areas, through agricultural support, rural development mechanisms and support for housing—that relates to our debate on land reform yesterday. More joined-up rural development policy and greater decentralisation of jobs in the economy would do much to support rural communities and crofting. Those are the real challenges that we face.

**The Deputy Presiding Officer (Elaine Smith):** I call the minister, Paul Wheelhouse, to wind up the debate. Minister, I can be very generous with time until 5 o'clock. However, if you feel that you have covered all the points that have been made in the debate and that you want to make, I will briefly suspend the meeting of the Parliament.

16:45

**Paul Wheelhouse:** I will do my best to use the time to full effect, because members have raised so many interesting points in the debate. The debate has been interesting and I am grateful to

members for their contributions. I will respond to as many of the points that have been raised as possible.

It is very gratifying to note that broad agreement remains on the need to address the owner-occupier crofter decrofting issue and I am grateful indeed for the constructive and positive approach that all members have taken in the debate. There is general consensus on the need for action, irrespective of the detail, which we will go through at stage 2 and stage 3. It is also gratifying to note that there is broad agreement that the bill will deliver the necessary changes and ensure that owner-occupier crofters are treated equally to tenant crofters and crofting landlords.

I said earlier that crofting often inspires emotion in debate. Some may disagree on finer issues such as drafting, but I hope that that will not stand in the way of progress today. I am sure that all members will agree that it is important to deliver the focused intent of the bill and to remain committed to that common aim during its remaining stages.

Crofting plays a vital part in sustaining our rural communities and we can be thankful to our crofters for the wonderful sight and riches of the machair on our screens in the BBC's "Hebrides: Islands on the Edge" programme, which Claire Baker referred to. It is therefore important that those involved in crofting know exactly where they stand.

The bill clarifies where owner-occupier crofters stand on decrofting. It removes the legal doubt on decrofting that a number of members mentioned. Irrespective of the merits of the cases that have been put forward by different lawyers—a number of whom we have seen in and outwith the committee—who have valid but differing views, the fact that there is that uncertainty and that so many eminent lawyers cannot agree, even on the need for the bill, shows the need to clarify and put to rest this issue, so that crofters can get on with their day-to-day lives.

I have listened with great interest to the points that members have made. It has been argued since February that new legislation to address the issue is unnecessary. That is not the view of the Scottish Government, nor, it would appear, of the Rural Affairs, Climate Change and Environment Committee. It has also been argued that the scope of the bill should be expanded to deal with matters other than owner-occupier decrofting, and I will try to use my time effectively to refer to as many of those matters as I can.

Other issues have been raised today and in the course of the evidence that was given to the committee. Brian Inkster has provided a shorter bill. However, length is not the only consideration,

as I mentioned earlier. We need to ensure that the issue is fully addressed and in my and the Government's opinion the bill will do that.

The form of drafting minimises the doubt about owner-occupiers having similar decrofting rights to tenants. I made the point in an intervention that, to my understanding, although the provisions for tenant crofters to decroft might not be perfect, they work reasonably effectively and there is a degree of clarity about how tenant crofters can decroft. That is being progressed administratively by the Crofting Commission in good order, to the best of my knowledge. Replicating those procedures for owner-occupiers might not be perfect—it might not be the neatest legislation in the world—but it gives a degree of clarity that both owner-occupiers and tenants will have the same rights.

The bill should address multiple owners of the same croft, as they cannot decroft. Many people have made the point and I have listened to that view. There is an issue relating to the definition of owner-occupier crofters, which is currently outwith the scope of the bill, although I am sure that we can look at it once the bill has been, I hope, enacted. As I said earlier, we intend to engage with stakeholders and take stock of the full range of problems. An 80:20 principle may be at play—probably 20 per cent of the issues that we could identify in existing legislation cause 80 per cent of the problems that we face daily. I hope that by prioritising we can work out which issues we need to take forward and then consider what the best approach to dealing with them is.

I heard members today mentioning issues such as codification and the need for consolidated legislation, or consolidated plus, to take amendments into account. We hope to engage with stakeholders, including the cross-party group on crofting, the Scottish Crofting Federation and the Crofting Commission, on those matters, to see what the most appropriate way of going forward is.

However, as I have made clear, the bill's scope is deliberately narrow and focused to reflect the problem's urgency. In my opening remarks, I committed to giving further consideration to other issues that have been raised during the committee's consultation and will inform Parliament if any legislative steps are to be taken.

On specific points raised in the debate, Alex Fergusson highlighted the inability of multiple owners to decroft. The commission does issue decrofting directions in respect of crofts with multiple owners, but I am sure that the member is aware that, under the existing legislation, decrofting requires the unanimity of those on the croft to act collectively as a landlord. It might not be perfect but at least there is provision for people in that situation to decroft and, obviously, we can consider the issue in due course.

**Rob Gibson:** How many people are in this multiple owner situation and how many are caught up in these decrofting problems? Does that, too, conform to the 80:20 principle?

**Paul Wheelhouse:** Estimates of the numbers involved vary. To pick up Alex Fergusson's earlier point, I believe that there are between 3,000 and 4,000 owner-occupier crofter crofts and know that the figure of 700 has been banded about for crofts in multiple ownership. We believe that the actual figure might be slightly higher, at 808, but if it will assist, we can clarify the exact number for the committee and members as we move towards stage 2. The issue is another that falls outwith the scope of the bill but which we recognise needs to be addressed, and I hope that members whose constituents are affected will note that. The bill deliberately has a tight focus to address a key issue and our view is that, unfortunately, any deviation to cover such a substantive issue would not necessarily respect the expedited procedure that is being applied to the bill, on which there is clearly a consensus to address the existing decrofting issue.

I am certainly happy to consider Claudia Beamish's point about decrofting directions in advance of stage 2 as she suggested. It is a good example of an area where we might be able to have on-going dialogue.

Rob Gibson and Claudia Beamish described the bill as unnecessarily complex. We have considered the drafting issues as closely as possible and think that, as a number of committee witnesses have verified, the bill as drafted achieves its purpose. We are committed to drafting the legislation as plainly and as accessibly as possible and recognise the complexities in dealing with crofting legislation. Nevertheless, I hope that I have clearly explained why this particular drafting has been used and that we want to be as clear as we can about giving parity of treatment to tenants and owner-occupiers.

Tavish Scott fairly asked whether the point should have been picked up in 2010. Obviously, I agree with him, but we are where we are. As Alex Fergusson said, the matter is probably a good indication and measure of the complexity of crofting law. The Scottish Government introduced legislation to address the issue as soon as we possibly could and I welcome the support of members across the chamber for the approach that we have taken.

**Graeme Dey:** We are all driven by the need to address the problem as quickly as possible and allow the lives of these 44 crofters to move forward. Will the minister tell us what work the commission is doing to ensure that it is ready to hit the ground running if and when the bill is enacted,

so that the 44 crofters can emerge from their current limbo?

**Paul Wheelhouse:** I am happy to do so. The original estimate of 50 fell to 44 after we requested the commission to do as much as it could to process the applications that it had in hand, short of approving them. In the course of that work, the commission identified that six of the applications did not fit the description of an owner-occupier crofting application and they are now being processed under a different stream. Applications are at various stages of development; some will be able to go forward almost immediately once the bill is passed while others might take up to eight weeks after royal assent is given, but I hope that the whole backlog will be cleared over the summer. A further 31 applications have been made and returned to the applicants at this stage—we hope that the commission will be able to start on them quickly once royal assent is received. I hope that that clarifies the matter for the member.

Tavish Scott mentioned the case of the crofting couple in Shetland. I am sorry to hear of their difficulties and that the Land Court indicated that they cannot appeal through it against the policy of the commission. As we do not have all the facts of that particular case and it is a live case, I cannot comment on it too much, but I highlight the fact that the 1993 act contains a wide range of appeal opportunities, some of which may apply in their case.

Rhoda Grant mentioned that crofters cannot cultivate crofts with their families as a result of the duty on crofters in the 2010 act. There is nothing in theory to prevent a crofter's family from assisting the crofter by working the croft, but the crofter must be responsible for ensuring that the duty to cultivate the croft is met. I hope that there may be more scope there than perhaps the member indicates, but if she is willing to write to me about a particular case, I can always undertake to have a look at it.

It is also open to a crofter to apply to the commission to sublet a croft and, since 2011, it has also been open to an owner-occupier to apply to the commission for a short-term let of a croft of up to 10 years.

Nigel Don very fairly raised a point about the transitory provisions in the bill. I reassure him that full consideration was given to the effect of those transitory provisions when developing the proposed legislation. We will continue to consider any points as they arise during the bill process, but I take on board the concern that the member raised and I will ensure that I will take a personal view of that.

Jamie McGrigor commented that further amendments may be required to the bill, with particular reference to Sir Crispin Agnew and Brian Inkster's comments. We are aware of the drafting concerns, but I hope that in addressing the points that were raised earlier about the particular form of the drafting, I clarified that we picked a form that replicates the provision for tenant crofters and that, therefore, we believe is relatively stable and appears to work in processing applications. We cannot guarantee that there will not be a problem, but in seeking to do it this way, we hope that we have minimised the risk of a problem arising in relation to owner-occupier crofters. However, of course, I will consider any detailed comments that the member has on that.

**The Deputy Presiding Officer:** Minister, I will stop you for a moment. There is an awful lot of chattering going on in the chamber. Could we have some order, please, for the minister, who is making the closing speech of the debate?

**Paul Wheelhouse:** Thank you, Presiding Officer.

**Jamie McGrigor:** The minister was referring to my earlier comments. The point that I made was that his response on bringing forward a consolidation of crofting acts included the minister wanting to see everything working as intended. How will he know when everything is working as intended?

**Paul Wheelhouse:** Certainly, we have taken the approach of trying to minimise the risk in the first place by taking something that is relatively well understood in relation to tenant crofters, but I will of course keep any problems under review.

On speculation, which I think I mentioned earlier, we do not anticipate any additional problems from owner-occupiers using the legislation for speculative purposes—any more so than there would be in relation to tenant crofters—but we will of course keep the matter under review.

Claire Baker, Angus MacDonald and Dave Thompson made some good points around the infrastructure issues—indeed, the issues were noted by Tavish Scott as well when he referred to Angus MacDonald's point. There are clear differences between the crofting counties and sometimes within the crofting counties and I will certainly bear that in mind during my tenure as minister with responsibility for crofting.

A good point was made about CAP reform and it is clear that not only pillar 1 but pillar 2 are important streams of funding for our crofting communities. Clearly we are, as a Government, making the strongest possible case for a fairer allocation of funding within Europe—and within the United Kingdom.

I am conscious of time, Presiding Officer. I committed in my opening remarks to considering further some of the points that have been raised by members today and by the committee. We must also consider whether there are further unidentified issues that must be resolved, and the options that are available to address those. I will arrange for my officials to progress that work.

I once again thank the committee for the work that it put in at stage 1 to inform the debate. It would appear that the technicalities of crofting are never straightforward, and I know that a number of committee members have been taken aback by the subject's complexity. I add my name to that list as the new minister with responsibility for crofting.

I thank the stakeholders who have contributed so positively to the process. I reiterate that I have listened to the comments that have been made today, and I will reflect on them before stage 2.

However, I remain convinced that the bill will deliver what is intended. I have no doubt that we all want the issue to be addressed effectively and as quickly as possible. I therefore invite members to support me in agreeing to the principles of the Crofting (Amendment) (Scotland) Bill, so that we can keep on track and move to a detailed consideration of the bill at stage 2 next week.

## Parliamentary Bureau Motion

16:59

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

The next item of business is consideration of Parliamentary Bureau motion S4M-06889, on substitution on a committee.

*Motion moved,*

That the Parliament agrees that Jackson Carlaw be appointed to replace David McLetchie as the Scottish Conservative and Unionist Party substitute on the Standards, Procedures and Public Appointments Committee.—[*Joe FitzPatrick.*]

**The Deputy Presiding Officer:** The question on the motion will be put at decision time.

## Decision Time

17:00

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

There are two questions to be put as a result of today's business. The first question is, that motion S4M-06798, in the name of Paul Wheelhouse, on the Crofting (Amendment) (Scotland) Bill, be agreed to.

*Motion agreed to,*

That the Parliament agrees to the general principles of the Crofting (Amendment) (Scotland) Bill.

**The Deputy Presiding Officer:** The second question is, that motion S4M-06889, in the name of Joe FitzPatrick, on substitution on committee, be agreed to.

*Motion agreed to,*

That the Parliament agrees that Jackson Carlaw be appointed to replace David McLetchie as the Scottish Conservative and Unionist Party substitute on the Standards, Procedures and Public Appointments Committee.

*Meeting closed at 17:00.*

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e-format first available  
ISBN 978-1-78351-230-0

Revised e-format available  
ISBN 978-1-78351-244-7

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Printed in Scotland by APS Group Scotland

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