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Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Tuesday 11 March 2014

Session 4

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Scottish Parliament

Tuesday 11 March 2014

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

Time for Reflection

The Deputy Presiding Officer (John Scott):

Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader today is the Rev Iain McFadzean, chief executive of Work Place Chaplaincy Scotland.

The Rev Iain McFadzean (Work Place Chaplaincy Scotland): Ladies and gentlemen, I thank you for the opportunity to address you today.

I come from a long line of human beings, as almost all the members of my family—with a few temporary teenage exceptions—have been human beings. Day by day, all our actions make us more or less human. Being human is about valuing one another, serving one another and accepting one another. That allows us all to be, to continue to exist, to grow and to thrive as a race—human beings.

Day by day, Work Place Chaplaincy Scotland seeks to offer pastoral and spiritual support to all humans—people of any faith or none—and the occasional dog, in workplaces across Scotland. We have the privilege of sharing in some of the best and some of the worst moments in people's lives. We do not share words of religion, but we share words of compassion and empathy and seek, by our words and actions, to model an environment that values all people, especially when circumstances cause them to question their own value.

Jesus's story of the prodigal son is remembered as a story of forgiveness. A father forgives an errant son for taking his inheritance and squandering it on wild and selfish living. In that respect, it draws for us a picture of a forgiving God waiting for us to come home, to forget the past and to start life again. However, it also tells us so much about what it is to be human—how we can often want more than is good for us, putting ourselves first without thinking of the hurt inflicted on others and refusing to forgive because there is nothing in it for us. It could be a very depressing story, but it is not, because it ends with a party full of hope for the future where a son learns that he is still valued—valued for who he is and not for what he has or has not done.

Jesus lived as a human being to bring hope to earth. Regardless of whether or not we believe in

the loving God of our story, he still believes in us—we are valued.

Today, each one of us, in our lives and in our business, will make choices big and small; choices about being; choices that reveal or reduce our humanity and add or remove value to us and to other humans; choices that bring or remove hope in being.

May God bless you all in the challenge of human being!

Business Motions

14:03

The Deputy Presiding Officer (John Scott):

The next item of business is consideration of business motion S4M-09297, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to today's business programme.

Motion moved,

That the Parliament agrees to the following revision to the programme of business for Tuesday 11 March 2014—

after

followed by Stage 3 Proceedings: Tribunals (Scotland) Bill

insert

followed by Ministerial Statement: Events at the Vulcan Nuclear Reactor Test Establishment

delete

5.00 pm Decision Time

and insert

5.30 pm Decision Time—[*Joe FitzPatrick.*]

Motion agreed to.

The Deputy Presiding Officer: The next item of business is consideration of business motion S4M-09286, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the Tribunals (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during stage 3 of the Tribunals (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 to 2: 20 minutes

Groups 3 to 6: 40 minutes

Groups 7 to 8: 55 minutes.—[*Joe FitzPatrick.*]

Motion agreed to.

Topical Question Time

14:05

Social Care Services

1. Rhoda Grant (Highlands and Islands) (Lab): To ask the Scottish Government what steps it is taking to ensure that those who require social care services receive appropriate assistance. (S4T-00629)

The Minister for Public Health (Michael Matheson): Funding for social care is provided to local authorities through the local government block grant. It is for local authorities to manage their budgets to ensure that people receive the social care that they are assessed as requiring. The Care Inspectorate inspects social care services to ensure that the services that are provided are of a high quality, and it works with providers to drive improvements in quality across the sector.

Rhoda Grant: The minister will be aware of the report in *The Herald* that said that 20,000 people are not receiving any service at all, despite needing it, and that many others cannot afford to pay for those services and depend on families to fill the gap because care charges have increased so much. He will also be aware that Highland Council is looking to take £4.5 million out of its reserves to pay for adult care. Is it now time to consider fully funding the council tax freeze?

Michael Matheson: Rhoda Grant refers to an article in *The Herald* that highlights the fact that the number of individuals receiving social care is lower than the number that would have been expected according to the predictions in the report to which the article refers. We will give consideration to that report. However, over the period of time in question, expenditure on social care services in Scotland has been increasing. Around 2007, the budget for social care provision was just over £2 billion and it is now in the region of £2.8 billion, so there has been a continued increase in expenditure on social care provision overall.

Care charges, to which Rhoda Grant refers, are a matter for individual local authorities, which have the discretion to decide which areas they want to charge for with the exception of free personal care for the elderly, which is funded directly by the Scottish Government. It is for each local authority to consider such issues and come to a decision.

Rhoda Grant also raised the issue that was raised by NHS Highland with Highland Council with regard to resource transfer for the provision of care that NHS Highland is having to pay for. Even the article in *The Herald* says—I paraphrase—that

that money is meant to be for a rainy day, and today it is pouring so it should be used. It is important to recognise that, through the greater integration of services, we can align our health and social care services much more effectively to deliver the social and health care that is necessary.

Rhoda Grant will be aware that, in each year in which the Scottish Government has introduced the council tax freeze, it has provided funding for that to local government.

Rhoda Grant: The reason why it is pouring is that we are shifting the balance of care from acute services into the community, and the cost of that is falling on local authorities, which are having their budgets squeezed. The minister will be aware of Unison's report from a couple of weeks ago, "Scotland—It's time to care", which shows that the squeeze seems to be falling on the workers who are providing the care. They are low paid, overworked or working zero-hours contracts with insufficient time to care. Will he review home care to make sure that it is properly resourced and that the people who are delivering it are being paid a living wage? Will he legislate to ensure that all those who are paid by the public sector, either directly or through contracts, are paid the living wage?

Michael Matheson: Rhoda Grant makes a number of different points, which I will try to address. She referred to the £4.5 million that NHS Highland is looking for from the council. That is part of its integration approach to how it manages its resources to meet local need appropriately.

Rhoda Grant will recall that, at the last election, she stood on a manifesto commitment to continue the council tax freeze. I do not know whether the Labour Party has changed its position and is now in favour of increasing council tax. It is worth reflecting on the fact that, under the Labour-Lib Dem Government, the council tax went up by some 60 per cent. During the present economic difficulties, one thing that people in Scotland can be certain of under this Government is the freezing of the council tax, which we have done to give them additional capacity in their household budgets.

Rhoda Grant also referred to workforce issues in the social care setting. We face a range of challenges in the social care setting that we must address to meet the workforce demands that exist in the different professional groupings. The Care Inspectorate and the Scottish Social Services Council have been doing work in that area to look at what can be done to ensure that members of the workforce have the necessary skills and that the right type of investment is being provided to support the workforce.

A key part of that is ensuring that people are adequately financially rewarded for their work. That is why, as a Government, we have led the way in taking forward the living wage in the public agencies that we have control over. We have encouraged our partners in local government to do the same with their workforce, and we encourage organisations in the independent and third sectors that deliver social care to consider paying their workforce the living wage. It is important that we all work together to achieve that. Some of the work that our agencies have done to support the social care workforce has been targeted at pushing up standards in that setting.

The Deputy Presiding Officer (John Scott): A couple of members have questions on this subject. If they keep them brief, we will get the next question dealt with, too.

Nanette Milne (North East Scotland) (Con): The minister will be aware of my concern about the provision of care at home. I am particularly concerned about the recruitment of home carers, which is a serious problem in Aberdeen, in my region, where home care providers compete with the oil industry for staff.

Without proper care at home and the right number of carers, I fear for the success of the integration of health and social care, the legislation on which had the intention of providing person-centred care. Can the minister give me any comfort for the way ahead in tackling that difficult problem?

Michael Matheson: We recognise that services face challenges in recruiting appropriate staff to the social care workforce. I know from my discussions with the chair and the chief executive of NHS Grampian that challenges in recruiting staff are faced across a number of professional settings in the Aberdeen area as a result of competition with the oil industry. Through the Care Inspectorate and the SSSC, we are undertaking work to look at what we can do to support the social care workforce much more effectively and make it as attractive as possible for individuals to move into.

I recognise, as does the Government, that the rate of pay that is involved in some of this work is an important part of the issue. That is where the living wage has an important part to play. We encourage organisations in the sector to look at how they can utilise the living wage not just to incentivise people to enter the social care workforce but to retain and support current members of that workforce.

Bob Doris (Glasgow) (SNP): The minister will be aware that, this week, the Delegated Powers and Law Reform Committee is scrutinising regulations to ensure that carers and young carers

who can now receive support in their own right from councils will not be charged or means tested. I very much welcome those regulations, but will the cabinet secretary update Parliament on how the timetable on the next steps towards carers receiving support in their own right is progressing?

Michael Matheson: If the member does not mind, it will be the minister, not the cabinet secretary, who responds to his question.

The member is right that, through the Social Care (Self-directed Support) Act 2013, which comes into force in April, we have laid down regulations that prevent local authorities from charging carers for services that are provided directly to them to support them in their caring role. That will ensure that, across the country, a consistency of approach is taken to carers and that is properly recognised in the support that is provided by local authorities.

We still need to do much more to help to support carers in Scotland. I want further improvements to be made in a range of policy areas. For example, we are already out for consultation on a carers bill to improve access to a carer's assessment and address the major issue for many carers of getting access to information about what services are available in their local area, and to put those on a statutory footing much more effectively so that we can provide more support to carers for the invaluable role that they play in our society.

Mackerel Quota (Negotiations)

2. Jamie McGrigor (Highlands and Islands)

(Con): To ask the Scottish Government, in light of the recent breakdown of mackerel quota talks, what steps it is taking to support fishermen. (S4T-00631)

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): It is very disappointing that the four-party coastal states agreement on mackerel could not be reached when Edinburgh hosted the talks last week. Science is telling us that the stock is in good condition at the moment, and this seemed like the best chance for several years to secure a deal and resolve international disputes. However, although the failure of the talks is regrettable, we do not anticipate any immediate impact on the Scottish mackerel fleet. The European Union has set a provisional quota that has allowed the fleet to continue fishing while the talks continue. The first seasonal component of the Scottish mackerel fishing season has now finished.

Our priority now is to continue pushing hard in co-operation with our industry for a sustainable international mackerel agreement with Norway and possibly also with the Faroese when talks

resume in London tomorrow. If signed, any such agreement would set the final quota for this year and would contain provisions to give our fleet access to Norwegian waters, if necessary, when the next mackerel fishery opens in September.

Jamie McGrigor: With Iceland now out of the picture, given that it has set its own unilateral quota, does the cabinet secretary believe that the EU should now focus its efforts on coming to a tripartite agreement between the EU, Norway and the Faroe Islands and not simply rush into a bilateral agreement with Norway?

Richard Lochhead: Yes, I agree with Jamie McGrigor. I think that that is the most sensible way forward. Clearly, our preference is to have a four-party coastal states agreement, with Iceland on board. That would be in the interest of the sustainable management of a major fish stock. In the meantime, as I indicated in my initial answer, we hope that the Faroe Islands will be part of the talks that are restarting in London this week and that we can at least explore the idea of a three-party agreement in the short term.

Jamie McGrigor: Has the cabinet secretary raised with Commissioner Damanaki the rather alarming concerns that Iceland is seeking to catch even more mackerel on top of its unilateral quota by using a loophole allowing its vessels to use Greenland's quota for mackerel? In terms of the impact that the dispute is now having on the demersal white-fish sector, does the cabinet secretary share the concern of fishermen that when half of the North Sea—the Norwegian sector—is already closed to EU fishermen due to the on-going dispute, Marine Scotland has just introduced seven real-time closures in the North Sea? Why was the impact of obviously disproportionate, cumulative displacement not factored in before the batches of RTCs were announced?

Richard Lochhead: There were a number of questions in Jamie McGrigor's supplementary. First, I am concerned by the fact that Greenland might now be part of the problem for a resolution of the mackerel dispute. The Scottish Government has been in contact with the European Commission today to express our concerns over the developments at last week's negotiations involving Greenland. I will use the first opportunity that I have to raise the issue personally with Commissioner Damanaki.

Clearly, this week's negotiations over mackerel will have a bearing on the timing for making last week's agreement in principle over white-fish stocks come into force. I hope that all parties will sign that once the mackerel issue is taken forward this week. The white-fish stocks and the mackerel stocks are interrelated issues in international negotiations.

Clearly, one of the reasons why our stocks are improving in Scottish waters and have been for some time now is the massive sacrifice by our fleet in terms of pushing conservation measures. Real-time closures are part of a toolbox of conservation measures. We require them to ensure that stocks that we do not want to catch are avoided, especially juvenile stocks, as well as to continue our good efforts towards the overall sustainability of fish stocks in Scottish waters.

Claire Baker (Mid Scotland and Fife) (Lab): I share members' disappointment at the lack of progress in the mackerel negotiations. I wish the cabinet secretary well in the negotiations that start tomorrow. Has he had any discussions with the Marine Conservation Society, which currently classes British, European and Norwegian mackerel yellow while Icelandic and Faroese mackerel is listed as red, over whether the lack of a resolution to the situation poses any threats to the current certification of Scottish mackerel?

Richard Lochhead: I assure Claire Baker that, in the past, I have been in touch several times with the Marine Conservation Society over the classification of the mackerel stock that is caught by Scottish vessels. I do not think that we should be tarred with the same brush as other fisheries, given that our fishermen are helping the stock to recover and are fishing within agreed management regimes.

If there has been any change to the Marine Conservation Society's classification in the past few days, I will be happy to learn about that and intervene again, but I will certainly keep a close eye on its classification of the Scottish mackerel stock.

Angus MacDonald (Falkirk East) (SNP): Does the cabinet secretary agree that it is vital that the total allowable catch for mackerel is agreed as soon as possible so that the bilateral arrangement between the European Union and Norway, which has already been agreed in principle, can be signed? We will then, at last, be able to return to negotiating an EU and Faroe bilateral, the lack of which has denied our white-fish fleet access to Faroese waters for nearly four years.

Richard Lochhead: Angus MacDonald refers to the complex picture in which several sets of international negotiations are linked to each other. First, we have the international mackerel dispute, which was the subject of the first few days of the talks that we hosted in Edinburgh last week, and secondly we have the EU and Norway talks over the other stocks such as haddock and cod, which were the subject of the negotiations in the final few days of last week.

We have a draft agreement for the EU and Norway talks, which are essential to the cod

quotas, the haddock quotas and the shared stocks between the EU and Norway. We need all countries to put their signatures to that. We have it agreed in principle, but Angus MacDonald referred to the fact that some countries want to await the outcome of the mackerel talks in London before they add their signature to the agreement that is on the table for the white-fish stocks and the EU and Norway stocks.

Tribunals (Scotland) Bill: Stage 3

14:21

The Deputy Presiding Officer (John Scott): The next item of business is stage 3 of the Tribunals (Scotland) Bill. Members should have copies of the bill as amended at stage 2, the marshalled list and the groupings of amendments. The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon, the period of voting for which will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after the group is called.

After section 11A

The Deputy Presiding Officer: We start with group 1. Amendment 24, in the name of Dr Elaine Murray, is the only amendment in the group.

Elaine Murray (Dumfriesshire) (Lab): At stage 2, both the Minister for Community Safety and Legal Affairs and I lodged amendments to address concerns that witnesses had expressed that the bill did not—unlike the equivalent United Kingdom legislation—contain a definition of “tribunal”. The minister’s amendment was successful. However, committee members expressed sympathy for the policy direction of one of the paragraphs in one of my amendments, which would have required the Lord President to consider and to develop innovative methods of resolving disputes. At the time, Justice Committee members objected to how it was expressed, although it replicated the wording in section 2(3)(d) of the Tribunals, Courts and Enforcement Act 2007.

Nevertheless, I have tried to take on board both the positive views of committee members regarding dispute resolution and their concerns that the previous wording was too woolly, so I offer instead a new section on alternative dispute resolution to be inserted in section 11A.

Amendment 24 would require the Lord President, in his or her capacity as head of the Scottish tribunals, to

“promote alternative methods of resolving disputes”—

for example, negotiation, mediation, adjudication or arbitration—that would be suitable for the type of case that is under consideration.

I move amendment 24, and offer it to the Parliament for consideration.

Margaret Mitchell (Central Scotland) (Con): I support amendment 24. I commend Elaine Murray

for the rewording, which seems to be entirely sensible and reasonable.

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): Elaine Murray’s amendment 24 would place a duty on the Lord President to promote alternative dispute resolution in cases that are brought before the Scottish tribunals, to the extent that the Lord President would believe that that would be appropriate.

There are a couple of difficulties with amendment 24. It has been lodged at stage 3, which has not provided enough time to seek the Lord President’s views on it; I do not think that it would be appropriate to place a duty on the Lord President without first having had the opportunity to discuss it with him.

The Scottish Government has supported and encouraged the use of alternative methods of dispute resolution in appropriate cases. The Government agrees that alternative dispute resolution is a valuable component of the administrative justice landscape, but it is for the founding legislation for each tribunal jurisdiction to provide for that.

Different ADR methods are already used by some tribunals that will transfer into the new structure. For example, the Private Rented Housing Panel uses mediation in some disputes, as does the Additional Support Needs Tribunal for Scotland. In valuation appeals, negotiation is provided for. Members might also be interested to know that the Homeowner Housing Panel has recently embarked on a mediation pilot project, which will be undertaken over the next 12 months. That will gauge whether mediation is appropriate in some property factor or land maintenance cases.

In some cases, ADR is not appropriate. The Mental Health Tribunal for Scotland is one instance of that, because it deals with persons’ liberty. It would be wrong to use ADR in those circumstances.

Amendment 24 is unnecessary, so I ask Elaine Murray to withdraw it.

Elaine Murray: I note what the minister said about founding legislation, which is the mechanism by which new tribunals are set up. I understand that a new tribunal process is proposed in the Housing (Scotland) Bill, which is before the Infrastructure and Capital Investment Committee. Has the requirement to consider alternative methods been built in to that bill? If we have an environment tribunal—which I know the Minister for Environment and Climate Change is considering—will we ensure that such a requirement is in the legislation to establish that? If ministers assure me that the requirement will be

included in all future legislation, I will be happy to withdraw amendment 24.

The Deputy Presiding Officer: Unusually, I call the minister to respond.

Roseanna Cunningham: I cannot answer for the Minister for Housing and Welfare on the Housing (Scotland) Bill. However, in some support of Elaine Murray's position, I add that section 2 of the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 provides for the Scottish Civil Justice Council to have regard to specific principles in carrying out its functions. One of those principles is that

"methods of resolving disputes which do not involve the courts should, where appropriate, be promoted."

Because that council will in the future be responsible for tribunal rules, that provides adequately for promotion of ADR in tribunals in the way that Elaine Murray wishes.

Elaine Murray: I am content to withdraw amendment 24.

Amendment 24, by agreement, withdrawn.

Section 26—Listed tribunals

The Deputy Presiding Officer: We move to group 2. Amendment 1, in the name of the minister, is grouped with amendments 2, 3 and 8.

Roseanna Cunningham: At stage 2, Elaine Murray lodged an amendment to include in the bill a definition of "tribunal". I explained then that section 26 of the bill describes a tribunal for the purposes of the bill. However, having reflected on the stage 2 discussions, I have lodged amendments 1 to 3, which will make clearer the description that section 26 provides. Amendment 8 is consequential on the new description that will be in section 26(4), which is more inclusive than the specification in paragraph 13(3) of schedule 1. The amendments will make a technical adjustment to make the provisions fit better.

I move amendment 1.

Elaine Murray: I am pleased that our stage 2 discussions affected the minister, and I welcome the amendments.

Amendment 1 agreed to.

Amendments 2 and 3 moved—[Roseanna Cunningham]—and agreed to.

Section 61A—Offences in relation to proceedings

The Deputy Presiding Officer: We move to group 3. Amendment 4, in the name of the minister, is the only amendment in the group.

Roseanna Cunningham: At stage 2, we lodged an amendment that provided that the Scottish ministers could make regulations on offences in proceedings that are before the Scottish tribunals. However, the Delegated Powers and Law Reform Committee has previously taken the view that it is inappropriate for Parliament to confer on ministers a power to create offences and penalties in regulations without specifying a limit on the penalties that can be imposed. The committee takes the view that setting of maximum penalties is a matter for Parliament and should not be delegated. I have reflected on the committee's view and have lodged amendment 4 to make provision for setting of the maximum penalties that may be provided for in regulations.

I move amendment 4.

14:30

Margaret Mitchell: I fully accept the need to ensure that statements and evidence that are given in tribunals are accurate, but I have concerns that creating a raft of new offences with severe penalties could harm the informal nature of some tribunals. Therefore, I seek an assurance from the minister that amendment 4 will not pave the way to excessive penalties, and that the power will be used only when it is deemed to be absolutely necessary to do so.

Roseanna Cunningham: I cannot predict the future, of course, but I think that I am fairly safe in saying that the power is likely to be used very rarely. It is simply to ensure that, should circumstances arise, it can be used.

Amendment 4 agreed to.

Section 62—Tribunal Rules

The Deputy Presiding Officer: We move to group 4. Amendment 5, in the name of the minister, is grouped with amendments 6, 19, 20 and 25.

Roseanna Cunningham: Amendment 5 clarifies that, as well as making provisions that regulate the practice and procedure to be followed in proceedings, tribunals' rules may contain "provision of other sorts" connected to the Scottish tribunals, but not strictly to do with procedure or proceedings. In particular, provision can be made that is connected to the exercise of functions by a tribunal.

The bill will already empower tribunals' rules to deal with matters of that sort in sections 27(5), 58, 63(A1) and 63(1). For example, section 58 allows tribunals' rules to make provision concerning the manner in which a decision can be enforced. Amendment 5 makes it clear that the general rule-making power also includes the ability to make

rules of that kind. Rules will not be able to override or conflict with any substantive provision that is made by the bill, or to deal with decision making by the tribunal.

Amendment 19 will amend schedule 9 so that the terms of section 62 as amended are reflected in the provisions that relate to the period before the Scottish Civil Justice Council takes over rule making for tribunals—that is, the transitional period.

Amendments 6 and 20 will make technical drafting adjustments.

Margaret Mitchell's amendment 25 seeks to change the procedure for making regulations for tribunal rules from negative procedure to affirmative procedure. As explained at stage 2, the power for the Scottish ministers to continue to make rules is a transitional arrangement until the Scottish Civil Justice Council is ready to take over. The Scottish ministers currently make rules that are subject to negative procedure, so I do not think that the amendment is necessary.

The bill makes explicit provision in paragraph 4(3) of schedule 9 for when the Scottish ministers are making rules in the interim period. They will not make them in isolation without consulting the president of tribunals or

“such other persons as they consider appropriate.”

In practice, ministers will involve people with the appropriate jurisdictional expertise when they make or change rules. Those experts would be the same people who would sit on the specialist committees of the Scottish Civil Justice Council when it takes over responsibility. They are the jurisdictional experts.

I move amendment 5.

Margaret Mitchell: My amendment 25 would require the ministerial order-making power to be the subject of affirmative procedure rather than negative procedure. The bill will currently, by virtue of paragraph 4 of schedule 9, allow the Scottish ministers to draft procedural rules. The Scottish Government's intention is that that will be an interim arrangement, as the minister outlined, before the newly created Scottish Civil Justice Council has the capacity to take over responsibility for those rules. However, the council will be fully occupied drafting new civil court procedural rules and—notwithstanding what the minister said about consultation—that is likely to be the case for the foreseeable future.

I accept that the Government's intention is to ensure that rules are drafted as soon as possible and I acknowledge that ministers already have a limited role in drafting tribunal rules, but as the Faculty of Advocates pointed out, that arrangement is undesirable on constitutional

grounds, because the rule-making power allows ministers, who can themselves be subject to tribunal consideration, to draft the rules.

The Government accepts that point, which is why the Scottish Civil Justice Council will take on that role and there is reference to ministers' consultation of its members. However, in the meantime, we need full transparency. The bill will give ministers considerable power to shape independent tribunals and to draft all the rules for the new upper tribunal for proceedings—proceedings to which they may find themselves subject.

Furthermore, if amendment 19 is passed, that will make amendment 25 all the more pertinent because that would extend the scope of the ministerial order-making power. In those circumstances, ideally the Government would set up an interim independent body to draft procedural rules. However, given the resources that would be required to do that, it is clear that it will not happen. I hope that the Government will, notwithstanding the minister's opening remarks, reconsider and agree to the rules being subject to affirmative procedure, in particular because that would not be overly onerous and would—crucially—give Parliament a greater role in scrutinising the new rules while introducing a limited but desirable set of checks and balances.

Elaine Murray: On the face of it, amendment 25 looks attractive because it appears to suggest that there ought to be more scrutiny of the rules by Parliament. However, given that the Government produces such rules using negative procedure, and that we are talking only about an interim arrangement until the SCJC is up and running and is able to draft such rules itself, I do not see any point in changing the procedure for a short time.

Were we to become aware of tribunal rules that were offensive in some way, we have the opportunity under negative procedure to annul them, in any case. Therefore, as long as we are vigilant to the possibility of rules being drafted in such a way that Parliament would not agree to them, we can take action.

Roseanna Cunningham: I make it very clear to Parliament that the process that we are intending to continue through the transitional period is precisely the process that we work under now, that the previous coalition Government here worked under, and which previous United Kingdom Governments worked under prior to 1999. Therefore, the bill reflects nothing other than the practice that has been in place for a great number of years. Had a serious question been raised about that practice, we might have heard more about it. I ask Parliament to reject amendment 25.

Amendment 5 agreed to.

Section 68—Practice directions

Amendment 6 moved—[Roseanna Cunningham]—and agreed to.

Section 76—List of expressions

The Deputy Presiding Officer: Group 5 is on minor drafting points. Amendment 7, in the name of the minister, is grouped with amendments 9, 22 and 23.

Roseanna Cunningham: I will be brief. The amendments in the group are minor drafting adjustments.

I move amendment 7.

Amendment 7 agreed to.

Schedule 1—Listed tribunals

Amendment 8 moved—[Roseanna Cunningham]—and agreed to.

Schedule 2—Transfer-in of members

Amendment 9 moved—[Roseanna Cunningham]—and agreed to.

Schedule 3—Appointment to First-tier Tribunal

The Deputy Presiding Officer: Group 6 is on eligibility and process for appointment. Amendment 10, in the name of the minister, is grouped with amendments 11 to 17 and 21.

Roseanna Cunningham: Amendments 10 to 17 address an anomaly in the bill. Provision is made in schedules 3 and 5 for solicitors and barristers in England, Wales and Northern Ireland who have previous experience to be eligible for appointment to the first-tier and upper tribunals, should ministers make regulations to that effect. No account has been taken of those who have current experience as solicitors or barristers in England, Wales and Northern Ireland: individuals with previous experience have been included, but those who have current experience have not.

The amendments in the group will address that anomaly by allowing people who have current experience to be eligible for appointment, should the Scottish ministers decide to make such regulations. The result will be a coherent set of powers that will allow the Scottish ministers to make lawyers who are qualified in England, Wales and Northern Ireland eligible for appointment in the future, should an appropriate jurisdiction require that.

Amendment 21 will make a minor change to the provision in paragraph 9A(1)(b) of schedule 9 to allow persons who exercise functions as a listed tribunal—such as parking adjudicators—to be

chosen by the Judicial Appointments Board for Scotland when it is undertaking appointments, before all the functions of listed tribunals are transferred in to the Scottish tribunals. Currently, reference is made only to

“a member of any listed tribunal”.

That does not account for individuals who exercise functions as a listed tribunal.

I move amendment 10.

Amendment 10 agreed to.

Amendments 11 to 13 moved—[Roseanna Cunningham]—and agreed to.

Schedule 5—Appointment to Upper Tribunal

Amendments 14 to 17 moved—[Roseanna Cunningham]—and agreed to.

Schedule 7—Conditions of membership etc

The Deputy Presiding Officer: We move to group 7. Amendment 18, in the name of the minister, is the only amendment in the group.

Roseanna Cunningham: Amendment 18 will remove the disqualification provision in paragraph 11 of schedule 7 to the bill.

The bill creates a framework into which the functions of members of listed tribunals may be transferred. It is flexible enough to allow other or new jurisdictions to be added to schedule 1, which contains the list of tribunals. The functions of a new jurisdiction can also be transferred directly into the Scottish tribunals through the founding legislation. A tribunal, whether currently appearing as a listed tribunal in the bill or in a newly created jurisdiction, will continue to operate under its founding legislation once it is transferred in to the new structure.

All tribunals are unique and have different membership requirements; I do not want inadvertently to disqualify a category of membership. For example, there may in the future be jurisdictions that would not want to disqualify from becoming members civil servants who were sitting in a voluntary capacity. That would be a matter for the people in the policy teams that originated the legislation that set up that tribunal.

Founding legislation is the correct place for such provision. The bill contains other provisions that will ensure that only people who are suitable will be appointed as members of the Scottish tribunals. For example, the Judicial Appointments Board for Scotland will make recommendations to the Scottish ministers on suitable candidates for appointment. Recommendation for appointment can be made only on the basis of jurisdictionally specific criteria, which the Scottish ministers will set in regulations.

There are enough safeguards, whether in founding legislation or in the bill, to ensure that only those who are suitable to hold office in the Scottish tribunals will be appointed.

I move amendment 18.

Margaret Mitchell: Amendment 18 seeks to remove the automatic disqualification of tribunal members who go on to become elected politicians or civil servants. That provision was sensible; therefore, I remain to be convinced of the need to remove it at this late stage, especially because there are justifiable concerns that amendment 18 could result in, and encourage, political interference in tribunals.

On the example that the minister cites, a solution would be for civil servants to be allowed to sit as advisory members by alternative provision. Although it could be appropriate for civil servants to sit in such an advisory capacity, it is not appropriate for elected politicians to sit as full tribunal members. That would surely create a situation whereby section 3, which protects judicial independence, could be breached.

Therefore, amendment 18 is not an improvement to the bill. I support paragraph 11 of schedule 3.

14:45

Elaine Murray: Like Margaret Mitchell, I was slightly puzzled by this amendment when I first saw it, because it appears to remove the disqualification of people such as ourselves, MPs, MEPs and councillors from sitting on tribunals, and there will be many circumstances in which that would be completely inappropriate. However, I had assumed that it is because the provision might be duplicating other legislation. Perhaps the minister can clarify that she is telling us that the disqualifications already exist in founding legislation, so people such as ourselves could not sit on existing tribunals.

Roseanna Cunningham: This is about is the difference between having a situation in which we—in the process of the bill—make a decision that will apply to all tribunals, even those that have not yet been brought into being, and a situation in which we agree that the decision-making process is better located in the policy side of the argument, when a proposal for a new tribunal is made.

I have nothing in my mind about how it might come about that it would be considered appropriate for certain people to be on or not on a tribunal, but my feeling is that it is better for us to deal with the matter on a case-by-case basis, when a tribunal is being considered, rather than now, when we are perhaps not in complete command of the facts with regard to particular

subject areas. It is not really for us to make decisions on behalf of individual tribunals that have yet to be set up.

The Deputy Presiding Officer: The question is, that amendment 18 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As it is the first vote of the afternoon, there will be a five-minute suspension.

14:44

Meeting suspended.

14:51

On resuming—

The Deputy Presiding Officer: We move to the division on amendment 18.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)

Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Russell, Michael (Argyll and Bute) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McGrigor, Jamie (Highlands and Islands) (Con)

Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)

The Deputy Presiding Officer: The result of the division is: For 102, Against 13, Abstentions 0.

Amendment 18 agreed to.

Schedule 9—Transitional and consequential

Amendment 19 moved—[Roseanna Cunningham].

The Deputy Presiding Officer: The question is, that amendment 19 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)

Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Russell, Michael (Argyll and Bute) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

Against

Brown, Gavin (Lothian) (Con)
 Buchanan, Cameron (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McGrigor, Jamie (Highlands and Islands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)

Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)

The Deputy Presiding Officer: The result of the division is: For 102, Against 13, Abstentions 0.

Amendment 19 agreed to.

Amendment 20 moved—[Roseanna Cunningham]—and agreed to.

Amendment 25 moved—[Margaret Mitchell].

The Deputy Presiding Officer: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Harvie, Patrick (Glasgow) (Green)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 McGrigor, Jamie (Highlands and Islands) (Con)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Dugdale, Kezia (Lothian) (Lab)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fee, Mary (West Scotland) (Lab)
 Fergusson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Finnie, John (Highlands and Islands) (Ind)

FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 Kelly, James (Rutherglen) (Lab)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McMillan, Stuart (West Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Pearson, Graeme (South Scotland) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Russell, Michael (Argyll and Bute) (SNP)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 14, Against 101, Abstentions 0.

Amendment 25 disagreed to.

Amendments 21 to 23 moved—[Roseanna Cunningham]—and agreed to.

The Deputy Presiding Officer: We move to group 8. Amendment 26, in the name of Dr Elaine Murray, is grouped with amendments 27 to 29.

Elaine Murray: Amendments 26, 27 and 28 replicate amendments that I lodged at stage 2 but did not move. They reflect concerns raised by Citizens Advice Scotland, which, as members will be aware, specialises in taking people through the tribunals process and is expert in doing so.

CAS is concerned that a gap has been left by the abolition of the Administrative Justice and Tribunals Council, with regard to the independent review of tribunals. Since 1957, there has been a clear and statutory link between the oversight of tribunals and the making of procedural rules, which has now been broken. The remit of the now-defunct AJTC included keeping under review the administrative justice system as a whole, with a view to making it accessible, fair and efficient.

Clearly, the bill deals only with tribunals; the administrative justice system as a whole is outwith its scope. My amendments therefore refer to the responsibilities of the Scottish Civil Justice Council with respect to tribunals only; they do not address in their entirety the concerns raised by CAS. However, we are about to consider the Courts Reform (Scotland) Bill, which may provide a mechanism for addressing concerns about the oversight of the administrative justice system as a whole.

Amendments 26, 27 and 28 would require the SCJC to keep under review matters relating to the administrative justice system within the jurisdiction of the Scottish tribunals, to provide advice and recommendations to the Lord President and to provide advice on matters when requested to do so by the Lord President.

When we discussed my similar amendments at stage 2, the minister advised that the bill already contains an amendment to the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013 requiring the SCJC to establish a tribunals committee, which will draft tribunal procedural rules. She argued that the amendments that I had lodged at stage 2 would replicate work that was already under way.

Amendment 29 therefore aims to prevent duplication by linking those duties placed on the SCJC with the functions of that tribunals committee. The committee would exercise those functions in addition to those that are already contained in the amendment to the 2013 act.

The four amendments taken together would mean that oversight duty is not lost; it becomes a function of the SCJC, but one that is exercised by the tribunals committee.

I move amendment 26.

Roseanna Cunningham: The amendments lodged by Elaine Murray still replicate what is already available on a wider scale. The amendments would give the Scottish Civil Justice Council the remit to oversee administrative justice within the Scottish tribunals system only, but the administrative justice system is wider than the jurisdiction of the Scottish tribunals; it covers all redress mechanisms for citizens to challenge or complain about a decision made by a public body, including courts and tribunals.

As I explained to the Justice Committee, where similar amendments were lodged by Elaine Murray at stage 2, I have set up a non-statutory interim committee—the Scottish tribunals and administrative justice advisory committee—to keep the administrative justice and tribunal landscape under review. That committee contains members with backgrounds in consumer advice, the law, independent advocacy and mediation. It will provide an independent perspective on administrative justice from outside the system.

I wrote to the convener of the Justice Committee on 19 February providing further information on the work of the advisory committee. Its work is well under way. It has developed a clear remit that will ensure what Elaine Murray is seeking to address with her amendments. I think that there is more value in co-ordinated scrutiny of the administrative justice system as a whole by an independent committee than in narrow oversight restricted to within the jurisdiction of the Scottish tribunals.

I informed the Justice Committee at stage 2 that the advisory committee will hold a stakeholder event on 1 April and publish its progress online. I know that Marieke Dwarshuis, the chair of the advisory committee, would welcome the opportunity to discuss its work with the Parliament. It probably would be better for Elaine Murray and members of the Justice Committee to hear first-hand about the advisory committee's remit and work plan and I urge the Justice Committee to consider that offer.

I believe that Elaine Murray's amendments are unnecessary and duplicate work by the Scottish tribunals and administrative justice advisory committee that is already under way. I invite Elaine Murray to withdraw, or not move, her amendments.

Elaine Murray: The minister said that the administrative justice system is wider than tribunals. I recognise that and the amendments are drafted to reflect the scope of the bill. Citizens

Advice Scotland was slightly disappointed that they could not have a wider remit, but we cannot have that in the scope of the bill.

The minister referred to the non-statutory interim committee, which I am very interested to hear more about. I hope that I will be able to attend part of the stakeholder event on 1 April, because I would be very interested to learn more about the committee's activities and remit. However, as the minister said, it is a non-statutory interim committee. It will not be there forever and it is non-statutory. Citizens Advice Scotland told us that it is concerned about the breaking of the statutory link with the oversight of administrative justice. I do not think that the interim committee totally addresses Citizens Advice Scotland's concerns. Given CAS's expertise—I am sure that it is highly valued by all members for its work on tribunals—I press amendment 26.

The Deputy Presiding Officer: The question is, that amendment 26 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 Finnie, John (Highlands and Islands) (Ind)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Goldie, Annabel (West Scotland) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Uddingston and Bellshill) (Lab)

McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)

Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 55, Against 60, Abstentions 0.

Amendment 26 disagreed to.

Amendment 27 moved—[Elaine Murray].

The Deputy Presiding Officer: The question is, that amendment 27 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Uddingston and Bellshill) (Lab)
 McMahon, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinross-shire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine)

(SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 43, Against 73, Abstentions 0.

Amendment 27 disagreed to.

Amendment 28 moved—[Elaine Murray].

The Deputy Presiding Officer: The question is, that amendment 28 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Finnie, John (Highlands and Islands) (Ind)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hilton, Cara (Dunfermline) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alison (Lothian) (Green)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Macdonald, Lewis (North East Scotland) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McCulloch, Margaret (Central Scotland) (Lab)
 McDougall, Margaret (West Scotland) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McMahan, Siobhan (Central Scotland) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Rowley, Alex (Cowdenbeath) (Lab)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Stewart, David (Highlands and Islands) (Lab)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Allard, Christian (North East Scotland) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)

Brodie, Chic (South Scotland) (SNP)
 Brown, Gavin (Lothian) (Con)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Buchanan, Cameron (Lothian) (Con)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Aileen (Clydesdale) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Carlaw, Jackson (West Scotland) (Con)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perthshire South and Kinrossshire) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Dornan, James (Glasgow Cathcart) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Ewing, Fergus (Inverness and Nairn) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Fergusson, Alex (Galloway and West Dumfries) (Con)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Goldie, Annabel (West Scotland) (Con)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McDonald, Mark (Aberdeen Donside) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Airdrie and Shotts) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Liz (Mid Scotland and Fife) (Con)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 43, Against 73, Abstentions 0.

Amendment 28 disagreed to.

Amendment 29 not moved.

The Deputy Presiding Officer: That ends consideration of amendments.

Tribunals (Scotland) Bill

The Deputy Presiding Officer (Elaine Smith):

The next item of business is a debate on motion S4M-09272, in the name of Roseanna Cunningham, on the Tribunals (Scotland) Bill.

15:06

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham):

I thank the convener and members of the Justice Committee for their careful consideration of the bill. I appreciate that the bill might not, at the outset, have seemed like the most exciting legislation to be discussing. However, in reality, once one begins to look at the subject matter one realises that the bill affects a huge number of people, as tribunals are a rather unsung part of the justice system, and that it is appropriate that the bill was given serious consideration.

I also thank the stakeholders, in particular the tribunal presidents and members, and those who gave evidence to the committee, for their contributions. By listening to their views and learning from their knowledge and experience, we ensured that the bill was fit for purpose. In developing the bill's provisions we worked closely with the Lord President's judicial office and his representatives; they will play a major role in the new tribunal structure, and I am grateful for their assistance.

Tribunals are a mechanism for dispute resolution. They are different from courts as they are in the main—but not always—more informal and inquisitorial. They are perceived to be quicker, cheaper, more knowledgeable in their area of expertise and more accessible. There has been some debate during the bill process about what exactly constitutes a tribunal. Tribunals have developed over many years on an ad hoc basis without any underpinning framework, which has resulted in some uncertainty around what the term “tribunal” includes and how a tribunal should function.

There is significant diversity in the forms that are taken by the bodies that we call tribunals, and in their characteristics. A tribunal can sometimes be a person rather than a body—for example, a parking adjudicator. The bill caters for that diversity and has avoided using too tight a definition for those reasons.

On the subject of definitions, I recall that at stage 2 the Justice Committee sought a definition of the term “wasted expenses” that arises in section 59 of the bill, which covers the award of expenses. In its simplest terms, wasted expenses means that there was an unnecessary or improper act or omission and expenses have been incurred

as a result. That could include a situation in which a party has incurred expenses unnecessarily due to the other side's conduct. For example, if a tribunal hearing is postponed because of one party not turning up at a hearing and, as a result, the other party has had to pay a fee for legal representation for a hearing that ultimately did not take place, those expenses could be classed as wasted. The bill also allows for rules to prescribe a precise meaning for the term “wasted expenses”. I hope that that helps to clarify what we mean by the phrase in Scots law, as it was a matter of some bemusement in the committee's consideration of the bill.

We have debated tribunal reform in this chamber on two previous occasions, and on each occasion, we agreed that reform was well overdue. I am pleased to get to the point that we are at now and to have legislation that will address the issues that were raised in the independent reports by Franks, Leggatt and Lord Philip.

In formulating the provisions of the Tribunals (Scotland) Bill, we took particular note of the key findings from the Philip report in 2008. They were: the present tribunal system in Scotland is “extremely complex and fragmented”; many tribunals are not sufficiently independent of the Scottish Government; and there is no consistent system of appointment of tribunal chairs and members. The bill that is before the Parliament today addresses those concerns by simplifying the structure, guaranteeing independence, and introducing a uniform appointment system for members.

The Tribunals (Scotland) Bill creates a framework within which devolved tribunals in Scotland will be placed. It is an enabling bill and quite technical. It is probably difficult to get very enthused by the bill's content, but we should not forget the important elements that will make up the new structure: the individual jurisdictions dealing with matters such as mental health, housing or charities.

In considering the bill's provisions, we were careful to include safeguards that protected all jurisdictions to ensure that their individual characteristics and specialisms were secured. We made an amendment at stage 2 to include a guiding principle in the bill that will ensure that the user is placed at the centre of any proceedings before the tribunals. The principle is that tribunal proceedings should be accessible to the user, fair to the parties involved and handled quickly and effectively.

We recognise that the tribunals that will transfer to the new structure are all different, and the way in which they operate has to vary, depending on the subject matter with which they are dealing. There was debate about whether the Lands

Tribunal for Scotland is a tribunal in our modern understanding of the word, but that is how it was set up and how it was termed. The Mental Health Tribunal for Scotland is very much in and of itself, because it may deal with the liberty of individuals.

We can see the enormous variation that can arise within the terminology. That is why we have allowed for the tribunals to transfer in with existing rules of procedure specific to the jurisdiction involved. Occasionally, that gave rise to some concern. For example, with the Lands Tribunal for Scotland there were issues around costs that are not necessarily involved in some of the other tribunals, and there was worry about whether that would spread across to every other tribunal. We have tried to ensure that each tribunal is protected within its own particular jurisdiction, and that is important.

We also specified that any new rules will be made in future by a specialist committee of the Scottish Civil Justice Council that will be specifically convened and will include the president of the Scottish tribunals as well as experts in tribunals and the subject matters involved. Those experts will be the same people whom Scottish ministers will consult in the transitional period, when ministers will continue to make tribunal rules, prior to the Scottish Civil Justice Council taking over the role.

I assure members that, during that interim period, Scottish ministers will not make rules in isolation of expert advice or consultation. We have ensured that those who are appointed to the tribunals will have to meet specific criteria for appointment that will guarantee that they have the knowledge and experience that they require to make decisions in their own jurisdictions. The bill achieves the right balance of providing protection, while still allowing flexibility.

The new upper tribunal will benefit the tribunal user by removing, in most cases, appeals from courts, providing easier access and a less intimidating appeal process for users. It will also allow specialism and expertise to develop among its members.

The bill allows that, when a petition is made to the Court of Session for judicial review, it can be remitted to the upper tribunal for consideration. The court might consider that the upper tribunal has the expertise in the subject matter to hear the petition. That will bring a level of consistency to the type of member who will hear cases related to tribunal business.

The bill establishes a strong leadership structure under the Lord President of the Court of Session, who will provide expert guidance and supervision to the tribunal members and jurisdictions within his authority. In addition to his responsibilities for the

efficient disposal of business within tribunals, the Lord President, as head of the Scottish tribunals, will also be responsible for the welfare and conduct of members of the tribunals. The bill clearly sets out when the Lord President may make rules for a consistent process for the suspension or removal from office of any member when he regards public confidence in the Scottish tribunals to have been lost.

The new role of president of the Scottish tribunals that is created in the bill will provide a voice for tribunals in the administrative justice landscape, and ensure that tribunal interests are safeguarded and their good work championed.

At stage 2, concern was raised about oversight of tribunals and administrative justice following the United Kingdom Government's abolition of the Administrative Justice and Tribunals Council and its Scottish committee. Those concerns were rehearsed again earlier this afternoon. As members are aware, in response to the abolition, I set up a new interim advisory committee to provide external expert scrutiny of the devolved administrative justice and tribunals landscape. I have set up the committee on an interim basis, as we are at a time of significant reform of tribunals and administrative justice and I feel that it is important that we have a model that can adapt and change as the landscape in Scotland develops.

As part of the interim committee's remit, it has been asked to consider and recommend how its functions should be carried out in the longer term. The committee is also expected to scrutinise the way in which the tribunal system is working as jurisdictions are brought into the new structure. As I explained earlier this afternoon, the work of the committee is well under way. On 1 April, the committee will hold an event to inform stakeholders of the existence of the committee and outline its remit; to build relationships with a wide range of stakeholders; to engage with stakeholders on the reach and impact of administrative justice; and to understand the concerns and issues that arise in its delivery. The committee will also seek input on where it should focus its work priorities for the next two years.

I believe that the bill brings the tribunal system in Scotland into the 21st century and provides a clear and robust structure within which tribunals can operate according to their individual needs.

I move,

That the Parliament agrees that the Tribunals (Scotland) Bill be passed.

15:16

Elaine Murray (Dumfriesshire) (Lab): I, too, thank the witnesses who provided evidence by

writing to and attending the Justice Committee. I also thank the committee clerks, the Scottish Parliament information centre and the legislation team, who always provide invaluable assistance with drafting amendments. We do not always give them the credit that we ought to give them.

As the minister said, tribunals are an important part of the justice system. They affect many areas of everyday life and safeguard the rights of citizens. The majority of cases that proceed through the tribunal system are heard by United Kingdom tribunals; only 4,000 cases are heard annually by devolved tribunals in Scotland, which is 2 to 3 per cent of the total case load.

I have discovered that the tribunal system across the UK commenced with the passing of the National Insurance Act 1911, which included provision for the adjudication of disputes. In 1954, we had the Crichton Down affair, when the Ministry of Agriculture appropriated and leased out land that had been compulsorily purchased by the Ministry of Defence. That is of some interest to me, as I sometimes deal with the Crichton Down rules when constituents attempt to buy parcels of land along the M74 that were purchased by the Scottish Office. The rules still apply in that situation. In 1957, the Franks report, which arose from the scandal around the Crichton Down affair, made recommendations regarding the constitution, procedure and appeals process of tribunals and informed the Tribunals and Inquiries Act 1958.

As we have heard, in 2006, the UK Tribunals Service was created to manage and administer tribunals, and the UK Government then passed the Tribunals, Courts and Enforcement Act 2007, which created a unified structure for tribunals, to which the pre-existing tribunals transferred. The structure comprises a first-tier tribunal and an upper tribunal, with a tribunal procedure committee that makes the rules governing tribunal practice and procedure. The bill, which I am pretty sure we will pass at decision time today, mirrors much of that legislation.

The bill proposes the transfer of 13 tribunals to the new structures. One is the Additional Support Needs Tribunal, which was established in 2005 to consider appeals against the decisions of education authorities regarding the provision of co-ordinated support plans. Since 2011, it has also considered appeals relating to discrimination on the grounds of disability. The Scottish Charity Appeals Panel considers appeals against decisions that are made by the Office of the Scottish Charity Regulator. The Private Rented Housing Panel deals with repair and fair rent issues, and the Homeowner Housing Panel determines whether property factors have failed to carry out their factoring duties or to comply with

the code of conduct that was introduced by the Property Factors (Scotland) Act 2011.

The status of some tribunals in the new structure has attracted some discussion. For example, the Mental Health Tribunal for Scotland determines applications for compulsory treatment orders and appeals against compulsory measures that are made under the Mental Health (Care and Treatment) (Scotland) Act 2003. Initially, that tribunal will be in a chamber on its own, but some witnesses, such as those from the Law Society of Scotland, felt that that should not be a temporary measure. The specific concern is that the intention of the founding act was to remove jurisdiction from the generic courts in Scotland and to ensure expertise. As the Mental Health Tribunal has powers to deprive someone of their liberty or to impose conditions on them, that expertise must be preserved.

I lodged an amendment on that issue at stage 2, but it was not agreed to by the committee. The minister argued at the time that a new tribunal jurisdiction could be created that would naturally sit alongside the MHT in the same chamber. I have not lodged a similar amendment at stage 3, partly in recognition of the fact that the MHT has not lobbied to be in a separate chamber.

I welcome the minister giving assurances on the record about her intentions regarding the MHT. However, we need to take cognisance of the warning from Adrian Ward of the Law Society of Scotland that a significant change in the status of the Mental Welfare Commission for Scotland almost slipped through in the context of the Public Services Reform (Scotland) Act 2010.

Within the UK tribunals, the mental health tribunal in England is part of the first-tier health, education and social care chamber. It shares that chamber with the care standards, special educational needs and disability and primary health lists tribunals. I am not aware of any evidence that there have been problems with the English mental health tribunal sharing a chamber, but legislation in those areas is fully devolved to Scotland and is potentially quite different from that in England. Indeed, our legislation on mental health preceded that which has been passed by the UK Government.

It will be important to ensure that if, in the future, another tribunal is created that could share a chamber with the Mental Health Tribunal for Scotland, that change does not slip through but is properly scrutinised. We do not know whether or when that might happen, and ministers cannot bind their successors. However, I hope that those of us who are involved in the passing of the bill today can agree that any change in the status of the Mental Health Tribunal regarding its position

within the Scottish tribunals should be properly scrutinised.

The Lands Tribunal for Scotland has statutory powers to deal with disputes involving land and property, and it can also act as an arbiter. It is closely associated with the Scottish Land Court but has separate administrative staff and systems. The bill places the Lands Tribunal in the upper tier. However, some witnesses felt that that is not appropriate either because the Lands Tribunal for Scotland differs from the lands chamber for England and Wales. Lord Gill argued that the Lands Tribunal for Scotland is a court in all but name and, therefore, should be outwith the tribunal structure.

The minister has already referred to the fact that the matter of a tribunal that is not a tribunal has not really been resolved during the passage of the bill. However, there was no prevailing view on the alternatives to the bill's provisions, and although external organisations gave evidence to the committee none argued that there should be an amendment or, indeed, produced an amendment. Therefore, no amendment to the structure that is proposed by the Scottish Government has been lodged or debated during the passage of the bill. Nevertheless, I think that the suitability of the arrangement for the Lands Tribunal for Scotland should be monitored over time, as it may be that it should be part of the court system. The structure is not all set in stone for the future, and the situation needs to be monitored with a view to considering in future whether alternative arrangements need to be made.

Despite the issues that I have raised on the detail of the bill, I am pleased to say that Scottish Labour will support the bill at decision time this evening. We agree that the tribunal system in Scotland is a very important part of the justice system—one that is experienced by far more people than experience the rest of the justice system. Therefore, it needs to be fit for purpose and modernised to be so.

15:23

Margaret Mitchell (Central Scotland) (Con): I welcome the opportunity to speak in the stage 3 debate on the Tribunals (Scotland) Bill.

Although they are not the most riveting topic, tribunals are nonetheless an important part of our civil justice system. For example, some tribunals are a forum for citizens to challenge decisions that have been made by public bodies on their entitlement to benefits and services. For that reason, it is imperative that tribunals are independent from Government and the public organisations whose decisions they regulate. Others, such as the Lands Tribunal for Scotland or

tribunals that consider employment issues, are a forum for the resolution of private disputes. They offer a less formal and less costly dispute resolution mechanism that is an alternative to the courts. That said, tribunals are still costly, so I support attempts to use alternative forms of dispute resolution, whenever that is possible.

The bill's main features include the creation of a first-tier tribunal for first instance decisions, an upper tribunal, which will deal primarily with appeals, and a standard system of appointment, training and appeals. Those provisions, which will simplify and standardise the system, are generally to be welcomed.

However, a few concerns remain about some areas of the bill. It provides that sheriffs, sheriffs principal and part-time sheriffs will be eligible to act as judicial members of the first-tier tribunal by virtue of their judicial office alone. Although the Lord President welcomed that, there is still a concern that the possibility of an influx of judges and former judges risks tipping tribunals from their current informal, generally non-adversarial format into becoming courts in all but name. The minister has given assurances that the use of judges in the new system will be reasonable, and that there are safeguards in the bill to prevent an overreliance on judicial members. Time will tell. Suffice it to say that it would be a mistake if the bill were to result in tribunals losing their informal status.

The bill also makes provision for the newly established Scottish Civil Justice Council to propose procedural rules for the Scottish tribunals through a specialised tribunals committee, but given that the SCJC has the monumental task of rewriting civil court rules, it will be years before it can even consider tribunal rules.

In the interim, the bill will allow the Scottish ministers—for what is an unspecified period of time—to write the rules for the Scottish tribunals. That gives rise to a potential conflict of interests, as it means that ministers will be able to make rules governing tribunals to which they themselves may be subject at some point. Although the minister stated that that does not represent a radical shift from the current set-up and that rules will be made only following full consultation, the rule-making power will give ministers considerably more influence over tribunals, as ministers will be required to design the rules for the newly created upper tribunal, which, of course, does not yet have any procedural rules.

Furthermore, one of the amendments that were agreed to at stage 3 will allow ministers to draft rules to cover any matter that is considered appropriate with respect to Scottish tribunals. That poses serious constitutional issues. The Scottish ministers can be challenged in tribunals, so it is not appropriate for them to be involved in setting

the rules. It is disappointing that we could not agree an alternative, such as the one suggested by the amendment that I lodged to provide a very modest safeguard that would have increased the Parliament's influence over and scrutiny of the process by making the relevant regulations subject to the affirmative procedure.

Notwithstanding those concerns, the bill represents a welcome development in the tribunal landscape and the Scottish Conservatives will support it tonight.

The Deputy Presiding Officer: We come to the open debate. We are quite tight for time, so I ask for speeches of four minutes.

15:28

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I am relieved to hear that we are tight for time, because I do not want to replicate what other people have said.

First, I thank Elaine Murray, as deputy convener of the Justice Committee, for thanking on my behalf—I have been usurped again—the witnesses who gave evidence, the committee's clerks and its hard-working members. I also thank her for reminding us that only 3 to 4 per cent of tribunal cases involve devolved areas, but I point out that those cases are extremely important to the people concerned.

Although, as other members have said, tribunals might not be the most fascinating of subjects—I assure members that they are not—a vast and diverse range of tribunals exist, and they are extremely important.

The Mental Health Tribunal for Scotland deals with such serious issues as personal liberty and the enforcement of compulsory treatment for mental health issues. The Additional Support Needs Tribunal deals with situations in which people have to fight to get provision for their children in school. Parents who want to get their children into schools that are suitable for them can also appeal the refusal of placing requests. Then there are valuation appeals, which can impact on businesses. However, the most important to me is the parking appeals service. I did not know previously that people could appeal a parking ticket. I have found that out too late in life, but now we know that the service exists. If anyone feels that they have been done wrong on a parking ticket issued by the City of Edinburgh Council or any other council, there is somewhere that might provide them with a remedy.

As the minister said, the tribunals have grown up in an ad hoc fashion from the ground up—sometimes quite rightly. However, it is now time to rationalise and professionalise them, without

judicialising them, and get them into some kind of structure. Through the bill, we will now have what are known as chambers. The mental health chamber speaks for itself as to what it is, and the Mental Health Tribunal will be on its own in that chamber—I heard what Elaine Murray had to say on that. The housing, land and property chamber will take in private rented housing, valuation and crofting; the learning chamber will deal with additional support needs and education; and the general regulatory issues chamber will deal with issues to do with charities, the police and, inevitably, parking. The appeals process will mean that cases will not have to go to the Court of Session, which is an expensive process.

Each tribunal has a very different culture. For example, the Lands Tribunal is, to all intents and purposes, very judicial, with Queen's counsels on their feet and so on. However, much more ordinary people are involved in education appeals—I presume that that is also the case in relation to the parking appeals service, which I might visit sometime. We do not expect to see senior counsel involved in such cases, and those tribunals are supposed to have a different culture. That all had to be brought into the proposed new system, which will still have to be flexible enough to recognise the different cultures of the various tribunals.

The independence of tribunals is important. Margaret Mitchell referred to that, although I do not agree with what she said. Their independence is essential because they often deal with appeals against Government or local authority decisions. I do not in any way criticise the quality of tribunal members, but I think that a degree of specialism and expertise is important for specific tribunals.

I heard what the minister said about the interim advisory committee, which I welcome. I also welcome the fact that it is to have a wide range of members from what we now call the tribunal landscape—the mot du jour. However, most of all, I am pleased that the Mental Health Tribunal will stand alone for the time being and that any change will be dealt with under the affirmative procedure. That tribunal is very different because it deals with the imperilling of an individual's liberty and the imposition of treatments to which a person might object. It is a very different tribunal and I am glad that it will be in a chamber on its own.

15:32

Graeme Pearson (South Scotland) (Lab): I rise to support the bill and its general principle of restructuring devolved tribunals in Scotland. I am not a member of the committee, but I commend it, its clerks and the bill drafting staff for the work that they have done.

There is no doubt that tribunals facilitate a very vital part of public life in Scotland. I am sure that those who live in nation states where no such facility is available to them would love to be able to challenge the state and decisions that are made in the state's name. I witnessed a tribunal as a citizen and was very heartened to see the way in which the decisions made by officials were weighed and listened to, as were citizens' views.

Tribunals are an unheralded but vital element of the Scottish legal process. I acknowledge that they cover more cases each year than the criminal and civil courts combined. Tribunals provide a vital service to citizens who are seeking redress in relation to employment, mental health, housing and other areas that are of great significance across the board. Tribunals in Scotland have evolved in an ad hoc and disparate manner, as has been said, which has made it difficult for ordinary members of the public to understand the approach that they take. I hope that the bill will create a more uniform tribunal system that will improve the independence and quality of devolved tribunals and the service that they offer users.

The Government's amendment 2 further defines the nature of a tribunal to an extent, but in general a tribunal resolves disputes between citizens and the state or between private parties by making binding decisions according to law. It does so by a process of adjudication that is specialised and which, on many occasions, is relatively informal and less adversarial than the model of adjudication that is applied by the courts. A tribunal is independent of the executive, the legislature and the parties that appear before it.

As much as tribunals are complex, it is important that they move into the 21st century, and I therefore welcome the fact that the Lord President of the Court of Session will from now on produce leadership on behalf of those who are engaged in day-to-day tribunals and, through the newly established office of the president of the Scottish tribunals, indicate the appropriate governance and legitimate accountability arrangements that should be in place in the operation of the tribunal system of adjudication.

The first tier will be split into chambers, as has been commented on. Particular sensitivities are attached to mental health issues, and again much has been said in that regard. There is no doubt that the challenges of deciding matters in relation to mental health and the cases that the Mental Health Tribunal for Scotland considers mean that mental health is worthy of having a chamber of its own within the first tier. Although some concerns have been expressed that the current commitment to retain that tribunal in an individual chamber appears to be temporary, I am heartened by the

fact that the minister has indicated that sensitivity will be maintained.

In the round, today's discussions showed that the Parliament supports the proposition in the bill, and I, too, am happy to support it.

15:36

Alison McInnes (North East Scotland) (LD): I, too, acknowledge the work of the legislation team during the passage of the bill, and I thank the witnesses, who took the time to make their views known, and our Justice Committee clerks, whose assistance has, as ever, been very helpful.

Scottish Liberal Democrats have been clear that the Tribunals (Scotland) Bill provides a welcome opportunity to improve a tribunals system that historically developed in a disjointed fashion. The consensus seems to be that inconsistencies in the approaches of the various tribunals mean that they can prove difficult for legal professionals, let alone the wider public, to comprehend and therefore effectively interact with.

We should be asking more of a system that arbitrates cases that are often already challenging and stressful for participants, so I welcome the changes, which will mean that access to redress is transparent and straightforward and that rules and procedures are clearer and more consistent. Although I am instinctively cautious of any centralisation proposals, I am satisfied that the bill should enable those things to be achieved without compromising the intrinsic traits and distinctive ethos that set tribunals apart from the courts—the specialist expertise of legal and lay tribunal members, the inquisitorial rather than adversarial approach and the opportunity to secure reparation at an affordable cost within a comparatively informal environment.

I appreciate that the Government reflected on the committee's comments and introduced section 11A, which establishes guiding principles that focus on users' needs for a fair, quick and effective disposal of business. It is also right that there will be a duty on the Scottish ministers to consult stakeholders before any regulations are made to introduce further fees. However, I caution that many tribunal users cannot afford to incur significant costs, and I remain firmly of the view that the establishment of financial barriers should not become the norm.

As members know, the future of the Mental Health Tribunal for Scotland was the subject of much attention during consideration of the bill, including this afternoon, and during the consultation that preceded the bill. The tribunal has the capacity to determine what will happen next in the lives of some of the most vulnerable people in our society, and its powers include the

ability to impose treatment against an individual's will and the ability to deprive individuals of their liberty. Elaine Murray was persuasive in her argument that mental health should therefore be assigned an exclusive chamber in statute, as the committee suggested in its report. However, I also note the need for flexibility in the institutional framework and the minister's assurance that safeguards will preserve its distinctiveness in the long term.

Finally, it strikes me that the bill's progress through the Parliament has been characterised by amiable and intelligent debate. Perhaps that is because the bill is technical rather than ideological in nature; it is less contentious than some bills that come before us. Nonetheless, members have disagreed on some points. The respectful and rational manner in which the minister and other members have addressed those points should be commended.

Two weeks ago, the Cabinet Secretary for Justice suggested—absurdly—in a bombastic closing speech that a unionist cabal was out to scupper his Criminal Justice (Scotland) Bill against its own principles and instincts, for no reason other than to embarrass him. The approach of the Scottish Liberal Democrats to the passage of the Tribunals (Scotland) Bill demonstrates that, when reforms establish a system that is better placed to deliver the right outcome and empower people through greater understanding, we will back them. The Scottish Liberal Democrats will support the bill at decision time.

15:40

Roderick Campbell (North East Fife) (SNP): I refer members to my registered interest as a member of the Faculty of Advocates.

I recognise that, for most people, justice might well involve not the formality of courts but the relative informality of tribunals, so it is important that we get the structure of tribunals right. I acknowledge the bill's importance and the generally consensual way in which the Justice Committee and the Parliament have dealt with it, but I recognise that concerns were expressed—particularly the concern of Lands Tribunal for Scotland personnel that their well-developed expertise and working arrangement might be threatened by the new structure and that tribunal's incorporation in the upper tribunal rather than in a pillar of its own.

I hope that those concerns will prove to be unfounded. It is as well to remember that an appeal will still be available to the Court of Session on points of law and that the Lands Tribunal will be located in the upper tribunal and not in the first-tier tribunal. However, I hope that sufficient time will

be taken in due course to monitor the new structure's effectiveness, certainly in relation to the Lands Tribunal.

In the interests of balance, it is appropriate to stress that a spokesperson for the Additional Support Needs Tribunal gave evidence that current appeals to the Court of Session work well but accepted that a new system of appeal to the upper tribunal should be cheaper and speedier.

In a sense, the new system will be measured not only by its openness and transparency but by how it measures up on turning round decisions in a reasonable period. We heard evidence at stage 1 from Jon Shaw of the Child Poverty Action Group that one of the big issues in the reserved system is delay, especially in welfare cases. He said that, for such cases, automatic strike-out rules had been changed to avoid the appeals that frequently followed as a result of failures to send forms back in time, causing delay to the process. We need to learn from that experience.

We also need to remember that the bill's purpose is not just to deal with the here and now but to provide a template for the long term, so that new tribunals can be added as and when appropriate. Let us not forget that, as other members have said, the bill will cover only about 2 to 3 per cent of tribunals in Scotland at present; the social entitlement chamber, employment and immigration fall completely outside it. The political desire to change the administration of those tribunals—let alone the substantive law—seems somewhat muted in Westminster, but times may change, and we need to ensure that the system can respond as and when that occurs.

I welcome the changes that were made during scrutiny of the bill, such as the removal of section 68(5), the Government amendment to provide for the possibility of permanent salaried appointments to tribunals and the Government's acceptance that any change in the chamber structure will be made only following consultation and the use of the affirmative procedure. I hope that any concerns of the Mental Health Tribunal have been allayed.

The Government responded to the committee's concern that any plan to introduce fees should not proceed without appropriate consultation. I hope that we can preserve tribunals from becoming fee orientated—except the Lands Tribunal, which is somewhat different in that respect. I certainly hope that we will not see the drift to payment of fees that is now proceeding in the employment field. If that happened, the idea of an open and accessible tribunal system would come under strain.

We do not know precisely when any integration of the court and tribunal systems might take place—Lord Gill said that it could be three years away. We know that any attempt to produce

unified tribunal procedural rules is some years hence. However, I welcome the minister's invitation to hear more about the work of the interim scrutiny committee, which the Justice Committee should take up.

I welcome the bill, which is an important step forward in making justice work.

The Deputy Presiding Officer: I call John Pentland.

15:44

John Pentland (Motherwell and Wishaw) (Lab): This is the third time that I have spoken on tribunals reform—

The Deputy Presiding Officer: Could John Pentland's microphone be switched on, please?

John Pentland: My card is not in my console—I apologise, Presiding Officer.

This is the third time that I have spoken about tribunals reform. I referred to my previous speeches, of course, only to be reminded that much of the bill is not particularly contentious. Indeed, I have not seen the minister, Roseanna Cunningham, or the cabinet secretary, Kenny MacAskill, looking so relaxed for a long time.

There was consensus around the bill's objectives. Where disagreements occurred, they were about the exceptions to the general thrust of the bill and how best to achieve the objectives.

The advantages of reforming tribunals are clear. There can be economies of scale and the sharing of good practice and resources. However, a strong desire has been expressed to retain the specialist support and knowledge that are embodied in the current arrangements. The question is how best to do that without losing the lay involvement, the less adversarial approach and the simpler, relatively informal, user-centred nature of existing tribunals, and by avoiding the judicialisation of tribunals, which may lead to the erosion of their character. For particular tribunals, there was the danger that those positive attributes would be compromised by the process.

It was suggested that clarity in the definition of tribunals would be helpful. Unfortunately, the amendment lodged by my colleague Elaine Murray that would have provided that clarity was not supported at stage 2.

Attention has been given to the reserved tribunals being brought into the structure at a later date, although I note that there were questions relating to the obstacles that are faced by those with experience of the reserved tribunals whose qualifications are not Scotland based. That could restrict the expertise that is available in the event

of the reserved tribunals becoming part of the Scottish structure.

The Mental Health Tribunal for Scotland was a particular sticking point. Attempts were made at stage 2 to preserve and protect its character, but the argument against that was that the amendments would prevent new tribunals being brought under the arrangements for the Mental Health Tribunal. That seemed odd because, as my colleague Elaine Murray pointed out, any new tribunal would be created by primary legislation, which could easily resolve that. The amendment was rejected without that matter being settled.

I am pleased to note that the issue of consultation on the introduction of or significant increase in fees and charges associated with tribunals was taken on board at stage 2 and that consultation in such circumstances will be guaranteed.

There were questions about tribunals that the bill does not address, such as on the enforceability of awards. As a consequence, we will probably revisit them in the future.

Finally, I want to make a small observation. In reading through the changes that have been made since stage 1, I was struck by the frequency with which additional powers are given to the Scottish ministers to issue regulations. That may be justified in certain circumstances, but I think that there is a worrying trend towards legislation that gives more and more powers for ministers to introduce secondary legislation. I am sure that that is also a matter to which we will return in the future.

15:48

John Finnie (Highlands and Islands) (Ind): I, too, spoke in the previous debates. I am sure that some people found them riveting.

I was a member of the police appeals tribunal. I mention that because I do not think that I mentioned it in the previous debates. The role highlighted how important tribunals are. Possibly career-changing and life-changing decisions were made. Those decisions affected not only the individuals who were the subject of the tribunal but their family, friends, loved ones and colleagues. My experience of the employment tribunal was also illuminating in that respect.

The 1957 Franks report said that tribunals should act in an open, fair and impartial way. Despite my frustrations at some of the decisions made by tribunals, I found that to be the case. The Franks report also said:

"We consider that tribunals should properly be regarded as machinery provided by Parliament for adjudication rather than as part of the machinery of administration."

A number of members have alluded to that need for clear separation.

Franks went on to say:

“The essential point is that in all cases Parliament has deliberately provided a decision independent of the department concerned ... and the intention of Parliament to provide for the independence of tribunal is clear and unmistakable.”

That view is reinforced in the 2001 Leggatt report, as was mentioned by the minister. That UK report talked about the need for increased independence from Government, and likewise Lord Philips’s 2008 report, in talking about Scotland, said:

“there is evidence of a lack of independence in the operation of some existing tribunals.”

It is for those reasons that the Justice Committee welcomed the revision of the administrative justice landscape. We noted that tribunals are specialist bodies and that that status must be retained. The Scottish Parliament information centre briefing refers to tribunals as relatively informal. Formality of procedure is important, but we do not want tribunals to be court-like, not least because, as many members have said, that is the facet of the justice system that most people are likely to access for the many reasons that have been outlined.

Like Alison McInnes, I am pleased that the purpose of tribunals is included on the face of the bill. That sends a very important signal. We certainly had a lot of lobbying for that.

As part of the Justice Committee report, we also encouraged the Scottish Government to work closely with the UK Government to ensure progress on discussions with the other reserved tribunals, but we can anticipate that not much is likely to happen on that issue at least in the immediate future.

I mentioned employment tribunals. I would be particularly keen to see those dealt with in Scotland because that would be an opportunity to annul many of the punitive aspects that have been imposed. Those include the qualifying periods of one or two years and fees—a number of members have talked about fees—including the £250 fee to lodge a claim for unfair dismissal and a £950 fee to go to a hearing. Provision is made in the employment tribunal case law to have financial penalties imposed on frivolous cases. I also want to see the reduction in compensation for judges sitting alone.

Employment tribunals would be inherently different beasts were they relocated to Scotland. That would reinstate fairness. Indeed, I want to see all tribunals treated in that same way, not least those that deal with pensions. What I do not want to be brought into any doubt is the dedication of

the tribunal members regardless of their status and the structure in which they sit.

At decision time, I will support the bill.

15:52

Margaret Mitchell: Tribunals in Scotland deal with 80,000 cases annually. Without them, people would lose an avenue for redress or would be forced to take their grievances to an already overstretched court system.

The case for reform of the complicated tribunal system, which has developed on an ad hoc basis over past decades, has been well made, and the bill is a welcome step towards simplification. However, the legislation deals only with devolved tribunals. In fact, out of the 50-plus tribunals that have jurisdiction in Scotland, schedule 1 lists only 13 tribunals that will eventually be brought into the new system. As such, according to estimates by Jonathan Mitchell QC, the bill will apply only to around 2 per cent of Scottish tribunals. That clearly limits the bill’s ability to create a simplified uniform structure. Nevertheless, users and experts generally welcome the legislation as a step towards revising the administrative justice landscape.

I ask the minister to comment on three areas of slight concern. First, the Scottish Government has removed the provision that would have automatically disqualified tribunal members who become elected representatives. Notwithstanding the minister’s reasons for that, a conflict of interest could occur if tribunal members were to become figures who could be subject to tribunal proceedings themselves, at least indirectly.

The bill also introduces new offences to be created in connection with tribunals. Those relate to matters such as making false statements and concealing or destroying evidence. Although I fully appreciate that some tribunals can already impose penalties and I agree that proceedings must be carried out robustly, it would not be desirable for a raft of offences to be created for every tribunal, as it could only put at risk the informal, non-adversarial nature of tribunals if those who attend them are subject to disproportionate penalties.

Much of the detail on the new tribunal landscape is not contained in the bill but will, instead, be left to delegated legislation. During stage 1, the Justice Committee heard from witnesses including Citizens Advice Scotland that that lack of detail meant that it was impossible to guarantee fairness, openness and impartiality in the new system. Others expressed concern that it hampered scrutiny.

I accept that the bill seeks to provide a framework for the new structure and needs to be

flexible, but the amount of detail that will be left to delegated legislation is not ideal. I have full confidence that the Justice Committee will closely scrutinise the forthcoming secondary legislation but, given the committee's already considerable workload, it would have been preferable for the Parliament to have had more information now about the detail of the proposed new structure.

15:56

Elaine Murray: Several members commented on the uncontentious nature of the bill and the fact that it attracted little public interest. However, we all agree that it introduces regulation into an important part of the justice system that, as my colleague Graeme Pearson said, enables individuals to challenge decisions that were made by, or on behalf of, the state.

I will reflect on some of the changes that were made, or not made, to the bill during its passage but, before I do that, I will comment on Christine Grahame's observation about the parking appeals service. Now that Police Scotland has got rid of some of its traffic wardens, I wonder whether that tribunal will have a lighter workload than it has done previously.

I was surprised by the number of drafting amendments that were lodged in the name of the minister at stages 2 and 3. There were some 107 Government amendments, most of which were technical. Most were minor, but one related to a fairly serious error, which caused considerable consternation among witnesses at stage 1. That was the original section 68(5), which the minister removed at stage 2. It gave the president of tribunals the power to issue directions, including instructions or guidance on the application or interpretation of the law.

That turned out to be a mistake, and it was rectified, but it raises the question how such a profound mistake found its way into the bill in the first place. I am not trying in any way to suggest that ministers write their own bills—they are not responsible for the errors that are contained in them—but I wonder whether the number of bills coming through the justice portfolio is placing undue strain on the bill teams. At times, as members of the Justice Committee, we have wondered whether we have sufficient time to exercise all our responsibilities because of the pressure of legislation, and I wonder whether that pressure might be affecting the quality of legal drafting.

I will move on to specifics. One of the ways in which the stage 1 bill differed from the UK legislation was by the absence of guiding principles that provided a definition of the nature of a tribunal. Many of the witnesses at stage 1 felt

that the inclusion of similar overarching principles in our bill was important, as far more people will experience administrative justice through a tribunal than will go through the rest of the justice system. The committee also agreed that the character and nature of tribunals should be protected.

The Minister for Community Safety and Legal Affairs accepted that recommendation. She and I both lodged amendments at stage 2 for consideration. I am happy to say that the minister's amendments were successful. They recognised the character of Scottish tribunals—to be fair, to be accessible and to be handled quickly and efficiently—and the need for tribunal members to be experts in the subject matter of the tribunal. That will now be in primary legislation, and any new tribunals that are created in future or transferred from UK responsibility, if the UK Government goes along with that, will be required to adhere to those principles.

A number of members commented on that, including John Pentland and John Finnie, and Margaret Mitchell raised some continuing concerns. However, I believe that having the guiding principles in the bill should remove concerns that the bill might introduce the judicialisation—or even courtification, as it has been described—of the tribunal system.

The principles now are sufficiently general not to threaten the specialisms, expertise and character of individual tribunals, but they should facilitate the transfer of reserved tribunals and the inclusion of any new tribunals arising from future legislation.

Another area that had caused concern, partly because of recent experience with the UK employment tribunals, was the capacity for tribunals to levy charges. A number of members mentioned that, including Alison McInnes, Roderick Campbell, John Pentland and John Finnie. The committee recommended that consultation must be undertaken if there were any plans to introduce fees where they had not previously existed—of course, some tribunals already charge fees. The stage 2 amendment placing a duty on the Scottish ministers to consult stakeholders before making any regulations with regard to the introduction of fees has been widely welcomed, and the minister's assurance that the Scottish Government does not intend to use the provision in section 70 to introduce fees was also welcome.

As the minister said, the term “wasted expenses” has survived the passage of the bill, despite many of us at first not knowing what it was. We were enlightened at stage 2 and I am grateful to the minister for further elucidation today. At stage 2, officials told us that the expenses were awarded

“to express judicial disapproval of unnecessary steps in litigation.”—[*Official Report, Justice Committee*, 4 February 2014; c 4195.]

That might have been a disappointment to the convener, as she suggested at the time that the phrase might refer to the purchasing of unsuitable shoes.

With regard to the amendments that I lodged for debate today, I was pleased to receive the minister’s assurance that the parent departments of the tribunals that were created before the emphasis on alternative means of dispute resolution will be encouraged to address that, and that any future tribunals will be encouraged to have, within their founding legislation, a means of alternative dispute resolution.

The concerns that were expressed by Citizens Advice Scotland about the oversight of administrative justice are substantial and deserving of further consideration by the Scottish ministers. I accept that administrative justice is wider than the tribunals system, as I said when I spoke to my amendments. I wonder whether there might be another opportunity to examine how the oversight issue might be addressed in the Courts Reform (Scotland) Bill, and I would be grateful if, either in the minister’s closing speech or subsequently, the Government might indicate whether the matter might be dealt with within the remit of that bill, and whether the concerns of CAS might be further considered in that context. In fact, CAS will give evidence on the Courts Reform (Scotland) Bill to the committee next week, and we might be able to pursue the issue further then.

Overall, I am happy with the way in which the bill has proceeded through the Parliament, and the Labour Party is happy to support the bill.

16:02

Roseanna Cunningham: I am pleased that our consideration of the bill is coming to a close. The Tribunals (Scotland) Bill will bring much-needed cohesion and consistency to tribunals in Scotland and I am proud of the work that has been done, including that done by the civil servants. Elaine Murray was concerned about their workload; they will be heartened to know that they are in the minds of members when legislation is going through.

It has also been heartening to observe how much consensus the subject of tribunals has attracted in the chamber. They are a valued and distinctive part of our justice system. They provide protection against unfair treatment by the state and increase individual resilience and public confidence. They also provide specialist forums for efficient and accessible legal dispute resolution.

I think that I am correct in saying that, apart from Graeme Pearson, all those who have spoken this afternoon are Justice Committee members, so I do not propose to summarise each contribution—I hope that members will forgive me.

Margaret Mitchell and, I think, Elaine Murray mentioned disqualification. That is about excluding those who might be eligible to sit on tribunals, such as civil servants. Much has been made about the issue in relation to MSPs, but we are not really who it is about. Our feeling is that it is easier to leave the matter to the founding legislation, rather than bringing it into a bill such as this. For example, the Mental Health Tribunal for Scotland already has provisions covering disqualification. The issue is most correctly dealt with in the founding legislation.

In respect of the new offences that Margaret Mitchell was concerned about, I assure her that the power will be used only where a particular jurisdiction requires it. Legislation relating to the Mental Health Tribunal, for example, already makes similar provision allowing for offences to be created. It is not a general offence-making power that we will all pile in and use; it will have to come from the founding legislation. I hope that the member is reassured by that.

I am, however, grateful to Elaine Murray for her mini history lesson. As she discussed, since their early beginnings at the start of the 20th century, the number of established tribunals has increased and their total case load has grown. There are now more than 40 tribunals in Scotland, dealing with devolved and reserved matters and covering a multitude of subject areas. More are on the way. We have the prospect of a new housing tribunal covering the private rented housing sector and new tax tribunals dealing with, in the first instance, decisions and appeals covering land and buildings transaction tax and Scottish landfill tax.

The Housing (Scotland) Bill and the Revenue Scotland and Tax Powers Bill have recently been introduced to the Parliament and will give effect to those proposals. They are the founding bills for those new tribunals.

The Revenue Scotland and Tax Powers Bill, which creates the new tax tribunals, follows on from the provisions of the Scotland Act 2012, which gave this Parliament legislative competence over devolved areas of taxation. The functions and members of the new tax tribunals will be transferred-in to the Scottish tribunals in due course.

The Housing (Scotland) Bill confers functions for a proposed new jurisdiction covering the private rented sector directly on the new Scottish tribunals. That takes away the need to create a tribunal in its own right and takes advantage of

provisions within the bill. In this instance, we can see the benefits of the Tribunals (Scotland) Bill already in action.

It is very likely that further new jurisdictions will be created as things develop and grow over time. It is not possible to guess from where the proposals may emerge. The structure that we have created is flexible enough to cater for any new jurisdictions that may emerge.

While we are creating a structure for devolved tribunals, we must not lose sight of reserved jurisdictions—one or two members have raised that issue—and the prospect of their administration being devolved to Scotland in future. I should say that we are discussing the devolution of the administration of those tribunals and not their subject matter. We should not get the two things confused. That is not a constitutional point, because the proposals for the devolution of the administration of those reserved tribunals came originally from the UK Government.

The bill provides a framework that reserved jurisdictions could come into in the future. Alison McInnes and Rod Campbell talked about fees. That is a concern with certain reserved tribunals. I am not certain about the extent to which we would have any capacity to change that, given that it is the administration of those tribunals that we would be talking about. We certainly have no intention of introducing fees to devolved tribunals, which are a different thing. In the meantime, the UK Government has put on hold further discussions. I can assure members that this Government remains committed to engaging with the UK Government on the issue at any point in future.

Today's bill will ensure that we build on and improve upon the good foundation that is already there on an individual basis in each tribunal. In building on that foundation, we have ensured that individual specialism and ethos remains intact and untouched. We must never forget that users of the tribunals system are at the heart of this new structure. It is fundamentally right that users accessing the system will receive the same high level of service regardless of jurisdiction, that complaints processes are the same regardless of jurisdiction and that all members of tribunals are recruited to the same high standard, regardless of jurisdiction.

It is also for the benefit of users that, as far as is possible, tribunals business is taken out of the courts. The bill ensures that appeals are taken out of the courts in most circumstances, giving users the benefit of a more informal process and setting.

The bill also ensures that the important role of tribunal members is enhanced by the appointments system coming under the remit of the Judicial Appointments Board for Scotland, and

by the automatic reappointment of members and their inclusion in the wider judicial community under the Lord President's leadership. The bill also ensures that tribunal members have judicial status and capacity in their role as members of the Scottish tribunals.

It is important to note that recommendations for appointment to the Scottish tribunals will be made following jurisdictionally specific criteria that will be developed for each subject area. That cannot really be emphasised enough. That ensures that members are appointed on a jurisdictionally specific basis and that the specialist ethos of any subject area is protected.

Each jurisdiction will transfer-in to the new structure with its own rules of procedure and will continue to adhere to the provisions made in its founding legislation.

All those elements brought together will give us a devolved tribunal landscape that caters for the needs of the people of Scotland.

Members might recall from previous debates that tribunal reform is a phased process. We began with the creation of the Scottish tribunals service in 2010. Second came the Tribunals (Scotland) Bill to create the structure. The third element of this reform package is the merging of the Scottish Court Service with the Scottish tribunals service. That third step on the journey of reform proposes to put the administrative support of tribunals on the same footing as that of courts, to support the long-term independence of tribunals, with the Lord President as head of both courts and tribunals.

The provisions in the Courts Reform (Scotland) Bill will bring the judicial leadership and governance of courts and tribunals together under the leadership and chairmanship of the Lord President. It is important that members are aware that the merging of the two services will not change any of the commitments of principle outlined in the Tribunals (Scotland) Bill. Tribunal hearings will continue to be chosen to meet the needs of users attending proceedings. The same specialist tribunal staff will continue to support the Scottish tribunals.

This Parliament has much to be proud of in the development of the bill and in tribunals reform generally. I am very grateful to everyone who contributed. I commend the bill to the Parliament.

Nuclear Safety (Vulcan Naval Reactor Test Establishment)

The Presiding Officer (Tricia Marwick): The next item of business is a statement by Richard Lochhead on events at the Vulcan naval reactor test establishment. The cabinet secretary will take questions at the end of his statement. There should therefore be no interventions or interruptions. I will allow a few moments for the front benches to sort themselves out. Cabinet secretary, you have 10 minutes.

16:11

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): Thank you, Presiding Officer. I will update the chamber about details that have emerged concerning events at the Ministry of Defence's Vulcan test reactor at Dounreay and how activities there are regulated in Scotland.

I am afraid that when we look at what has unfolded over the past few days, we see evidence of the MOD's culture of secrecy and cover-ups when what we need is openness and transparency. That has to concern this chamber and, indeed, all Scotland.

The MOD has on Scottish soil, and in Scottish waters, an operational test reactor, a fleet of redundant submarines awaiting dismantling and an operational fleet of nuclear-powered submarines, four of which are Trident armed—all significant environmental hazards.

Vulcan is the test bed for the pressurised water reactors used in Britain's nuclear submarines. As the defence secretary put it, the reactors at Vulcan are "hammered", so that any faults will show up there, rather than in an operational submarine.

In January 2012, low levels of radioactivity were detected in the cooling water of the reactor. That took place in a sealed circuit and we were reassured by the Ministry of Defence last week that there was no detectable radiation leak from that circuit. However, there should be no radioactivity in the cooling water and the incident was of such significance that the reactor was shut down for much of 2012 until tests and trials could be carried out. The reactor was restarted only in November 2012—10 months later. The MOD believes that the problem lay in a microscopic breach of fuel element cladding, but it does not know what caused that breach. Nevertheless, it appears to be confident that the reactor can be operated safely until decommissioning begins, which is scheduled for next year.

The Secretary of State for Defence said that the incident would be rated at level zero on the eight-

point international nuclear event scale, indicating that it is a mere "anomaly", to use his word, with no safety significance. While that may sound somewhat reassuring, as I said, the incident led to the decision to shut down the reactor as a precaution for 10 months.

During 2012, the Scottish Environment Protection Agency—our environment agency—became aware of an increase in discharges of radioactive gases from the site. Those discharges, at 43 per cent of the annual limit, were within the threshold permitted by SEPA, but they were much higher than the previous year, when emissions were only 4 per cent of the permitted limit. We now understand that the increase in gas discharges was probably due to the testing that took place following the shut-down, so the defence secretary was plain wrong when he told the House of Commons that there had been

"no measurable change in the radiation discharge".—
[*Official Report, House of Commons*, 6 March 2014; Vol 576, c 1085.]

A publicly reported tenfold increase is almost certainly measurable and I am sure that he will want to acknowledge that and set the record straight.

I turn to SEPA's role. The MOD first contacted our environment agency's local officer in September 2012, seeking a meeting, but no details were divulged at that point. A SEPA officer responsible for Vulcan was then summoned to a meeting that took place at the site on 11 December 2012. At that meeting, SEPA was told about the incident, the tests that had been carried out and the suspected cause. By then the incident had been classified as one with no safety or environmental impact and the MOD instructed that the issue must be kept on a strict need-to-know basis. Accordingly, neither SEPA senior managers nor the Scottish Government were informed. The UK Government's office for nuclear regulation similarly confirmed what was said to SEPA as, according to the ONR's spokesperson:

"We were required to keep the information on a need to know basis for security reasons."

We now know that SEPA and ministers were not the only victims of the UK Government's veil of secrecy: when my officials visited the site in February 2012 to discuss its decommissioning there was no mention whatsoever of any problem.

Senior representatives from the Vulcan site regularly attend the Dounreay stakeholder group and provide updates on matters of interest to the local community. It is instructive to look back at the group's minutes, to see what Vulcan was reporting. On 25 April, when the reactor had been shut down for more than three months, the commander informed the meeting that

“it was business as usual”.

That was clearly not the case. At the June meeting of the full stakeholder group it was reported that

“reactor operations were continuing as per programme”.

That pattern followed in subsequent meetings: there was no problem; everything was to schedule. However, what has unfolded shows us that everything was far from right and that the Dounreay stakeholder group representing the local community, and the rest of Scotland, had been kept in the dark.

Last Thursday morning, I received a call from Philip Dunne MP, the junior defence minister, to inform me that in a matter of minutes the Secretary of State for Defence was to make a statement in the House of Commons on nuclear submarines. Rather than provide reassurance, that last-gasp sharing of information raises questions about the secrecy of the past two years. In the aftermath of his statement, in an attempt to shift the focus, the secretary of state has sought to pin the blame on SEPA for not notifying the Scottish ministers or the Scottish Parliament. However, SEPA was told to keep the issue on a strict need-to-know basis.

Local SEPA staff were put in an invidious position: they were unable to disclose what they were told because of the limitations imposed by the MOD. The agreement between the MOD and SEPA does not allow SEPA to pass on information on operational changes in the reactor, such as those that occurred in January 2012. By the time SEPA was eventually informed of the problems it was recognised that there had not been a formal breach of emission limits. It is important to state that it was not for SEPA to pass on information on the incident; indeed it was prevented from doing so under the agreement between the MOD and SEPA. Let us be clear: it was the responsibility of the MOD and the UK Government to inform the local community, this Parliament and the Government of the events at the test facility—no one else.

The failure to inform the Scottish ministers flies in the face of the memorandum of understanding on devolution, which commits all four administrations to the principle of good communication, especially when one administration's work may have some bearing on the responsibilities of another. Paragraph 5 states explicitly that it is the responsibility of administrations

“to alert each other as soon as practicable to relevant developments within their areas of responsibility”.

By eventually informing SEPA 10 months after the event, the MOD implicitly recognised that what had happened at Vulcan impacted on environmental matters—matters that are the

responsibility of this Parliament. I repeat that the onus was on the MOD, not SEPA, to alert us and in that it failed.

SEPA's role under the Radioactive Substances Act 1993 is to regulate the keeping and use of radioactive material and the accumulation and disposal of radioactive waste. For sites with a nuclear licence, the office for nuclear regulation regulates most activities on site, with SEPA regulating emissions to the environment and waste.

However, SEPA's role on military sites such as Vulcan is different. The 1993 act does not apply to premises used for defence purposes, so SEPA has no power to regulate them. Basically, the MOD has a Crown exemption from the legislation that applies to everyone else. Instead, there is only a voluntary agreement between the MOD and SEPA that implements an equivalent regime. In essence, SEPA issues letters rather than legally binding authorisations or registrations. In other words, SEPA regulates by invitation rather than by right and relies on the MOD's goodwill. The exemption from radioactive substances legislation for defence establishments is an anomaly and the MOD has abused it. No other environmental protection legislation provides similar Crown exemption, not even for civil nuclear establishments such as the main Dounreay site. There is no good reason why radioactive substances should be treated any differently from other risks to the environment, and defence establishments should be treated every bit as seriously.

The Scottish Parliament recently passed the Regulatory Reform (Scotland) Act 2014, which allows us to introduce a new consistent, coherent, proportionate and transparent environmental regulation regime for Scotland. We want to get rid of anomalies such as Crown exemption and treat all areas that are subject to regulation even-handedly, so we propose to use the regulations that are forthcoming under the 2014 act to leave behind the Crown exemption for MOD sites.

We are fortunate that we are not discussing a harmful nuclear incident, but we are addressing the UK Government's failure to be open and transparent about an incident at Vulcan. Where we can act to restore public confidence in shedding the Crown exemption, we will do so. However, the MOD's handling of the situation—which involved keeping SEPA in the dark for months, and ministers, parliamentarians and the public in the dark for much longer—is a major concern. The MOD has again demonstrated a deep-seated culture of secrecy, which raises questions about what else it knows but is not telling us. The MOD is in control of facilities that present a great

potential hazard in Scotland and it appears that we cannot rely on it to volunteer information.

Today, on the third anniversary of the disaster at Fukushima, we need no reminding what can happen when nuclear plants go wrong. The UK Government owes the people of Scotland an apology for the Vulcan incident, and it owes us far greater openness in the future about its nuclear activities in Scotland.

The Presiding Officer: The cabinet secretary will now take questions on the issues that were raised in his statement. I intend to allow about 20 minutes for questions, after which we will move to the next item of business.

Claire Baker (Mid Scotland and Fife) (Lab): I thank the cabinet secretary for the advance copy of his statement. I agree with him that it is completely unacceptable for the UK Government not to have informed the Scottish Government of the episode, just as it is unacceptable for it not to have informed the UK Parliament.

This is a matter of openness and transparency in government. The cabinet secretary is right to pursue the questions why it took two years for the UK Government to make the matter public, and why SEPA, as the regulator, was not immediately informed of the incident. The public must have confidence in the system, but in this case the system has failed. Labour has called for an inquiry into the situation in the UK Parliament, and I hope that Scottish National Party members will support us in achieving that.

However, there are contradictory statements about SEPA's decision not to share information with the Scottish Government. I have to ask: if there is an agreement—as the cabinet secretary suggested—why has SEPA framed this as a request? SEPA states that

“the MOD requested a strict need to know basis”.

SEPA also said that

“As the radioactive discharges were well below the authorised limits set for the site, and there was no environmental impact, SEPA did not inform the Scottish Government.”

That suggests that SEPA made the decision on the ground that the environmental impact was so minor that there was no need to share the information.

Can the cabinet secretary tell us who made the decision? Was it local SEPA staff, as he suggested, and if so, to whom are they accountable? Is the cabinet secretary confident of SEPA's decision-making process? What steps will he take—notwithstanding the MOD's culpability—to emphasise SEPA's accountability to the Scottish Government?

Richard Lochhead: I thank Claire Baker for agreeing that we need far more openness and transparency in relation to the MOD's approach to its nuclear facilities in Scotland, and I hope that we can work on a cross-party basis to progress the issue in the interests of the people of Scotland and—given the circumstances—of Scotland's environment.

As I explained in my statement, SEPA's job is, of course, to report environmental information, but it is bound by the terms of its agreement with the MOD on what it can say about the condition or the circumstances of the reactor. If we remove the Crown exemption, we will strengthen SEPA's hand and it will be able to regulate properly. SEPA and not the MOD will call the shots—if members will forgive the pun—in regulating the site. That is the way forward. SEPA has done a job in placing in the public domain information on the environmental impact of the rise in discharges. However, the causes and the information that the secretary of state revealed in the House of Commons last week were not in the public domain. I hope that we can all join together to achieve much more openness and transparency in the times ahead.

Mary Scanlon (Highlands and Islands) (Con): The low levels of radioactivity that were detected in the water that was contained in the sealed reactor circuit resulted in no detectable radiation leak from the sealed unit. On the International Atomic Energy Agency measurement scale for nuclear-related events, this event was classed as level zero, which is described as being “below scale” and of “no safety significance”.

Although there is no requirement to notify level zero events, the United Kingdom Government informed the defence nuclear safety regulator and the Scottish Environment Protection Agency in 2012, given SEPA's responsibility for regulating discharges from the site.

For more than 50 years, the MOD has continued to operate more than 80 nuclear cores without accident. Given that the event was classed as level zero on the International Atomic Energy Agency measurement scale, why is the Scottish Government scaremongering and raising uncertainty over the 300 highly skilled and highly paid jobs at HMS Vulcan in Caithness?

Richard Lochhead: The question that we should be asking is why the representatives from Vulcan went to speak to the local community in Dounreay but failed to tell people that the reactor had been shut down, and instead said that everything was acting as normal.

Just last week, Mary Scanlon said in the press that this was an issue of trust and

“Unfortunately, when these issues are made known so long after the event, it does raise suspicions and I would trust that lessons have been learned from this case and in future locals and staff are all fully notified regarding any issue relating to radioactive leaks.”

Mary Scanlon: Level zero.

Richard Lochhead: That is what Mary Scanlon and I agree 100 per cent.

Mary Scanlon: Level zero.

The Presiding Officer: Ms Scanlon!

Richard Lochhead: There was no environmental damage. We said that and SEPA made that information available, but there was also no openness and transparency—only secrecy and cover-ups, about what happened at the reactor. In the interests of trusting the MOD and everything that it says, the local community, the Parliament and the Government should be made aware of all the facts. We are dealing with nuclear facilities. It is of the utmost importance because they could present a hazard to the people of Scotland. That is why we need that trust.

Willie Rennie (Mid Scotland and Fife) (LD): I thank the cabinet secretary for the advance copy of his statement.

We need to make it clear that the radioactive safety limit for the site at HMS Vulcan is 1 million times stricter than the dose limit that is set for the Parliament. The minister cites the tenfold spike, but did the level at any time breach the strict public dose safety limit or the even tighter site limit at Vulcan? In raising the matter as he has, is the cabinet secretary confident that he has not risked causing unnecessary alarm?

Richard Lochhead: As the Government and SEPA have said, the discharges from the plant did not breach safety limits. However, if SEPA is to be able to do its job properly, it needs to understand why the discharge increased. For 10 months, the MOD kept SEPA in the dark about what was happening at the Vulcan facility. How on earth can an environment agency understand the readings that it is taking at the site—the tenfold increase, as opposed to no increase, as Philip Hammond said in the House of Commons—and how is it supposed to investigate that increase on behalf of Scotland and to protect the environment if it is being kept in the dark about the source of the rise in radiation? That is why we need to empower SEPA to protect our environment and ensure that defence establishments in Scotland are properly regulated.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): As the local member for Caithness, I would like to know who, locally, knew about the gaseous emission spike and the nuclear test plant shutdown at HMS Vulcan early in 2012. Were the

then Secretary of State for Scotland, Michael Moore, and the local MP, John Thurso, told during their visit in April 2012? Were other local dignitaries told at that time? Why was the Dounreay stakeholder group not told?

Richard Lochhead: Rob Gibson has asked a good question. As I explained in my statement, senior Scottish Government officials visited Vulcan but were not informed of any problems, despite the fact that—as we now know—there were problems with the reactor. I know that Michael Moore and senior local politicians visited the site during that period.

Philip Hammond said in his statement in the House of Commons last week that “key” Government ministers—UK Government ministers; no ministers in this Government were informed—were kept informed of what was happening at the reactor. Therefore, it is up to other UK ministers and politicians to disclose whether they also knew and did not tell their constituents or—in the case of the then Secretary of State for Scotland, Michael Moore—the people of Scotland. I hope that we have that answer soon.

Claudia Beamish (South Scotland) (Lab): In his statement, the cabinet secretary highlighted the agreement between the MOD and SEPA, which as I understand it does not allow SEPA to pass on information on operational changes in the reactor. As there has been a great deal of confusion over the procedures that are in place regarding information exchange, will the cabinet secretary or SEPA publish the procedural agreement, for the avoidance of doubt in the future and for public reassurance? Does the agreement prevent local SEPA staff from sharing information within SEPA?

Richard Lochhead: As I said in my statement, the local SEPA staff are in a difficult situation, given the limitations that are placed on what they can say, and under which circumstances they should or should not say anything, according to the agreement between the MOD and SEPA, which is a publicly available document. Of course, the agreement is clearly flawed and has failed. We should not rely on regulation by invitation, or on agreements that are flawed and which rely on the good will of the MOD for them to put into practice. Instead, SEPA should be empowered to regulate defence establishments in Scotland, just as it can regulate other establishments in Scotland.

Aileen McLeod (South Scotland) (SNP): On the cabinet secretary’s announcement on using forthcoming regulations under the Regulatory Reform (Scotland) Act 2014 to remove the Crown exemption for MOD sites, what implications could that have for test firing of depleted uranium munitions on the MOD range at Dundrennan near Kirkcudbright on the Solway coast?

Richard Lochhead: As Aileen McLeod will know because she has taken a close interest in the issue, the Scottish Government is opposed to the firing of depleted uranium shells into the Solway Firth. Although we are not aware of any plans to continue that in the near future, we certainly oppose it. If the Crown exemption was removed for defence establishments, SEPA would be more empowered to deal with local situations such as that one, which could cause damage to Scotland's environment. The measure would help SEPA to address issues in Aileen McLeod's region and other areas.

Rhoda Grant (Highlands and Islands) (Lab): How unusual is it for radioactive gas discharges of 43 per cent of the annual limit to be recorded at one time? What protocols are in place regarding SEPA's reporting of unusually high emissions, which could raise the alarm about more serious incidents in the future? For instance, did SEPA inform the Vulcan site staff or the Dounreay stakeholders group of the emissions?

Richard Lochhead: SEPA publishes the information in the public domain. In 2013, its document on radioactive substances emissions was published, which included the figures for the Dounreay site. We will continue to ensure that such information is put into the public domain. I can only reiterate that the issue is not about publishing information on emissions, which happens because we have SEPA; rather, it is about the circumstances behind the emissions and the activities at the nuclear establishment, which were kept secret from the people of Scotland and the local community. The local SEPA official was put in a difficult position in terms of what he or she could say to others.

On how unusual such rises in radioactive gases are, the issue is not so much the level but the increase in the level; there was a tenfold increase, to 43 per cent of the annual emission limit. Therefore, the level did not go over the safety limit, but it was noticeable. If we are to have the best possible environmental protection, our agency—SEPA—must be able to investigate the source to the ninth or 10th degree. Of course, as we are aware, SEPA was kept in the dark for 10 months about what happened at the facility.

John Wilson (Central Scotland) (SNP): Has the cabinet secretary been made aware of any radiation leaks from other MOD sites and of which SEPA local officers have been notified on a need-to-know basis by the MOD or the UK Government, while the Scottish Government or Parliament has not been notified?

Richard Lochhead: I have asked SEPA for that information. As things stand, there are no other examples, but I await a more formal report from SEPA.

We must, however, learn lessons from what has definitely happened in this situation. That is why I said in my statement that we need to hear from the MOD whether there have been any incidents in its defence establishments in this country that it has not told the authorities about, or made public.

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): What does this incident—we know that there have been many others—and how it has been handled by the UK Government say about how the UK Government considers the memorandum of understanding with the Scottish Government and the Scottish Parliament, and the so-called respect agenda?

Richard Lochhead: The UK Government has shown disrespect to the Scottish Government and has breached the memorandum of understanding between the Scottish Government and the UK Government. That is why the First Minister wrote to the Prime Minister seeking an apology to the people of Scotland, including because the memorandum of understanding was not adhered to.

We must hear from the MOD why it did not tell the people of Scotland—and, which is important, the local community—about what had happened. It was deception for the MOD representatives to speak to the local community in Dounreay, when the reactor had been shut down, but to tell the local people that it was “business as usual”.

Mark Griffin (Central Scotland) (Lab): The cabinet secretary has stated that SEPA was told about the incident on a need-to-know basis. Why are senior SEPA management and even the cabinet secretary himself not considered to be people who need to know when an incident such as this occurs?

Richard Lochhead: I remind Mark Griffin that SEPA was not told anything for 10 months. The reactor was shut down for most, if not all, of that period, and SEPA was not informed about the closure of the reactor. When a local official was briefed in December 2012, he or she was briefed under the conditions that were set by the agreement between SEPA and the MOD. Surely we can all recognise that that was a difficult and invidious position for a local official to be put in: the official was told on a need-to-know basis and relied on the good will of the MOD—on the terms of the voluntary agreement and on an invitation from the MOD—to regulate the site. Let us ensure that that does not happen in the future; let us empower SEPA so that it can just go in there and get on with the job.

Bill Kidd (Glasgow Anniesland) (SNP): The cabinet secretary is aware that the PWR2 prototype reactor at the Vulcan site was built as part of the Trident programme. Indeed, it is

regarded by the MOD as being a continuing part of that programme today. In the light of that and the more than 100 fires on, and leaks from, Trident submarines that the MOD at Westminster acknowledges, on top of the incident in January 2012, could there be major implications for the safety of Trident nuclear submarines that are based at Faslane and operating in the waters around the Firth of Clyde and the wider Scottish seaboard that we are not being made aware of?

Richard Lochhead: I have no evidence of that, but this episode shows that there is a culture of secrecy and cover-ups within the MOD. How on earth are the people of Scotland to trust any comments about the other defence assets that are operating on Scottish land or in Scottish waters when we know that the MOD showed no openness or transparency over the activities at the Vulcan establishment at Dounreay? The MOD has a lot of trust to build up with the people of Scotland before we can forgive it for this episode.

Alison Johnstone (Lothian) (Green): Can the cabinet secretary explain why Philip Hammond has chosen finally to make the matter public now, more than two years after the event? Is it because the refuelling cost of £120 million will require to be disclosed? In the event of a yes vote, is the Scottish Government planning to hold on to nuclear-powered, but not nuclear-armed, submarines?

The Presiding Officer: You can confine yourself to the statement, cabinet secretary.

Richard Lochhead: I cannot answer for Philip Hammond about the timing of his announcement. I hope that he will answer those questions in the House of Commons when he comes back to correct, on the record, his error about there being no measurable emissions as a result of the incident at the Vulcan establishment.

Alison Johnstone has reminded Parliament that, on the one hand, the MOD claims that this was not a significant incident, while on the other hand it is going to refuel HMS Vanguard at a cost of well over £100 million. The matter is relevant to the referendum, as Alison Johnstone has highlighted. If we vote yes in the referendum, Scotland will be able to say goodbye once and for all to all nuclear submarines in our waters, and instead be able to devote the money to good causes.

Alex Rowley (Cowdenbeath) (Lab): I thank the cabinet secretary for his statement. I agree that it is unacceptable that the MOD kept the Scottish Government and other interested parties in the dark, and that we need to take whatever action is necessary.

SEPA was told what had happened on a need-to-know basis. Has the cabinet secretary made it clear to SEPA that he and the Scottish

Government should have been among those who needed to know? Will he ensure that if, in the future, any information is provided on a need-to-know basis, he will be one of the people who needs to know?

Richard Lochhead: As I have said, the best way to deal with the situation is to empower SEPA, so that it is never put in that position again. That will mean removal of the Crown exemption for defence establishments in Scotland, in the context of radioactive substances. We will know exactly what is happening at such sites only when we empower our regulator to go there and do what it has to do, which is regulate to protect Scotland's environment.

Year of Natural Scotland

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-09280, in the name of Paul Wheelhouse, on the year of natural Scotland.

16:41

The Minister for Environment and Climate Change (Paul Wheelhouse): Today's debate focuses on the year of natural Scotland 2013 and its legacy. It was one of a series of four focus years that built on the success of our first ever homecoming in 2009. The aim of those years has been to boost our key tourism and events sectors as we progress to homecoming 2014.

In 2013, we celebrated Scotland's outstanding natural beauty, landscapes and biodiversity and we promoted them to our people and our visitors. The year's celebrations could hardly have started better. The media launch used the unforgettable image of a pair of Shetland ponies wearing Fair Isle cardigans, which was a neat way of marking the change from the year of creative Scotland to the year of natural Scotland. The media launch went viral and was seen an estimated 576 million times by a global audience. In addition, in naming Scotland as the top travel choice for 2013, CNN highlighted the year of natural Scotland.

One of the key strengths of the year was undoubtedly the sheer range of organisations that worked enthusiastically together. The Scottish Government provided £0.5 million of additional grant to VisitScotland and EventScotland to deliver its programme of activities for the year, and Scottish Natural Heritage was the lead partner agency.

The success of the year can be attributed to many organisations across the public, private and voluntary sectors. Although those that were involved in the year are too numerous to mention individually, I acknowledge and thank them for their considerable contributions. I also thank the 67 MSP species champions who were signed up by Scottish Environment LINK, who have kept my mailbox busy.

There were many events during the year, so I can pick out only a couple of highlights. Last spring, VisitScotland ran a major new initiative in which Scots were given 15,200 free travel tickets to get out and about and enjoy the outdoors. The big April adventure was an example of successful partnership working with Caledonian MacBrayne, ScotRail, Serco NorthLink, Stagecoach and Citylink.

There was the Scotland's big 5 campaign, in which VisitScotland and SNH teamed up to get

everyone talking about Scotland's nature and discovering five of the country's indigenous and iconic species: the golden eagle, the harbour seal, the otter, the red deer and the red squirrel. The public then voted in their thousands, with the golden eagle soaring into top place, followed by the red squirrel. There were 12,000 downloads of a big 5 app, while 70,000 copies of "Scotland's Big 5 Funbook 2013" were distributed to primary schools.

The year inspired the next generation to follow in the steps of naturalists such as John Muir. A natural explorers initiative was launched to encourage children to enjoy and explore the natural world on their doorstep, and 165,000 small, colourful fact-finder booklets were distributed to all pupils in primaries 5 to 7.

The national youth agency, Young Scot, launched a natural Scotland photo challenge, which encouraged young people to upload and share their favourite outdoors photos on their Facebook pages. Throughout 2013, hundreds of young people entered and voted for their best photos of natural Scotland.

A wide range of ministers were involved in promoting the year, too. For example, I got my hands dirty taking part in tree planting on the first ever John Muir day last April. I spent a morning with the friends of John Muir country park voluntary group planting saplings of native woodland trees such as rowan, blackthorn and silver birch. The plan was to increase a narrow woodland strip in order to provide a habitat for birds and improve biodiversity. That is just one example of the things that we can do.

Mr Lochhead commissioned a short film especially for the year of natural Scotland to help inspire debate about how and why we should protect our natural environment. The film was produced by the photographers of the 2020VISION photography project who are based in the Cairngorms national park. It told the story well of what we believe is our forward-thinking approach to nature conservation in Scotland. By focusing on ecosystems, we are not only protecting the wonders of individual species and habitats but highlighting the benefits that nature brings to us all.

In June 2013, I launched the refreshed Scottish biodiversity strategy. The 2020 challenge for Scotland's biodiversity highlights the steps that we need to take to protect and restore Scotland's biodiversity. As Claudia Beamish's amendment highlights, the strategy flags up some of the challenges that we face. However, it recognises that Scotland's nature not only supports our tourism, farming, forestry and fishing industries but is a vital element of maintaining and improving our health and wellbeing. Quite simply, Scotland's rich

and diverse natural environment is a key national asset, and its continuing health and improvement are vital to sustainable development and the Scottish Government's purpose of sustainable economic growth.

Despite all the positive news around the year, I must mention the subject of wildlife crime. It was particularly galling that at the end of the year we had the cruel and barbaric killing of the young golden eagle that had been named "Fearnan". The year of 2012 had seen a record low in confirmed poisonings, but I am afraid that 2013 saw not only the poisoning of Fearnan but an increase in the poisoning of other raptors and incidents of illegal persecution such as trapping and shooting. Those and other types of wildlife crime damage our reputation and threaten not only our growing wildlife tourism industry but vital industries such as our food and drink exports, which to some extent depend on our reputation for environmental protection.

We have been very clear about our determination to tackle wildlife crime and we have put in place a number of measures, such as the introduction of vicarious liability in the Wildlife and Natural Environment (Scotland) Act 2011. In addition, last July I announced three further measures. There is quite rightly an impatience to see these crimes brought to an end, but we need to give the measures that I have announced the chance to have an impact and we should allow the police to pursue the methods that they believe to be appropriate. However, the chamber should make no mistake: we will not hesitate to take further action if we believe that it is necessary.

I turn now to what I think is a fitting legacy for the year of natural Scotland. I seek support from members here today for declaring the Scots pine—*Pinus sylvestris*—Scotland's national tree. Following a member of the public bringing a petition to the Public Petitions Committee, I asked Forestry Commission Scotland to run a formal consultation to establish the appetite for and choice of a national tree. After a three-month consultation, we had more than 4,500 responses and the Scots pine was a clear winner, accounting for 52 per cent of the total responses.

What is a national tree for? It is a clear symbol of our affinity with Scotland's trees, woods and forests and their importance to us all. It means that we have a clear symbol that was chosen for and by the people of Scotland, and a legacy for generations to come. The Scots pine has a lot to offer. It is steeped in the culture of Scotland and recognisable by many. Among writers who have referred to it is our national bard, Rabbie Burns, who mentioned the Scots pine—or the Scots fir as it was then known—in many of his poems and songs.

There are a quarter of a billion Scots pine trees in Scotland and they are home to some of our most iconic species, such as pine martens, red squirrels and the capercaillie. Scots pine trees are also the home of our only endemic bird species: the Scottish crossbill, which is not found anywhere else in the world. However, at the heart of this recognition of the Scots pine is the acknowledgement that despite the challenges that our environment faces, including diseases, we value all our trees and forests and those who work in forestry.

I can announce that, to help promote the national tree, I have asked Forestry Commission Scotland to make provision for a new, seedcorn fund for innovative projects and to create a national tree week in Scotland. Included in the funding support is a separate fund for schools.

An important legacy of the year of natural Scotland has been the collaborative effort to promote Scotland's natural heritage. That will continue during homecoming 2014 and beyond—I will say more about that in my closing speech. I thank members for their attention, and I look forward to hearing the contributions to the debate from around the chamber.

I move,

That the Parliament acknowledges the contribution made by many to the successful delivery of the Year of Natural Scotland 2013; recognises that a key strength has been the close partnerships developed in showcasing Scotland's natural heritage; notes that Scotland's natural beauty continues to be one of the biggest tourist draws, especially during Homecoming Scotland, and welcomes the public support in declaring the Scots pine (*Pinus sylvestris*) the national tree of Scotland, which it considers a fitting legacy for the Year of Natural Scotland.

16:49

Claudia Beamish (South Scotland) (Lab): I join the minister in celebrating the success of the year of natural Scotland and congratulating all concerned. Our natural environment is one of the most stunning in the world. However, it is the legacy that matters most of all, as the minister has said, and I intend to focus my remarks mostly on that.

The statistics that SNH has produced are certainly encouraging. The 5 per cent increase in visits to Scottish attractions and the 8 per cent increase in visits to outdoor attractions during the year of natural Scotland are significant improvements, and VisitScotland rightly points out that they do not include visits to Scotland's natural attractions, which makes the visitor numbers even more positive.

It is important that people from home and abroad get chances to appreciate the natural landscape for which Scotland is so well known.

That is particularly relevant to people who live in urban settings, as a chance to get away from city life can be extremely beneficial. Urban green space is also vital. During the Rural Affairs, Climate Change and Environment Committee's budget scrutiny, we were concerned to note that performance against the indicator that measures people's use of the outdoors is worsening. I do not want to put a dampener on the debate, but it is important to acknowledge that.

In addition, only 64 per cent of disabled people access the outdoors, compared with 80 per cent of non-disabled adults. That should change, and I am glad that VisitScotland has begun to focus on improving access for those groups of people, which again will have economic benefits for tourism as well as improving general wellbeing in the population. I ask the minister to comment on the issue in his closing speech.

I was pleased to see that the Scots pine had been voted Scotland's national tree, beating off stiff competition, and I am pleased by the announcement today of support for related education projects and the seedcorn fund. However, I stress that, although it is good to recognise the value of the Scots pine, we must be mindful of biodiversity as a whole.

In Labour's amendment, we draw attention to our commitment across the Parliament to the 2020 challenge for Scotland's biodiversity, which was drawn up in response to the European Union's biodiversity strategy.

Paul Wheelhouse: To help with the nature of the debate, I indicate that we are minded to support the amendment.

Claudia Beamish: That is helpful—I thank the minister. People across Scotland will be pleased to hear that.

We are required to protect and, crucially, restore biodiversity on land and in our seas by 2020. Later today, in the Clyde 2020 debate, I will address marine biodiversity, which is essential in the process and which also supports marine tourism as an economic benefit. Land-based biodiversity, which is of course equally important, is often connected to the natural health of our surrounding seas. Improved biodiversity is valuable not only to the wide range of interdependent species that make up our ecosystems but to people's wellbeing, as the minister said, and the positive impact on the economy should not be understated.

I have taken a keen interest in the development of the national performance framework, and I am particularly supportive of the continued inclusion of national indicators that relate to biodiversity. After a prolonged period of decline, there have been some encouraging signs of a slowing of biodiversity loss, as the briefing from Scottish

Environment LINK and the Royal Society of Edinburgh points out. However, that is only a start. The Scottish Wildlife Trust highlights that the key threat is to protected sites. It points out we are being slow to get our most protected sites in a favourable condition, and it regards that as the greatest challenge.

In my view, the inclusion of a national ecological network as a national development in national planning framework 3 would build on the work of the central Scotland green network and be a strong signal of intent by the Scottish Government and another positive legacy of the year. The Scotland rural development programme also has a strong role to play in taking the issues forward, and I echo Archaeology Scotland in making a plea for the protection of our historic landmarks within the programme.

I like to think that there is cross-party consensus in the Parliament—in fact, I am fairly confident that there is—on a range of environmental issues from carbon emissions to biodiversity, and I hope that that will enable future Governments of whatever political identity to work towards the long-term benefit of Scotland's ecosystems and the wellbeing of our people.

As a deputy convener of the cross-party group on cycling, I want to highlight the value of cycling tourism to Scotland. Sustrans has worked tirelessly to promote the uptake of cycling, and I was interested to hear of its e-bike rental scheme—it might suit me, because it involves electric bikes—which is funded by the Scottish Government. I am sure that there is potential for similar schemes in other parts of rural Scotland, and as the national cycle network provides 14,000 miles of car-free cycle paths across the country there is plenty of opportunity for us and for visitors alike to take in the natural landscape.

As the minister highlighted, there are now 67 MSP species champions under Scottish Environment LINK's initiative. I ask all members to consider asking their party colleagues to join that number, so that all MSPs are species champions. The scheme has taken off and interests our constituents.

In South Scotland, £700,000 has funded a completely greenly powered greenhouse at Logan botanic garden. Funding for the future is essential. Will the minister address that point in closing?

Earlier today, I spoke to someone whom I had not met before and who works in the Parliament. They had driven in from Peebles through the misty sunrise. On what is now a fine spring day, there is from Mull of Galloway to St Abbs in my region—and that of the minister—and in wider Scotland much to celebrate and enjoy. Let us ensure

together that the legacy of the year of natural Scotland continues to 2020 and far beyond.

I move amendment S4M-09280.1, to insert at end:

“; acknowledges the challenges ahead for Scotland to deliver the 2020 biodiversity targets, and agrees that meeting these targets would be an equally fitting legacy to the Year of Natural Scotland”.

16:55

Jamie McGrigor (Highlands and Islands) (Con): I am pleased to speak in the debate, which follows the year of natural Scotland.

The year was launched to place the spotlight on some of Scotland's great assets ahead of Scotland's second year of homecoming in 2014. That was the point of it. The initiative, which was delivered in partnership with VisitScotland and Scottish Natural Heritage, brought together a number of agencies with an interest in promoting Scotland at home and overseas, such as Creative Scotland, the National Trust for Scotland, Historic Scotland, Scotland Food and Drink, Marine Scotland and Highlands and Islands Enterprise, to name just a few.

The year of natural Scotland was a great success and gave us the opportunity to celebrate and promote Scotland's outstanding natural beauty and biodiversity. However, alarming reports have reached me and others of the rapid loss of seabirds in the Highlands and Islands and all round the Scottish coast because of food shortages. We should be concerned about that, as seabirds are a vital indicator of the general state of our seas. Problems seem to lie ahead, so all is not well beneath the beautiful mask. We should watch that barometer, because seabirds are vital to sustainability.

As Dr Mike Cantlay, VisitScotland's chairman, was right to say, the year of natural Scotland was

“not just about heading from the city to rural parts”.— [Official Report, *Economy, Energy and Tourism Committee*, 12 September 2012; c1885.]

Scotland was celebrated in our towns and cities as well as in the countryside. We must bear it in mind that Scottish culture and particularly the renowned Highland culture are delivered by people, who must have hope and sustainable jobs to keep that culture going. It is not enough to live on the view.

The year of natural Scotland was also about food and drink and our world-class products. In 2012, it was announced that local food had been given a boost, as £2.5 million was made available to support initiatives that put a spotlight on Scotland's outstanding natural products. The remarkably successful seafood shack on Oban pier in Argyll, which the Ogden family run, is an

example of how people love eating Scottish shellfish al fresco where it is landed. We need more focal points such as that for people who come to Scotland.

Placing an increased focus on the food and drink sector has meant that our exports of its products are increasing year on year and has cemented Scotland's reputation for quality produce. Whisky is one of those things; it is and should remain unique to Scotland. It has a wonderful and exciting air about it. The whisky trail that goes down the Speyside valleys and to Islay and Jura brings an enormous number of tourists that way.

We in the Conservatives agree fully with the promotion of local goods. I would like to think that our 2009 campaign entitled buy local, eat local—I know that the Deputy Presiding Officer was keen on it—paved the way for the drive to consume more locally produced food, which brings multiple benefits that range from supporting home-grown businesses to reducing transport emissions. We have repeatedly stated the need to increase food production from our own resources and to find ways to remove barriers to food production, whether they come from the European Union or from Whitehall or Edinburgh red tape.

We have argued that local procurement must become the order of the day, with local hospitals, prisons and schools using local produce where possible to reduce the carbon footprint. I hope that the year of natural Scotland gathered support for Scotland and our food and drink resources.

Mature Scots pines are dramatic and wonderful trees that are especially part of the wonderful, heathery, rock-strewn landscape of much of the Highlands. Scots pine is also the plant badge of clan Gregor, which gives it an extra edge.

I agree with very much of what Claudia Beamish said.

17:00

Graeme Dey (Angus South) (SNP): All too often we Scots—sadly—fail to entirely appreciate what a beautiful country we live in. My journey to Parliament yesterday was convoluted. It involved attending Commonwealth flag-raising ceremonies on the coastal strip of Angus, before a series of constituency surgeries inland en route to our capital city. In just a few hours, I travelled from the wonderful golfing country of Carnoustie and Monifieth through the soft fruit and arable farming areas up towards Forfar, and on to Kirriemuir, from where we can see the Angus glens in one direction and look down into Strathmore in the other. I then went on to Auchterhouse and Fowlis in the shadows of the Sidlaws before I headed through quite stunning scenery in Perthshire and

Fife, crossed the Forth and arrived in Edinburgh. There is no questioning how blessed we are in living in this country.

With that good fortune comes responsibility to do all that we can to protect our natural environment, not only so that it remains aesthetically pleasing to us and visitors to Scotland but to ensure that future generations can enjoy its rich biodiversity for decades and, indeed, centuries to come.

The year of natural Scotland was a brilliant idea not just because it was a guaranteed winner, given our starting point, but because it raised awareness of the importance of cherishing our natural environment. It has brought a welcome focus on the whole issue of biodiversity and how our countryside is managed that will, I think, continue beyond homecoming 2014.

One of the strategic aims of the year of natural Scotland 2013 was to

“Enhance Scotland’s reputation as a place of outstanding natural beauty with a landscape and biodiversity to enjoy responsibly.”

I think that that aim was realised. Just as important, that created a momentum behind better protecting and enhancing our natural surroundings that I am confident will be maintained.

My own highlights of 2013 included welcoming the Minister for Environment and Climate Change to Angus to visit the red squirrel project on the edge of my and Nigel Don’s constituencies. I also had the great privilege of spending a day in the company of gamekeepers on a hind shoot just over the border in Aberdeenshire. That experience was memorable for the understanding that it furnished me with of the pride and sense of responsibility that the overwhelming majority of gamekeepers have in their work, and for the astonishing surroundings in a glen that is just a few miles from the town of Edzell. So-called civilisation was but a few minutes away, but there was barely a trace to be found of man’s impact on the land, as we were surrounded by deer and plentiful mountain hares. We were privileged to watch a sea eagle soaring above us.

As a species champion, it would be remiss of me not to highlight, if only in passing, the importance of the Scottish Environment LINK-inspired and delivered programme that the minister and Claudia Beamish mentioned earlier. The programme has done much to raise awareness of the dangers that are posed to some of our native species and the fantastic work that a range of organisations is doing to protect them.

Amidst the positivity, there remains the fact that Scotland’s natural beauty has been and continues to be spoiled by the blight of littering and fly-tipping. As we look to continue to enjoy and, from

a tourism perspective, fully exploit the potential of our wonderful country, we really must get our heads around that issue. Increasing the financial penalties for littering and fly-tipping, as the Scottish Government has done, is a welcome move in the right direction, and the work that Keep Scotland Beautiful and community groups are doing with clean-ups is to be commended. However, as with responding to climate change, we need a broad culture change across the whole of Scottish society.

Progress has been made, but looking round our countryside tells us that work remains to be done in that regard. We need littering and fly-tipping to become as socially unacceptable here as it is in other countries, because of the waste of recyclable resources that those actions represent and, just as important, the harm that they do to the splendour of our spectacular natural scenery and wildlife.

It is reckoned that Keep Scotland Beautiful’s clean up Scotland campaign, which paralleled the year of natural Scotland, involved 250,000 people and removed an estimated 3,000 tonnes of rubbish from our countryside. The Scottish Government’s provision of £250,000 in funding means that Keep Scotland Beautiful can build on that great work over 2014 and into 2015, and help to reduce the impact of littering and fly-tipping on our natural environment. Beyond that, I hope that the Scottish Government’s forthcoming littering strategy will have a particular focus on tackling the problem in rural areas, because it is utterly perverse to see our wonderful countryside besmirched by all kinds of discarded man-made refuse.

I endorse the Labour amendment. On the issue of halting biodiversity loss, far more unites us than divides us across the chamber. We need to heed the call for increased public awareness of and participation in biodiversity conservation.

To maintain the cross-party theme, I encourage everyone with a passion for our environment and, in particular, protecting its rich biodiversity to remember that the message is best delivered in clear and simple form. Perhaps wherever possible we should replace the word “biodiversity” with the phrase “the balance of nature”, as Alex Fergusson suggested at the Rural Affairs, Climate Change and Environment Committee. That would improve engagement levels among the wider populace.

National Government can draw up all manner of environmental strategies but those will be delivered only through and by the hard work and commitment of non-governmental organisations, local authorities, private business and the general public. The most fitting legacy of the year of natural Scotland would be that we maintain the momentum gathered in 2013.

17:05

Alex Rowley (Cowdenbeath) (Lab): I agree with Graeme Dey that we often take for granted our environment and surroundings. I enjoy most summers holidaying in Scotland, so I get to appreciate the beauty of the environment throughout the country.

I will concentrate my speech on Fife. The issue that we are debating is how we look forward and maximise the countryside's economic and health and wellbeing benefits. I draw the Parliament's attention to a couple of Fife-based projects that do exactly that.

The Lochore meadows country park is sited on landscape that was reclaimed from former pit bings. More than 640,000 people a year visit the park, which has disabled access right round the loch. I congratulate Fife Council, because just a few weeks ago, despite these difficult times, it committed £140,000 core funding from its budget for additional staffing to develop the park and £1 million in 2014-15 to develop a new visitor attraction. The council is also working with the Fife Coast and Countryside Trust to develop the park further. The park offers health and wellbeing opportunities not only to those who live in the former mining villages of Kelty, Glenraig, Crosshill, Lochore and Ballingry, but to pupils from the local schools and those right across Fife. That is an example of what more we can do with our countryside to encourage people to become healthier and to appreciate the outdoors.

I draw the minister's attention to the Fife youth job contract, which is also run by Fife Council, under which a land-based academy has been established for 16 to 24-year-olds. The contract is a partnership between Fife Council; Fife Coast and Countryside Trust; the council's core paths unit, which is establishing core path networks across Fife; Fife Golf Trust; the River Leven development; Living Solutions, which is an outdoor project based in my constituency; the Falkland centre for stewardship; and the Fife Ecology Centre. They are all working together to give young people opportunities to get the skills they need so that they can work in the outdoors and in land-based industries. Those opportunities come from training and supporting individuals to gain and sustain employment in the land-based sector; undertaking work to improve public access and employment opportunities; making environmental improvements; contributing to land management and, in particular, bringing unmanaged areas into management; and promoting a culture of enterprise by providing support to enable young people to start up businesses, because a lot of workers in that sector are self-employed.

The project, which was established two years ago, has had major successes and all the

organisations involved are offering additional apprenticeships and training places, which give young people opportunities to work in the land-based sector. In relation to the economy, that shows that we need to do more to support skills. By working together, the different organisations, local government, the Scottish Government and the different public bodies that exist can achieve much more in terms of a legacy that has more people working on land-based opportunities.

I draw the minister's and Parliament's attention to the Fife coastal path, which is a project run by the Fife Coast and Countryside Trust. It covers some 117 miles, stretching from Kincardine and coming up through Inverkeithing, Rosyth, North Queensferry, Dalgety Bay and Aberdour in my constituency. More and more people are experiencing the Fife coastal path. That not only improves health and wellbeing, but gets people to experience the outdoors.

I support the motion and the amendment. I recommend that any member of the Parliament come to Fife and visit some of the attractions that I have talked about.

17:11

Alex Fergusson (Galloway and West Dumfries) (Con): I am pleased to speak in this debate as the species champion for the native oyster—the species that is championed by me but consumed by my colleague Jamie McGrigor as often as he possibly can. That might be a slight irony, but there must also be something of a slight irony in the fact that the year of natural Scotland turned out in some ways to be one of the most unnatural years that we have experienced for a long time.

As I am sure we all remember, 2013 began with freakish snowstorms—certainly, in the south of Scotland—that caused immense damage, some of which still has to be made good, and ended with the wettest December for many a long year. What is more, the intervening summer was one of the hottest on record. I have still not worked out whether that was to compensate us for the dreadful spring that went before it or to prepare us for the dreadfully wet winter that, I hope, is now behind us. Whatever they were for, the extreme weather events of 2013 surely showed us that, although we might be able to tinker at the fringes of nature, we cannot control it. I think that most of us would agree that that is a very good thing indeed.

We are surely blessed—other members have used that word—in Scotland to have the wonderful natural environment that we all cherish. More than 11,000km of coastline, hundreds of islands, mountains, valleys, rivers and lochs have given us

a landscape that thousands come to visit and millions wish they could. It can be no surprise that, as has been mentioned, visitors to outdoor attractions are rising at a faster rate than overall visitor numbers because, in the increasingly urban and information technology-dominated world in which we live, natural Scotland becomes all the more desirable and attractive.

Therefore, an official year of natural Scotland was well conceived and well timed. Its success has been well documented during this brief debate. The Conservatives cannot and certainly do not disagree with the Government motion except in one small matter, to which I will come shortly. However, it is absolutely right that we acknowledge the fact that the success of the year of natural Scotland was a result of the input of a host of individuals, partnerships and organisations. The wide-ranging speeches in the debate exemplify why that was the case. A huge amount of effort went into creating the success of the year, and many members rightly highlighted that effort.

I disagree with the motion—I think that it is only a drafting issue—in the suggestion that the creation of a national tree is

“a fitting legacy for the Year of Natural Scotland.”

I am very happy to recognise the designation of the Scots pine as one small part of the legacy but, if a real legacy is to be created, it surely must be about much more than that. Indeed, the Labour amendment, which we will also support, shows one way of achieving such a legacy.

I will highlight the role that education has to play in ensuring a fitting and proper legacy. In that regard, I commend the wild seasons initiative in Dumfries and Galloway, which is co-ordinated by the Southern Uplands Partnership and is currently gearing up for the launch of the wild spring 2014 festival on 5 April. That fantastic festival combines a plethora of educational events with a wide range of tourism initiatives and other events that link into other aspects of natural life in the region, such as the dark sky park. That surely epitomises the type of partnership working that is highlighted in the motion and which Alex Rowley talked about. I believe that that can provide the true legacy of the designated year of natural Scotland.

That legacy has to be national, as identified by Labour's amendment, and local, as exemplified by the wild seasons initiative in Dumfries and Galloway. We on these benches are pleased to support the motion and the amendment. However, in closing, I suggest that we have only to look out of the window today to appreciate that, in some ways, every year could justifiably be called a year of natural Scotland.

17:15

Claire Baker (Mid Scotland and Fife) (Lab):

This has been an interesting, if somewhat brief, debate. The year of natural Scotland is the latest in a series of themed years that have been used to promote Scotland as a tourist destination, promote Scottish businesses and provide a framework for cultural activity, but it provided an additional dimension as it gave us an opportunity to focus on environmental activity.

Last year, when I spoke at the RSPB natural awards launch event in Parliament, I said that, although the year of natural Scotland could be seen as a branding exercise, it had the potential to be much more than that. I also said that, if it was just a case of badging existing or planned events and activities as part of the year of natural Scotland, it would be a missed opportunity to make progress on key environmental and biodiversity challenges. For example, I noticed that VisitScotland's website lists T in the Park as part of the year of natural Scotland, and I am not sure that that is the prime reason why people go to that event.

In terms of tourism, our natural environment is increasingly the number 1 reason why people visit Scotland. We know that Scotland has much to offer with regard to environment tourism, which, in the broadest sense, is on the increase. Also, themed years and activity that is focused around them are helpful with regard to the promotion of short breaks, which are also a growth area. Visitors are attracted by Scotland's wild mountains, pristine rivers and lochs, ancient forests, stunning coastlines and islands rich with wildlife and history, but we should also recognise the importance of green space and variety in our more urban locations and attractions.

The year of natural Scotland was an opportunity to engage with people living in Scotland. The figures that were highlighted by Claudia Beamish, which highlighted a drop in the number of people who are accessing the outdoors, are concerning, given that Scotland has much to offer in this area.

I am grateful for the support of members across the chamber for Labour's amendment. It focuses on the challenges that we face in meeting our biodiversity targets. We need to make more progress and, while the revised biodiversity plan is welcome, we need to monitor progress and to be prepared to be flexible and responsive. At the time of the consultation, there was also a call for more targeted activity with clearer objectives.

Last year, I was at the launch of the Fife biodiversity plan. A lot of the delivery in this area will be down to local leaders. The Fife plan describes the opportunities for people to get involved in protecting and enhancing biodiversity.

Fife has many active communities that are developing community orchards, allotments, community gardens and green spaces. There will be more about that in my members' business debate on Thursday, on greener Kirkcaldy.

I am glad that the minister raised concerns about wildlife crime. It is completely unacceptable, and I recognise the minister's commitment to tackling it. However, we need to get the balance right between seeing whether new legislation will have an impact and dealing effectively with a difficult problem. The creation of Police Scotland has raised some questions about the resources and capacity that that organisation is able to give to wildlife crime. I would like the minister to address that in his closing speech.

The minister mentioned the Scots pine's designation as our national tree. We are pushed for time this afternoon but, following concern about ash dieback and other tree diseases in recent years, it would be good if the minister could say a wee bit about where we are in relation to addressing tree health.

Graeme Dey made good comments on fly-tipping and littering, and we support the measures that have been introduced to address that problem.

Members have highlighted a number of attractions in their areas, some of which I know better than others. Alex Rowley talked about Lochore meadows country park, which, as a fellow native of Kelty, I know well. As a member of Kelty community council, I served on the park's stakeholder group at a time when the park was growing. It is an excellent example of how a post-industrial site can be regenerated to become a wildlife haven that also provides leisure opportunities. While Fife has St Andrews as a key attraction, when it comes to attracting visitors there is always a need to try to expand and strengthen the offer beyond north-east Fife. As Mr Rowley highlighted, the coastal path is one attraction that embraces the whole county.

Last year, I held a members' business debate on national parks and the report "Unfinished Business: A National Parks Strategy for Scotland". National parks were a landmark project of this Parliament in its early years. Our two national parks have gone from strength to strength. I recently sat next to Grant Moir at a dinner and we talked about the Cairngorms national park and the positive developments that were going on within the park. As well as supporting our biodiversity targets, the national parks are excellent at maintaining and enhancing our natural assets. They have survived the economic downturn very well and are excellent models of creative and environmentally positive solutions to many of the

challenges that are faced by our rural communities.

I would have liked to see a commitment from the Government during the year of natural Scotland on where we go next on national parks. While the identification of national trees and iconic wildlife species is beneficial and should be welcomed, this afternoon many of us have talked about legacy. I feel that a more ambitious path on national parks would have been a good legacy. However, that is an on-going campaign on which I hope we can see progress this year.

In many ways, the year of natural Scotland has been very positive, but much of the debate this afternoon has been about how we can develop that and continue to make progress on the key issues that have been identified. Hopefully, the year of natural Scotland will provide us with a platform to go on to more successes in many of those areas.

17:21

Paul Wheelhouse: I thank members for their valuable contributions to this afternoon's admittedly short debate. I will respond to some of the specific points that they raised shortly.

In 2014, Scotland is welcoming the world—it is a truly momentous year, in which we celebrate the second year of homecoming and host the Commonwealth games and the Ryder cup. Natural Scotland is one of the five underpinning themes of the year, alongside food and drink—which Jamie McGrigor referred to—ancestry, active Scotland and creative Scotland. Next year will be the year of food and drink, 2016 will be the year of innovation, architecture and design, and 2017 will be the year of history, heritage and architecture. We have more to come, which we hope will also generate success for the Scottish economy.

Work continues to ensure that natural-themed events feature strongly throughout 2014. I very much hope that a key legacy of the year of natural Scotland is that the working relationships created for the year continue to flourish.

Many members will know of another aspect of the legacy of the year of natural Scotland, which is that 2014 is the centenary of the death of John Muir, the Scots-born founder of the modern conservation movement and national parks. It is therefore very fitting that SNH is organising a John Muir festival to celebrate his life. The festival will be the key signature event for the natural theme during homecoming Scotland 2014.

The festival will start with the opening of the Kelpies at the end of the Forth and Clyde canal and will involve the launch of a new long-distance route called the John Muir way. Over the course of

a week, there will be events and activities along the route of the John Muir way.

The John Muir way is a new coast-to-coast lowlands trail from Helensburgh in the west through to John Muir's birthplace in Dunbar in the east. It echoes John Muir's own personal journey: he grew up in Dunbar before travelling to the west coast to set sail for America. The First Minister will officially open the way in Dunbar on 21 April, which is John Muir day.

The way will be signposted, with a website, book, leaflets and map available to give people all the information that they need to complete all or part of the way. It has been designed to be used by everyone: long-distance walkers, cyclists and local communities—after all, it is on the doorstep of much of our population.

I was taken by the points Alex Rowley made in his thoughtful and intelligent speech. I thank him for mentioning the link to the mining communities in Fife. It is important that they have nature on their doorsteps so that they, too, can enjoy the outdoors and have the benefits of health and wellbeing that others, including Claudia Beamish and Claire Baker, mentioned.

The John Muir festival will finish with a street ceilidh and fireworks at Loch Lomond—an occasion that I am really looking forward to.

The other aspect of the legacy of the year of natural Scotland is the proposed declaration of the Scots pine as Scotland's national tree. I take Alex Fergusson's point about that, but we hope that it is a symbol that will allow people to think about nature more widely—not just trees and forests, although that is a key part of it, but the wider contribution that the natural environment makes to Scotland.

I will focus on members' contributions during the debate and will try to refer to their roles as species champions as well, to bring a bit of fun to the debate.

I believe that Claudia Beamish is a sea trout and forester moth champion, so well done to her. She made important points about the increase in visits to outdoor attractions. However, she also referred to a decrease. We should not forget that during the year we had both the Olympics and an extremely wet summer, which had a detrimental impact on domestic tourism and short-visit-destination trips within Scotland. We should see that as maybe a blip, not as a sign of a downward trend. We await the 2013 figures.

Claudia Beamish: I raised an issue about disabled access in particular. I hope that the minister will comment on that as well.

Paul Wheelhouse: Certainly. I acknowledge Claudia Beamish's comment about that. Indeed,

she and Jayne Baxter have raised the issue at the Rural Affairs, Climate Change and Environment Committee. [*Interruption.*]

The Presiding Officer: One moment please, minister. Could members who are coming into the chamber leave their conversations outside?

Paul Wheelhouse: Thank you, Presiding Officer.

I am conscious that we have to work on that issue and we are trying to do more equalities assessments of our national park proposals. We have shovel-ready projects and we have to look at how we can design them to accommodate people with disabilities.

Claudia Beamish also spoke about national performance indicators. I whole-heartedly agree that there is an important suite of indicators that go beyond gross domestic product and allow us to look at the wider health and wellbeing of our economy. I take trends in those figures very seriously.

On cycle tourism, Mr Lochhead and I have a long-standing challenge to have an electric bike race in a national park at some point, so we will try to take that forward. I take the point that cycle tourism is a great opportunity for Scotland; cycling is a growing sport on which we can capitalise.

Jamie McGrigor is a narrow-headed ant champion, according to the list of species champions, and he has asked me a number of written questions about that species, on which I congratulate him. I note his important point about seabirds. We take into account the fact that almost all bird species are covered by one special protection area or another. That is a crucial point. We will try to cover the one remaining species that is not well covered by the special protection area network—the black guillemot—to make sure that it is taken on board, and we are seeking to protect sand eels through the marine protected area network.

Alex Fergusson: Will the minister give way?

Paul Wheelhouse: I am short of time. I have only three minutes left, I am afraid, and I have to get through a number of other points.

Graeme Dey, who is the woolly willow champion, did a very good job of pointing out exactly why the year of natural Scotland was so important in driving tourism to areas such as Angus. In fact, having listened to his speech, I was quite tempted to book a holiday there. Angus is a stronghold for red squirrels, and I was delighted to visit his constituency to see the work that is being done to provide a front line in protecting red squirrels from disease.

Graeme Dey also made a crucial point about littering and fly-tipping. I add my commendation to his for the important work that Keep Scotland Beautiful does with the spring clean each year. I also endorse his view that behavioural change is needed to tackle the scourge of littering in our countryside.

I have already mentioned points made by Alex Rowley, but I was also very interested to hear the examples that he gave of projects in his area. I certainly look forward to hearing more from him on those themes. He is not yet a species champion, but he still has the opportunity to become one, and I encourage him to do so.

Alex Fergusson, who is the champion of the native oyster, made a very good point about the freakish weather. I addressed the point about outdoor visitor numbers in my response to Claudia Beamish, but we should celebrate the wild seasons initiative and other local initiatives in areas such as Dumfries and Galloway, because they make a massive contribution to the local economy. They also increase our understanding of the importance of the natural environment to our economy. I commend those initiatives as well.

Claire Baker is the champion for both the puffin and the lesser butterfly orchid—I congratulate her on hitting two. I take on board her points about events and branding. I suppose that we should not forget that T in the Park is held in the natural environment. It is an example of people using the natural environment—I hope they do not litter too much while they are there—although I accept that that is perhaps not the primary reason why they are at the event.

Claire Baker made a fair point about monitoring progress. As a Parliament and a society, we are looking to make more use of networks in relation to citizen science. The annual British Trust for Ornithology and RSPB survey of bird numbers is absolutely crucial to our understanding of what is happening in the wider environment. We need to build on that and other examples to engage people more fully.

I was asked about Police Scotland resources. It is my understanding and belief that we have increased the amount of resources available to tackle wildlife crime. There are issues with the transition, but I am confident that at both senior officer level and local level we have given wildlife crime officers the resources that they need to tackle the challenge.

I will perhaps have to seek another opportunity to come back to Parliament to talk about tree health. I know that it is an issue of importance to us all and I take it very seriously indeed.

I thank members again for their contributions to what was an interesting debate. It was all too

short, unfortunately, but we will look for other opportunities to raise similar issues.

I remind members that the year of natural Scotland has been a great success. As we progress to homecoming Scotland 2014, we will work hard to build on the partnerships that were developed during 2013, to ensure that Scotland's natural heritage and biodiversity go from strength to strength. I hope that members will support today's motion, with its declaration of the Scots pine as Scotland's national tree, and support the amendment in the name of Claudia Beamish. Both would be a fitting legacy for the year of natural Scotland.

Decision Time

17:30

The Presiding Officer (Tricia Marwick): There are three questions to be put as a result of today's business.

The first question is, that motion S4M-09272, in the name of Roseanna Cunningham, on the Tribunals (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees that the Tribunals (Scotland) Bill be passed.

The Presiding Officer: The next question is, that motion S4M-09280.1, in the name of Claudia Beamish, which seeks to amend motion S4M-09280, in the name of Paul Wheelhouse, on the year of natural Scotland, be agreed to.

Amendment agreed to.

The Presiding Officer: The next question is, that motion S4M-09280, in the name of Paul Wheelhouse, on the year of natural Scotland, as amended, be agreed to.

Motion, as amended, agreed to.

That the Parliament acknowledges the contribution made by many to the successful delivery of the Year of Natural Scotland 2013; recognises that a key strength has been the close partnerships developed in showcasing Scotland's natural heritage; notes that Scotland's natural beauty continues to be one of the biggest tourist draws, especially during Homecoming Scotland, and welcomes the public support in declaring the Scots pine (*Pinus sylvestris*) the national tree of Scotland, which it considers a fitting legacy for the Year of Natural Scotland; acknowledges the challenges ahead for Scotland to deliver the 2020 biodiversity targets, and agrees that meeting these targets would be an equally fitting legacy to the Year of Natural Scotland.

Clyde 2020 Good Environmental Status

The Deputy Presiding Officer (Elaine Smith):

The final item of business is a members' business debate on motion S4M-08449, in the name of Kenneth Gibson, on Clyde 2020. The debate will be concluded without any question being put.

Motion debated.

That the Parliament acknowledges the commitment of Scottish ministers to meet the requirement under the Marine Strategy Framework Directive to bring the Clyde up to Good Environmental Status by 2020; recognises the substantial economic, social and environmental importance of the Clyde, both locally and nationally; believes that meeting the Clyde 2020 target will increase employment in a diversified fishing industry, enhance tourism by boosting recreational sea fishing and improve biodiversity on and around the Clyde; understands that there is a wide range of parties with an interest in the future of the Clyde, including the people of Cunninghame North, and welcomes efforts by those parties to work together to deliver on these objectives.

17:32

Kenneth Gibson (Cunninghame North)

(SNP): I thank the 43 MSPs, representing the independents and all five political parties in the Parliament, who signed the motion to make the debate possible. I also thank the Community of Arran Seabed Trust—COAST—and the Sustainable Inshore Fisheries Trust for their briefings, and in particular I thank James Mackenzie for his energy, drive and enthusiasm. It is also good to see people in the gallery who have travelled a considerable distance for the debate, including a number of my Arran constituents, with whom I travelled on the boat from Brodick this morning.

The Firth of Clyde is vital to Scotland's economic, cultural and environmental good health. It is one of the deepest coastal waterways in the British Isles and supports fishing, shipping, and tourism. Twenty per cent of all Scottish cargo passes through Clyde ports and about 60 per cent of all ferry traffic in Scotland travels across the Clyde. The Clyde also hosts Scotland's only naval base. Recreational boating is becoming increasingly important, not least in my constituency, and about 40 per cent of all Scottish boats berth in the Clyde.

In recent decades, the Clyde has suffered severe losses in ecological and economic wellbeing. Overfishing has led to declining fish biodiversity, which has over the years caused many marine species to become increasingly rare and, in fact, smaller. The fishing industry has been forced to turn from its traditional finfish landings to an industry that is based increasingly on nephrops and scallops.

Fisheries have also led to a decrease in the recreational angling boats that were once so popular. Trawlers undoubtedly disrupt the natural ecosystem; trawls and dredges are invasive, because they drag the seabed bottom. Such fishing methods enabled the expansion of fishing opportunities and for decades there were increased fish landings each year. However, in 1889, only nine years after trawls were introduced to the Clyde, a 3-mile ban was placed on trawls because there had been a noticeable decline in fish catches. The ban helped to protect marine ecosystems, and although it had many beneficial effects, it was lifted in 1984, which allowed for expanded fishing opportunities, but at high environmental and economic costs.

The Clyde was once very productive, with a wide variety of finfish and marine life including shoals of herring, cod, whiting and others, but the introduction of more invasive fishing methods intensified fishing past sustainable levels. The removal of the 3-mile ban was surely a contributory factor to the near collapse of bottom fisheries. The range of marine Clyde fish species has changed drastically, because many species are unable to cope with trawling or with pollution. Fishermen have to put in more hours to catch the same amount of fish as they caught in previous years.

In 1985, about 75 per cent of all Firth of Clyde landings consisted of finfish; now, they account for only 2 per cent of landings. As fish availability has declined drastically, the fishing industry has developed an overdependence on shellfish.

Over time, sea angling has also faltered. Recreational sea angling was once a flourishing and profitable business that attracted people from far and wide to the waters of the Clyde. All the trophy-sized fish have disappeared, however, so many leisure fishermen stay away, and many areas around the Clyde have lost the tourism that sea angling brought in, which has damaged local economies.

Clyde 2020 is a Scottish Government initiative to meet the European Union's environmental requirements, as outlined in the marine strategy framework directive, which promotes environmental practices to allow EU waterways to maximise their economic potential while supporting and maintaining healthy marine environments.

On 23 April, a Clyde 2020 summit will be held in Glasgow to discuss what measures should be taken to bring the Firth of Clyde up to good environmental standing by 2020. The event is intended to bring together representatives from the fishing industry, environmental groups, the tourism industry and leisure organisations to explore different options, including improved fisheries

management to re-establish a healthy marine ecosystem in the Clyde.

It is important that the summit and the Clyde marine regional planning partnership give equal standing to all stakeholders, and that they are not seen to favour a handful of bottom trawlers and scallop dredgers to the detriment of the Clyde environment and the wider economy.

Environmental initiatives to be created during the Clyde 2020 summit should allow Scotland to become a leader in ecosystem restoration. The Scottish Government is already committed to a research programme that supports the restoration of marine biodiversity in the Clyde. Many proposals have been brought to the table, and the summit will consider the possible environmental and economic benefits of provisions covering mobile and static gear zones, small protection zones and no-take zones.

The economic and environmental benefits of the Lamlash Bay no-take zone have been evident since its establishment in 2008, following more than a decade of campaigning by COAST. The first of its kind in the Clyde and in Scotland, the no-take zone is only 2km²—a tiny fragment of the 3,700km² Clyde estuary. Five years after its creation, scientific surveys show that scallops are 50 per cent more abundant than they were before the NTZ was introduced. Queenies are 45 per cent more abundant, and the larger sizes of both means that their reproductive capacities have increased more than a hundredfold.

The Lamlash Bay NTZ is a success story, so there is some frustration that Marine Scotland and the Scottish Government are apparently so shy about singing its praises. The spillover effect alone can have only positive benefits for our fisheries. We need to recognise that success and to apply similar zones elsewhere in the Clyde and beyond, given the opportunities that are presented to establish marine protected areas—not least the proposed south Arran MPA.

One of the biggest supporters of Clyde 2020 is the Sustainable Inshore Fisheries Trust, which promotes a sustainable management approach to all Scotland's waterways. SIFT is committed to projects that will rebuild marine biodiversity in the Clyde and promote sustainable fishing practices. The trust believes that combining those two objectives can create a sustainable and economically workable mixed fishery that would benefit Clyde communities and all of Scotland.

SIFT is currently consulting on how organisations can work together to bring the Clyde to good environmental standing by 2020. It is attempting to submit a regulating order under the authority of the Sea Fisheries (Shellfish) Act 1967, to place sustainable management of the Clyde in

the hands of local stakeholders. Such a scheme already operates successfully in Shetland's waters; it would put in place licensing management, an independent management organisation and more marine protected areas to assist with restoration.

Sadly, the Clyde is no longer a first-choice fishery. Clyde 2020 is about bringing diverse groups together to create a mutually beneficial management system. Short-term environmental and economic restoration is an integral part of the Clyde initiative, but we also need to focus on the bigger picture—a long-term solution that will deal with issues such as pollution and littering and will ensure that the Firth of Clyde, through improved sustainability, will sustain ecosystem biodiversity and bring economic prosperity for many generations to come.

17:39

Claudia Beamish (South Scotland) (Lab): I thank Kenneth Gibson for securing this important debate. I apologise for having to leave after I speak, but I have a committee commitment.

I am glad to be able to speak about the marine environment in the Clyde—especially about the goal of achieving good environmental status by 2020. I want to say something about context. As members will be aware, under the EU marine directive, we are required to achieve good environmental status by 2020, so playing our part in protecting our shared European marine resources is important, and the contribution that can be made for the future by inshore waters and the Clyde, for example, is very significant.

The passing of the Marine (Scotland) Act 2010 allowed us to transpose the EU directive into domestic law and, by all accounts, it is a sound piece of legislation. I hope that the cabinet secretary agrees with me on that. However, as I am sure members will appreciate, there is a crucial difference between setting legislation and being able to implement its terms and goals, which are often complex and sometimes conflicting. The statutory duties to protect fragile ecosystems, increase marine biodiversity and balance the potentially damaging impacts of marine-based industries are complex. Progress has sometimes been slow, which is another reason why I welcome Mr Gibson's debate.

It is my strong belief that sustainable development must be at the heart of all those issues. The marine plan is needed desperately; it is intended to provide policymakers with the guidance that they need in order to develop the marine strategy and to balance the often competing interests that I have highlighted. I hope that the reason for the latest delay is that the

Scottish Government is taking on board the scientific advice of a range of non-governmental organisations, such as RSPB Scotland, the Marine Conservation Society and the Scottish Wildlife Trust. I hope that when it is finally published, we will have a credible plan that will support the Clyde and other inshore fishery areas, as well as the whole range of issues that are underpinned by biodiversity. There is no doubt that Clyde area of our coastline is important for the overall health of our waters.

Increased educational awareness of such issues is also vital. Today I highlight the Clyde in the classroom project, which is a terrific project that is being run by the Crown Estate, which I was lucky enough to take part in with primary school pupils in rural Clydesdale. The project is aimed at primaries 5 to 7; pupils raise brown trout eggs in their class before releasing them into tributaries of the Clyde—in our case, quite a small ditch. The pupils see at first hand the development of a fish species that is native to Scotland. It is a very exciting project and I commend it.

Last week, I met members of SIFT. I understand that some of them are in the gallery today to listen to the debate. I was encouraged to hear about their commitment to ensuring the continued viability and enhancement of Clyde waters. I am sure that we are all hopeful that the pilot project in the Clyde is a success and that SIFT will be able to cast its net wider and work in other areas of Scottish inshore water.

The task is not an easy one. As Mr Gibson highlighted, there is a long-standing range of conflicts between the various fishing sectors. Shipping also needs to be taken into account, as does marine tourism, which I fully support. I am hopeful that the Scottish Government will provide SIFT with the tools that it needs to tackle the problems that are faced by the Clyde. The introduction of a regulating order might well be the way forward, and I also want to support the establishment of a Clyde fisheries management organisation that can bring stakeholders together. That could help the Clyde to achieve the much-sought-after good environmental status by 2020, and contribute to the overall health of Scottish inshore waters.

Again, I thank Mr Gibson and wish the whole project well.

17:43

Stuart McMillan (West Scotland) (SNP): I congratulate my colleague Kenneth Gibson on securing this important debate. We heard from him about the powerful reasons why we ought to do whatever we can to protect our inshore fisheries

areas, but I aim to focus my remarks on the economic reasons.

I represent the West Scotland region, so this issue obviously falls within my area, but I also chair the cross-party group on recreational boating and marine tourism. One of the members of our cross-party group is the Scottish Sea Angling Conservation Network. I do not sail and I do not fish, but in working with the cross-party group I have been struck by the increasing appreciation among the various groups involved that, if there was a more collaborative approach across the wider marine tourism sector, we would all benefit.

That was highlighted even more when the cross-party group held our marine tourism symposium in the Parliament 12 months ago this week, during Scottish tourism week. We had various speakers, including people from the wildlife tourism sector, who really struck a chord with those in attendance. The group has helped to provide a more holistic approach to marine tourism, although it has possibly not been immediately visible to the operators, particularly in recent years, as economic conditions have been challenging. The clear message on the wildlife tourism economy is that we can all benefit from healthy wildlife in Scotland. Whether we look from a conservation or economic perspective, Scotland can benefit from the environment, which makes a huge contribution to our nation.

The motion mentions that there is

“a wide range of parties with an interest in the future of the Clyde”.

I certainly cannot disagree with that. Those politicians who cover the Clyde have an interest—I have certainly had discussions with Kenneth Gibson about the Clyde in the past and I am sure that we will have more in future—but politicians are only part of the answer. I argue that the users of the Clyde are the people with the long-lasting solutions for the issues that affect the Clyde.

The helpful briefing that Scottish Environment LINK supplied for the debate highlighted the Shetland Shellfish Management Organisation and said that LINK welcomes further detail on emerging management proposals and the potential to meet the distinct and complex needs of the Clyde fishery. The Scottish Government’s Clyde ecosystem review said that the Clyde could best be compared to

“used agricultural land in need of restoration”.

Clearly, that is not good enough—members will be on the same page on that. I welcome the work that is under way to provide a more sustainable solution.

The briefing from the Sustainable Inshore Fisheries Trust was also helpful. It highlights the

issues from which the Clyde suffers, which include an overdependence on shellfish—they make up 99 per cent of landings on the Clyde—damage to sea bed habitats and poor sea angling opportunities. The 2020 target to bring the Clyde back to good environmental status is welcome, and I am convinced that we will have a solution for everyone.

In July 2009, the Scottish Government published the report “Economic Impact of Recreational Sea Angling in Scotland”, which indicated that, across Scotland, sea angling is worth just over £140 million for the economy. That is despite what we know and have heard about the Clyde today. A healthier Clyde and a sustainable solution will bring even more recreational sea anglers to the Clyde’s shores, towns and villages, and I am sure that the economic benefit of £140 million will increase as a consequence.

I thank Kenneth Gibson for bringing the motion to the chamber.

17:47

Jamie McGrigor (Highlands and Islands) (Con): I declare an interest as an honorary vice president of the Clyde Fishermen’s Association.

I, too, congratulate Kenneth Gibson on securing today’s important debate and I am pleased to take part in it. I welcome to the public gallery a number of my constituents, including Mr and Mrs Tim James from Skipness, who are fishermen and fish smokers and who own the famous Creelers restaurant in Arran and the Skipness Seafood Cabin. I acknowledge the work that has been undertaken by the Sustainable Inshore Fisheries Trust, which in January hosted a useful briefing on the subject in the Parliament, and its desire to have a regulating order to manage the Clyde.

All members will agree that we want the Clyde to enjoy as good an environmental status as possible. That must be in everybody’s interest. The challenge that we face is how to achieve that status while allowing existing fishing activities to continue in a sustainable and appropriate manner. The marine strategy framework directive allows flexibility in its implementation to balance the interests of nature conservation and sustainable marine harvesting, which will be crucial.

I am very aware of the economic importance to the communities in Argyll of the prawn vessels that currently fish the Clyde waters. Those prawn boats have demonstrated that their impact on cod stocks is negligible. Creel fishing is also important, and artisanal local creel fisherman must be allowed to continue their business, but herein lies a problem.

About 10 years ago, in order to keep twin-rig trawls, trawl fishermen agreed for conservation

purposes to a weekend ban on trawling in the Clyde, whereupon an abundance of creel fishermen from everywhere pounced, and they probably caught just as many prawns, especially female breeding prawns, as the trawlers would have caught.

Where does that leave the artisanal local creel fisherman who plies his trade with a small boat and catches lobsters, crabs and prawns? Surely there must be local fish for local fishermen of that type rather than a free-for-all with big boats coming from Cornwall and elsewhere. In this Parliament, we all spend time calling for more jobs in rural areas. Local fish will produce those jobs.

Last year, Tarbert-based fisherman Kenny McNab, a past chairman of the Clyde Fishermen's Association, came to Parliament and gave a fascinating and enlightening presentation on some of the reasons for the decline in various demersal fish stocks in the Clyde since the 1950s that has led to the current dependence on the prawn fishery. Particular concerns were voiced about the accuracy and validity of some of the scientific data that are used to justify existing policies and restrictions in the Clyde area and about how such data are collected. I said at that time, and I repeat today, that it is vital that the Scottish Government, Marine Scotland and all their scientists at all levels work closely with the local fishermen as well as the other stakeholders so that their practical knowledge can combine with scientific evidence to make that evidence as reliable as possible in the interests of achieving sustainable fisheries and fishing communities in the Clyde.

The motion also mentions "recreational sea fishing". The Scottish Conservatives are positive about sea angling and the economic benefits that it can bring. Indeed, I have previously undertaken work with the Scottish Sea Angling Conservation Network and I commend its efforts. Other parts of my region, such as Orkney, offer world-class sea angling opportunities, and it would be fantastic to see those replicated in the Clyde once again, as well as a return of some of the demersal fish stocks to which I referred a few moments ago.

I welcome the focus on the Clyde and look forward to matters being progressed. We must seek to take all interests with us, including the fishermen who currently make their living from the Clyde, as we seek to improve the Clyde's biodiversity. There are positive lessons to be learned from the shellfish regulating order in Shetland, and I hope that those can be studied with a view to their possible use on the Clyde.

In the 1960s, as a sea angler, I used to go fishing from Tarbert with my mother and we quite happily caught a box of haddock, codling and whiting, which we took back and fed to the whole

village. I hope that such a thing can happen again one day.

17:52

Alison Johnstone (Lothian) (Green): I, too, thank those who have travelled from far afield, including those who have come from SIFT and COAST. I spent a very pleasant fortnight in the Creeler's cottage on Arran.

The speeches at the Sustainable Inshore Fisheries Trust's parliamentary reception last month struck a real chord with me. Mr Nick Ferguson, the chairman of SIFT's advisory group, described the collapse of the Firth of Clyde fisheries from sustained overexploitation. He described the collapse of angling and tourism and the huge decline in the number of boats heading out from his home village. He told us that 28 boats used to go out every day but that today there are only two or three. He also spoke about the depopulation of the towns and villages around the Firth of Clyde and about a population decrease in the tens of thousands. He described how, most evenings, there would be 10 or so boats out fishing for recreation in the Kyles, whereas now he might see one if he is lucky. He spoke about how the area was home to the biggest sea angling competition in Europe—a competition that has not happened for the past 25 years or so.

The Clyde is now described as
"a fishery of last resort."

The situation is bad, but SIFT and others believe that it is redeemable. In countries that have taken decisive action, stocks have recovered. We can take such action to return the Clyde to a vibrant, living ecosystem that reverses the trends that Mr Ferguson and others have eloquently described.

From the 1960s, boats with diesel engines, sonar fish finders and heavy trawl mesh have transformed fishing from a seasonal and modestly profitable living to a year-round and lucrative one. However, the herring became scarce, and then even bigger engines and new dredgers turned their attention to other species including cod, plaice and sole. Little thought was given to the long-term impacts of those practices.

Bit by bit, politicians removed what protection there was and opened up previously protected parts of the Clyde when the unprotected parts were fished out. In 1984, as Kenny Gibson noted, a ban on trawling within 3 nautical miles of the shore was lifted. It really does beggar belief.

However, the marine protected areas and the 2020 plan give us an opportunity to do things differently. I am delighted to be taking part in a debate that is driven by the work of concerned local people and local businessmen who live in

and understand the areas concerned, and who also understand the potential that exists for jobs to be created in recreational angling and tourism. I would like VisitScotland to get involved in the agenda to transform the Firth of Clyde and the areas around it.

What struck me about the SIFT recovery plan is that it is classic, practical Green thinking, in that it involves local control of resources and is based on a clear understanding that sustaining a healthy environment is the foundation that is needed for a healthy economy, for jobs, for people's wellbeing and for the wellbeing of the seas that sustain them. It is about an independent body that is led by local people, including traditional fishermen, being responsible for the area's best management, informed by independent science. It is about recognising the role that marine protected areas can play in the Clyde, supporting conservation and seeing the need for measures—such as the regulating order that is proposed—that can put the economics of the fisheries first.

We should all be very grateful to Kenny Gibson for bringing the debate to the Parliament. It is extremely pleasing that there is all-party support for what should not be a partisan issue, nor one on which people mistakenly believe that the interests of the environment and of the fishing industry should be at odds.

I would be grateful if the cabinet secretary could advise us when the three proposed marine protected areas in the Clyde will receive that designation and whether he is determined that the Clyde 2020 summit will provide the results that the Clyde desperately needs. I look forward to hearing his response, and I urge him to work with SIFT, COAST, the creelers and the Clyde Fishermen's Association, and to involve all such groups on an equal footing to other stakeholders. It will be tight to make progress by 2020, but we need to do so and, by working together, a good start can definitely be made.

17:57

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): I welcome Kenneth Gibson's motion and the opportunity to discuss Clyde 2020, which is the new programme to test and implement practical measures to restore the Clyde marine ecosystem. I pay tribute not only to Kenneth Gibson and the other members who, over the years in the Parliament, have promoted the Clyde at every opportunity, but to the many people in the public gallery and the others in local communities who, through tenacity and determination, have done so much to ensure that the future of the Clyde stays firmly on Scotland's agenda, the Parliament's agenda and, indeed, my agenda.

There is a great deal of interest in Scotland's marine environment. We have a rich marine biodiversity, and we are developing a new framework to manage our seas. The Clyde is no exception. In the past, programmes such as "Panorama" and publications such as *The Economist* have shown interest in it and, over the past few years, the future of the Clyde has risen up the agenda, as we have all noticed. That is one of the reasons why we are discussing Clyde 2020 tonight. Again, that is down in no small way to the efforts of those members of local communities who have championed the cause of the Clyde.

Clyde 2020 provides a new opportunity to create a better vision for the Clyde. I recently had the pleasure of speaking at an event here in the Parliament that was organised by Kenneth Gibson and SIFT, which was attended by a number of colleagues from all parties. At that event, I announced the Clyde 2020 stakeholder summit to develop a vision for the Clyde. Some key steps must be taken to achieve that vision, which I will talk about shortly.

As we have heard, the Firth of Clyde is a huge social, economic and environmental resource for Scotland. We all agree that the marine environment is a resource that must be protected. Members should believe me when I say that I am very committed to working with stakeholders to improve the Clyde ecosystem through the Clyde 2020 initiative. That will involve bringing together marine planning, environmental and fisheries interests, and underpinning action in those areas with new scientific studies.

Through recent scientific studies, including a report by Marine Scotland science, we have increased our knowledge of the Clyde ecosystem and how it has changed over time. We made the Marine Scotland science study available to stakeholders when it was published in 2012. Since then, our scientists have continued to work in collaboration with others to ensure that we have the best available knowledge. That work, combined with management tools such as the Marine (Scotland) Act 2010 and our first marine plan—many members have referred to those—and the proposals on marine protected areas, to which Alison Johnstone just referred, will provide a new framework for managing and improving the marine environments on the Clyde.

Voluntary measures, including the planning pilot on the Clyde, led by the Firth of Clyde forum, and statutory regional plans also provide an opportunity to complement and implement the EU marine strategy framework directive to achieve good environmental status at the north-east Atlantic scale. Clyde 2020, regional marine planning and the framework directive will assist in achieving a healthy Clyde ecosystem by 2020. I

am confident that that will happen if we all work together and address many of the issues to which members have referred.

Community organisations and individuals continue to provide views on and support for new initiatives in the Clyde, such as the protected areas and the proposed improvements in fisheries management that are being discussed. For example, the Community of Arran Seabed Trust developed protected area proposals for Lamlash bay and more recently for the sea around south Arran. I assure Kenneth Gibson, in response to his earlier comment, that the Scottish Government very much recognises the good story that can be told in the Lamlash bay area. Of course, I hope that it will be told in the future for the wider sea around south Arran. We recognise that there is a good story to tell and that we have to build on it.

The sea around Arran is productive and rich in biodiversity, and it supports communities both on and off the island. Visitors from home and abroad come to the island to enjoy the rich wildlife, while fishermen continue to work those areas to support their families. As we have heard from members, there are restaurants in Arran that serve fantastic local seafood. Given the island's attributes, I feel that I am talking myself into a family holiday on Arran in the near future. I have been there on business a few times in the past few years, but I really should go for a holiday there and enjoy the seafood and the rich wildlife.

The MPA proposals in particular will help maintain a healthy sea for the future so that we can continue to enjoy its benefits. Stakeholder engagement must be at the heart of that. For healthy seas, we need healthy fish stocks, and stakeholder engagement will be key to building sustainable fisheries management. Fishing is an important part of the economy and the ecosystem. It is important to many coastal communities around Scotland, including those located around the Clyde, which is why we must support sustainable fisheries in Scottish waters. They provide economic and social benefits, and support local services. All the benefits that Jamie McGrigor and others referred to in their speeches are very important for the more remote and fragile communities in parts of this country.

We need to ensure that fishing is sustainable and that there is access to fishing grounds. We must also consider how best to share the marine environment with other users. In particular, I want to build on the inshore fisheries strategy. I look forward to working with fishermen and other stakeholders, including those on the Clyde, to ensure that we have a sustainable and profitable inshore sector. This is a pivotal year for inshore fisheries. At the upcoming inshore fisheries conference in Perth on 28 March, I will reflect on

the progress that we have made over the past 12 months since the last conference and set out my priorities for the coming year. The Clyde will be an important element of our discussions at that event. Again, I hope that members from all parties and the local communities recognise that the issue of inshore fisheries is rising up the Government's agenda.

I believe that there is consensus on the value of a healthy Clyde ecosystem. We are lucky in having a breadth of expertise available. Clyde 2020 focuses on the ecosystem, including commercial and recreational fisheries, to which members have referred, but will also include the social and economic interests that depend on and derive benefit from the Clyde. I very much recognise that we need to work together to identify what further action is required to support the regeneration of the Clyde ecosystem. We need to recognise that action is on-going and work smartly to better co-ordinate and build on existing efforts.

That is what the new Clyde 2020 programme sets out to achieve. Marine Scotland, in partnership with the Firth of Clyde forum, will hold a stakeholder summit on Clyde 2020 in Glasgow on 23 April to develop a vision for the Clyde and the key steps to achieving that vision. We will all get together on 23 April and discuss many of the issues that have been raised in the chamber tonight, thanks to Kenneth Gibson's motion; we will work out how to take forward those issues and plot a course to achieving good environmental status by 2020.

Many people have an interest in the future of the Clyde, including people in the public gallery and MSPs in the chamber. It will not be easy and there will be many tough subjects to discuss, but I hope that we can reach consensus on many of the subjects and move forward. However, more than ever before, the future of the Clyde is much higher up the Parliament's agenda and the Government's agenda. Of course, it is all about the local communities' agenda as well, because we want to support our local communities and give them a say in the future of the Clyde. I am confident that through the Clyde 2020 process we will achieve that.

I commend Kenneth Gibson's motion to Parliament, which is playing a key role in keeping this issue on all our agendas as we take forward a healthy ecosystem in the Clyde.

Meeting closed at 18:05.

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