

MEETING OF THE PARLIAMENT

Thursday 25 January 2007

Session 2

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Scottish Parliament

Thursday 25 January 2007

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

Business Motion

The Deputy Presiding Officer (Murray Tosh): Good morning. The first item of business is consideration of business motion S2M-5464, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Crofting Reform etc Bill. I call on Alasdair Morgan from the bureau to move the motion.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Crofting Reform etc. 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 the 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 5: 55 minutes

Groups 6 and 7: 1 hour 15 minutes

Groups 8 to 11: 1 hour 35 minutes.—[*Alasdair Morgan.*]

Motion agreed to.

Crofting Reform etc Bill: Stage 3

09:16

The Deputy Presiding Officer (Murray Tosh): The next item of business is stage 3 consideration of the Crofting Reform etc Bill. In dealing with the amendments, members should have with them the bill as amended at stage 2, which is SP bill 57A, the marshalled list, which contains the amendments that I have selected for debate, a supplement to the marshalled list, which is printed on pink paper and contains manuscript amendments that were lodged yesterday, and the revised groupings that have been agreed. For the first division on an amendment, the division bell will sound and proceedings will be suspended for five minutes. The period of voting for the first division will be 30 seconds.

Section 2—Discharge of functions

The Deputy Presiding Officer: The first group of amendments is on the discharge of functions of the Crofters Commission. Amendment 26, in the name of Maureen Macmillan, is the only amendment in the group.

Maureen Macmillan (Highlands and Islands) (Lab): Amendment 26 would reinsert an important phrase that appears in previous crofting legislation, such as the Crofters (Scotland) Act 1993. The phrase was removed from the bill when sections of the bill that dealt with the role and restructuring of the Crofters Commission were deleted at stage 2. The Environment and Rural Development Committee requested the removal of those sections to address concerns that many crofters had expressed to it and so that a committee of inquiry could be set up to consider the future role and structure of the Crofters Commission.

Crofters are concerned that the removal of the requirement for the commission to

“have regard to local circumstances and conditions”

will prevent, until the inquiry’s recommendations pass into law, the flexibility in regulation that is necessary for different types of crofting community and different types of crofting and family circumstances. I seek an assurance from the minister that flexibility will be exercised in a manner similar to the way in which it has been exercised previously and that it will not be laid aside for the duration of the inquiry. The matter is of great importance to the crofting community.

I move amendment 26.

Rob Gibson (Highlands and Islands) (SNP): I support amendment 26. I realise from my visits to crofting communities and from the evidence that

the communities gave us that sensitivity by the commission is important. The current regime in Inverness wants to pick up local issues in a more focused way than they have been picked up in recent years. Amendment 26 underlines that approach and would give our blessing to the commission trying to deal with the worst abuses that may occur before the inquiry reaches its overall views.

The Minister for Environment and Rural Development (Ross Finnie): Before I speak to amendment 26, I want to apologise to the Presiding Officer and to members for the late lodging of manuscript amendments yesterday. The late lodging of manuscript amendments always causes concern, which is understandable. Unfortunately, following stage 2, during which a large number of amendments were lodged, the process of ensuring that the sections were renumbered and contextualised was not properly completed. That was picked up at a rather late date. However, I assure members that none of the amendments in question has any policy implications whatsoever; they are entirely directed at ensuring that the numbering and contextualising of amended sections is correct. I apologise for the matter being picked up so late.

I fully understand the issue that Maureen Macmillan has raised, and sympathise with her. As she said, the 1993 act provides for ministers only to give general directions to the commission. It is clear that the intention of amendment 26 is to address criticisms that may possibly arise that ministers are not setting clear priorities. I think that that is what Rob Gibson was getting at.

The bill sets out the functions that the commission must discharge and how it must discharge them. The discharge of those functions may be varied by general or specific directions from Scottish ministers. Adding words that would further qualify how the commission should discharge its functions would not improve the clarity or precision of the provision on the discharge of functions; rather, there would be a risk of diluting or compromising the intention of the provision. In other words, it would be difficult to leave in the words

“have regard to local circumstances and conditions”

if they follow the words

“directions of a ... specific character”.

Their effect would be to dilute the specific nature of ministerial directions.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): If the minister is arguing that ministers will have the power to give

“directions of a general or specific character”

and that, in carrying out its functions, the commission shall have regard to local circumstances and conditions, will he give such directions?

Ross Finnie: I was coming to the undertaking on that matter. If the words in question were added to section 2, they would qualify how the commission should discharge its functions. We should consider the range of functions that are specified elsewhere in the bill.

On whether circumstances will arise in which such directions will be given, if local circumstances are the key issue, they will undoubtedly form part of any ministerial direction. Therefore, I see no reason why ministers could not, when giving the commission a general or specific direction following the enactment of the bill, require that the direction be carried out with regard to local circumstances and conditions if that proves to be necessary and appropriate. That said, it would be difficult for the commission to regulate without having regard to local circumstances, as each regulatory case throws up different local issues and concerns.

I ask Maureen Macmillan not to press amendment 26; if she presses the amendment, I ask the Parliament to resist it.

Maureen Macmillan: I take comfort from what the minister said, but emphasise that the eyes of crofters will now be on him to ensure that there is flexibility. I seek to withdraw amendment 26 as a result of the reassurances that I have been given.

Amendment 26, by agreement, withdrawn.

After section 2

The Deputy Presiding Officer: Group 2 is on town and country planning. Amendment 39, in the name of John Farquhar Munro, is grouped with amendment 40.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Amendment 39 was lodged to ensure that Maureen Macmillan's amendment 26 would be strengthened as a result of support for amendment 39.

As we have heard, it is hoped that the bill will ensure that the Crofters Commission will be a statutory consultee on planning applications that affect croft ground.

I suggest in amendment 39 that, in its response to a planning authority, the commission should have

“a presumption against the development of croft land which appears ... to be capable of agricultural use”—

that is, either cultivation or agricultural production.

As members appreciate, the definition of croft land is complex. In simple terms, croft land, with certain exceptions, includes all inby land pertaining to a croft, but specifically excludes that area of ground under crofting tenure that is classified and registered as common grazings. That being the case, my amendment 39 seeks to protect the remaining areas of croft land that are considered capable of appropriate agricultural development. The amendment would give the Crofters Commission the opportunity to make representations on any application that affects croft ground.

Amendment 40 is in a similar vein. It is designed to apply in much the same way as amendment 39, except that it deals with the local development plan. Amendment 40 is intended to protect croft land that is incorporated in a local development plan under the Town and Country Planning (Scotland) Act 1997. The main strategy set out in the amendment is a proposal that

“there be no development of croft land”

unless proposed new section 264B(3) of the 1997 act applies. Proposed new subsection (3) would allow planning authorities that

“are satisfied that it would be in the public or community interest to permit the development ... of specified croft land.”

Proposed new subsection (4) clarifies the term “croft land”, and paragraphs (a), (b) and (c) of proposed new subsection (4) list exemptions, such as the site of the croft house, the common grazings and

“mines, metals or minerals or salmon fishings ... pertaining to the croft.”

Amendments 39 and 40 are designed to protect the remaining areas of arable croft ground for generations to come.

I move amendment 39.

Maureen Macmillan: I have great sympathy with John Farquhar Munro’s amendments. It is absolutely crucial that we get the planning situation right. I do not know whether he is aware that the Environment and Rural Development Committee received a letter from the Deputy Minister for Communities on 11 January, in which it was made clear that the Crofters Commission would become a consultee. The deputy minister said:

“The most appropriate stage at which the issue of protecting croft land from development should be addressed is during the course of preparing the local plan.”

He went on to say that the Executive would

“work with the Crofters Commission in coming to a view on its most appropriate role within the planning system.”

Although that gives us great comfort, it is also up to the Crofters Commission to do its duty. There is no use in its being a statutory consultee if what comes out at the end of the consultation is a laissez-faire attitude.

I do not know whether it is appropriate to include in the bill the terms that John Farquhar Munro proposes, but I will be interested to hear what the minister has to say about the amendments.

09:30

Rob Gibson: John Farquhar Munro raises an issue that is at the heart of the Highlands problem—the provision of affordable housing in crofting areas in a way that does not, through village plans, take crofting land away, with the best land used for building houses. It is an unacceptable use of land in the Highlands to build housing that looks like Brookside on croft land that could be used for crofting, given that we are thinking about producing more food locally and seeing a potential upturn in crofting.

We must take on board John Farquhar Munro’s arguments. His amendments flag up the fact that the Parliament is not content about more good agricultural land being taken away for housing. I do not know whether the member for the Western Isles is present, but if this debate was taking place in committee, he would point out that in the Western Isles, developing housing on common grazings is one of the best means of providing affordable housing. As he is not here, I make the point. Committee members realised that we must have such amendments to allow affordable housing to be built and to protect good land. We have great pleasure in supporting John Farquhar Munro’s amendments 39 and 40.

The Deputy Minister for Environment and Rural Development (Sarah Boyack): I am well aware of John Farquhar Munro’s strong interest in clarifying the relationship between planning and crofting law and I hope to reassure him on some points this morning.

The intention of amendment 39 seems to be that the Crofters Commission should make representations to planning authorities to prevent croft land that is capable of agricultural use from being developed. The wording of the amendment suggests that protecting land that is capable of agricultural use should be the commission’s only concern in relation to planning consultations. According to the amendment, the commission would have no other obligations or interests in planning consultations, even though crofters and crofting communities might have wider interests in a planning matter that is under consideration.

Amendment 40 is unnecessary. It seeks to require a planning authority to include a provision

in the local development plan that there should be no development of croft land unless it considers that the development is

“in the public or community interest”.

The concept of public or community interest is broad. When a local authority formulates a detailed statement of its proposals as to the development of land, it is clear that it will need to consider the public and community interest, irrespective of whether the land in question is croft land. There is no need to make the amendment to the Town and Country Planning (Scotland) Act 1997 that John Farquhar Munro proposes. At best, the amendment would only make explicit an existing fundamental principle of planning policy.

Maureen Macmillan rightly referred to the debates that we had at stage 2, including a debate on the relationship between the Crofters Commission and planning. At that stage, John Farquhar Munro lodged a series of amendments whose intention was to prescribe that the Crofters Commission should respond to planning and development matters. His amendments sought to prevent better quality croft land from being removed from agricultural use, and they related to concerns about the development of and speculation in croft land. Through the amendments, he sought to give the Crofters Commission, rather than the local planning authority, the final say over whether croft land should be released for development.

At the time, John Farquhar Munro was assured publicly and formally by the former deputy minister, Rhona Brankin, and the then Deputy Minister for Communities, Johann Lamont, that when the secondary legislation associated with the Planning etc (Scotland) Bill was considered, the possibility of defining the Crofters Commission as a statutory consultee would also be considered. Consideration will also be given to the evidence submitted to the Environment and Rural Development Committee and the debates at stage 2.

Rob Gibson made an absolutely vital point about the need to ensure that we identify sufficient land for housing in our rural communities. The best way to do that is to ensure that, in the secondary legislation created under the Planning etc (Scotland) Act 2006, the Crofters Commission is involved in contributing to the shape of local authorities' development plans. That will bring together two key objectives and ensure that we have an effective way of considering adequately and reflecting crofting issues and concerns in local planning policies for the crofting communities.

John Farquhar Munro: As I said, the aim and objective of my amendments is to protect good-quality croft land and, as a consequence, the

communities that depend on that land. The amendments would not block developments that were in the overall interests of the crofting community. They would, however, prevent individuals from developing some of the better-quality croft land, which is scarce. Such developments destroy an important agricultural asset that is needed by the larger crofting community now and for generations to come. Good-quality agricultural land is in very short supply in the crofting counties. Too much has already been lost, much of it in recent years.

I stress that my amendments would not prevent development of common grazing land, which is of much poorer quality. As any visitor to the Highlands will know and appreciate, an abundance of it is available for development. I suggest that the Parliament support amendments 39 and 40, and I hope that it will.

The Deputy Presiding Officer: The question is, that amendment 39 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. I suspend the meeting for five minutes.

09:35

Meeting suspended.

09:40

On resuming—

The Deputy Presiding Officer: We will proceed with the division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fox, Colin (Lothians) (SSP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)

Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)

Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 45, Against 55, Abstentions 0.

Amendment 39 disagreed to.

Section 10—New crofts

The Deputy Presiding Officer: Group 3 is on amendments consequential on stage 2 amendments. Amendment 42, in the name of the minister, is grouped with amendments 43, 6 and 44 to 50.

Sarah Boyack: At stage 2, Maureen Macmillan lodged an amendment that proposed the same provisions as are contained in amendment 6, but unfortunately it was not moved at the appropriate time. Amendment 6 is a consequential drafting amendment; it is required as a result of the decision to leave out section 8 of the bill. It removes the reference to a new section—section 41A—of the Crofters (Scotland) Act 1993, which section 8 would have inserted.

The proposals in section 8, which would have involved the Crofters Commission requiring crofters to incur charges, proved deeply unpopular during the consultation period and with the Environment and Rural Development Committee. As a result, section 8, which required the provision of maps by crofters and allowed the commission to charge fees in connection with the maintenance of the register of crofts, was deleted at stage 2. Members therefore need to agree to amendment 6.

Amendments 42 to 50 all make technical changes that should have been made in consequential amendments at stage 2. The amendments are necessary because the existing cross-references relate to the position before substantial amendments were made at stage 2 to section 37, which inserts proposed new section 52A into the 1993 act. The amendments create accurate cross-references to the provisions of proposed new section 52A.

I move amendment 42.

Amendment 42 agreed to.

Amendment 43 moved—[Sarah Boyack]—and agreed to.

09:45

The Deputy Presiding Officer: Group 4 is on new crofts. Amendment 28, in the name of Ted Brocklebank, is grouped with amendments 29 to 31, 5 and 32.

Mr Ted Brocklebank (Mid Scotland and Fife)

(Con): The purpose of my amendments—particularly amendments 28 to 31—is to ensure that the interests of the landlord are taken into account when a small landholder applies for crofting status. For example, in our view it would be wholly unacceptable for an owner to have to rely on the public notification scheme to become aware that part of his property was to be turned into a croft. My amendments would ensure that, as a basic right, the owner would be notified directly of the application. To me, that seems only reasonable.

I turn to amendment 32. Section 10 brings on to the political agenda the absolute right to buy back farm land. Understandably, landowners fear that traditional agricultural tenants will seek the same right to buy as their small landholder neighbours. As we all know, there are already many issues that work against the freeing up of land to enable young people to go into farming, and I am worried that section 10 will exacerbate an already serious situation.

In the evidence-taking sessions at stage 1, a number of crofting interests made it clear that an absolute right to buy would be detrimental to the establishment of new crofts. Amendment 32 would ensure that the crofter's right to buy croft land would not apply to new crofts that were created, but the right to buy the house and garden would remain. That would mirror what will happen when crofts are voluntarily created in any other part of Scotland and create a level playing field for all new crofts. The provision is necessary to help prevent further destabilisation of the let land market. I urge members to support amendment 32.

I move amendment 28.

Ross Finnie: Ted Brocklebank is concerned about notification to landlords. I do not think that we are going to agree about that. The structure and context of the bill make his proposal unnecessary. In cases in which the tenant of a smallholding wishes to convert the holding to crofting tenure, the landlord will be engaged in the process at the outset, when the tenant applies to the Scottish Land Court for a certificate. The court would not grant such a certificate without first seeking evidence from the landlord. An application to change the status of the holding cannot be made until the certificate has been obtained, so the application can be expected to follow the granting of the certificate. In my opinion, therefore, direct notification to the landlord is not required for them to be aware of the application.

Amendment 30 proposes a further notification process, but the Crofters Commission will be unable to make a determination until it is satisfied that the conditions in the sections to which Mr Brocklebank referred—particularly proposed new

sections 3A(10) and 3A(11) of the Crofters (Scotland) Act 1993—have been met. The commission can be satisfied only if it has consulted the landlord. It will not be able to give effect to the determination until the tenant has either negotiated with the landlord the amount of compensation—if any—that is payable or arranged for that sum to be determined by the Land Court. I see no need for the additional notification that Ted Brocklebank proposes.

Amendment 31 would require the commission to have regard to the landowner's interests in determining whether any land should become croft land. Again, we see no need for that. Proposed new section 3A(7)(a) of the 1993 act already provides that the commission shall have regard to comments that are made in response to the public notification. That makes it clear that the commission must have regard to the landlord's interest.

Amendment 32, however, is different. For tenants of smallholdings that have been converted into crofts, the amendment seeks to restrict the crofter's right to buy to the right to buy the house and garden ground. That is counter to the policy intention on small landholdings in section 10, which is to give small landholders access to the full rights of crofters.

At stage 2, Rob Gibson lodged an amendment that proposed to give the Crofters Commission the discretion to allow amalgamated small landholdings of 30 hectares or more to be designated as crofts. My then deputy, Rhona Brankin, argued that that amendment would create unnecessary bureaucracy but stated that there might be an argument for the intent behind it. We said that we would consider the underlying issue. We have done that, and our amendment 5 proposes the removal of the 30-hectare limit. If it was retained on a discretionary basis, that would make any case that arose more complicated. The removal of the limit will ensure that the tenants of holdings in designated areas have access to a right to buy, either through transition to crofting tenure or as tenants of agricultural holdings.

I invite the Parliament to agree to amendment 5 and to resist the other amendments in the group.

Rob Gibson: I am delighted that, following the discussion at stage 2, the minister has lodged amendment 5. It is the final piece in the jigsaw that will allow the small landholders of Arran—and Arran Estates in particular—to come into the crofting system. They will have the opportunities to develop and improve their holdings that are already open to the holders of owner-occupied properties next door. If they wish to go down that route, so be it. Small landholders were missed out of the land reform legislation in the previous session of Parliament, so I am glad that the

anomaly has been rectified at last. This is a great day for those people in Arran, who will be able to move on.

On the rearguard action by the Scottish Landowners Federation, which is more Lord Brockett than Ted Brocklebank, we must ensure that people who have faced the disadvantages of being small landholders now receive courtesy from the Crofters Commission, rather than the non-courtesy that they experienced from their landowners for many years. To accept what Ted Brocklebank says on the matter would be a travesty. I have great pleasure in supporting amendment 5 and opposing the five other amendments in the group.

Mr Brocklebank: Notwithstanding what has been said, I believe that equity should be exercised. Since 1883, the relationship between landholders and crofters has been a complex, tortuous and sometimes difficult one. Broadly speaking, however, equity has been achieved overall, and through my amendments I seek to ensure that that equity is retained. I do not accept the thrust of the arguments from the minister and the SNP, so I will press amendment 28.

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

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)

Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)

Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 15, Against 87, Abstentions 0.

Amendment 28 disagreed to.

Amendments 29 to 31 not moved.

Amendment 5 moved—[Ross Finnie]—and agreed to.

Amendment 32 moved—[Mr Ted Brocklebank].

The Deputy Presiding Officer: The question is, that amendment 32 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Brownlee, Derek (South of Scotland) (Con)
Byrne, Ms Rosemary (South of Scotland) (Sol)
Davidson, Mr David (North East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Johnstone, Alex (North East Scotland) (Con)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McLetchie, David (Edinburgh Pentlands) (Con)
Milne, Mrs Nanette (North East Scotland) (Con)
Mitchell, Margaret (Central Scotland) (Con)
Petrie, Dave (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Curran, Frances (West of Scotland) (SSP)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Finnie, Ross (West of Scotland) (LD)
Fox, Colin (Lothians) (SSP)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)

Home Robertson, John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Leckie, Carolyn (Central Scotland) (SSP)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (Moray) (SNP)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
May, Christine (Central Fife) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McFee, Mr Bruce (West of Scotland) (SNP)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morgan, Alasdair (South of Scotland) (SNP)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
Radcliffe, Nora (Gordon) (LD)
Robison, Shona (Dundee East) (SNP)
Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
Scott, Eleanor (Highlands and Islands) (Green)
Scott, Tavish (Shetland) (LD)
Smith, Iain (North East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stevenson, Stewart (Banff and Buchan) (SNP)
Swinburne, John (Central Scotland) (SSCUP)
Swinney, Mr John (North Tayside) (SNP)
Wallace, Mr Jim (Orkney) (LD)
Welsh, Mr Andrew (Angus) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 16, Against 85, Abstentions 0.

Amendment 32 disagreed to.

Section 11—The statutory conditions

The Deputy Presiding Officer: Group 5 is on the statutory conditions. Amendment 33, in the name of Maureen Macmillan, is the only amendment in the group.

Maureen Macmillan: Amendment 33 seeks to ensure that a crofter who neglects his or her croft, for example by not draining it or by allowing nettles

or whins to grow, will not have that neglect legitimised by section 11. To some people, the provision on refraining from activity for the purpose of conserving natural beauty could be a licence to do nothing with a croft, which would lead to its becoming degraded. Amendment 33 would add the qualification that, to use that provision, the crofter would have to be acting, or refraining from acting, on the advice of a conservation body. At the very least, I seek assurance from the minister that the sly or the cynical will not be able to use section 11 to circumvent a charge of neglect.

I move amendment 33.

Ross Finnie: I am sympathetic to Maureen Macmillan's point in amendment 33, but we must consider what would happen in the situation that she described. If steps were taken to remove a crofter for breach of the statutory conditions under section 5 of the Crofters (Scotland) Act 1993, the crofter could respond to the challenge by arguing that he or she was using the croft to conserve the natural beauty of the locality of the croft, or the flora and fauna of that locality. That opportunity will be afforded to crofters by virtue of an amendment to the 1993 act under section 11 of the bill. To support that assertion, the crofter would need to persuade the Scottish Land Court that the purpose of engaging in certain activity—or, as Maureen Macmillan said, of refraining from activity—on the croft was to conserve the natural beauty of the locality, or the flora and fauna. The crofter would need to support that assertion with evidence, such as a demonstration that he or she was participating in a formal conservation programme or had agreed conservation measures as part of a land management contract, or proof that they had taken advice on conservation measures on the croft. The same situation will apply when a complaint is made to the Crofters Commission under proposed new section 5A of the 1993 act about breach of statutory conditions.

Therefore, it will not be possible for the sly or the sleekit—I cannot remember the exact phrase that Maureen Macmillan used, but it was something similar to that—to squeeze through a loophole in the provisions in the 1993 act and the bill. I invite Maureen Macmillan to seek to withdraw amendment 33. If she does not, I invite Parliament to resist it.

Maureen Macmillan: I thank the minister for those assurances. It is important to have them on the record so that people know exactly what section 11 means, and that they cannot get away with doing nothing and then pleading that they were carrying out nature conservation. I seek leave to withdraw amendment 33.

Amendment 33, by agreement, withdrawn.

Section 14—Division of croft

Amendment 6 moved—[Ross Finnie]—and agreed to.

Section 17—Bequest of tenancy of croft

Amendment 44 moved—[Ross Finnie]—and agreed to.

After section 17

The Deputy Presiding Officer: Group 6 is on consideration payable in respect of the acquisition of croft land. Amendment 34, in the name of Ted Brocklebank, is the only amendment in the group.

Mr Brocklebank: Agreement to amendment 34 would result in an extremely important amendment to the Crofters (Scotland) Act 1993, so I urge all members to support it, again in the interests of fair play and equity. The 1993 act replicates provisions in the Crofting Reform (Scotland) Act 1976 that introduced a clawback measure in relation to the exercise of a crofter's right to buy croft land. The intention was that if a crofter who had exercised the right to buy then sold the croft within five years, the uplift in value would be shared with the landlord. That was equitable, given that the intention was that the crofter or his family would be able to buy croft land to continue working it as a croft and that, in recognition of that, a nominal sum was payable to the landlord.

10:00

The legislation also entitled the crofter, when exercising his right to buy, to have a nominee take title rather than himself. The parliamentary intention, which is clear from the *Hansard* reports from when the proposals were considered, was that the nominee was expected usually to be a family member and that no money would pass between the crofter and his nominee. Rather, the provision was a way of enabling the next generation to take over a croft without having to pay the clawback. It is therefore regrettable that, since that time, the legislation has been abused by some who have seen fit to use the nominee provision to effect a sub-sale, generally to a developer and for an extremely generous profit, while avoiding the clawback provisions. Such practice is totally contrary to the preservation of traditional crofting in the crofting counties and has helped to fuel the speculation in croft land, which is a great concern today.

The practice has also created a hugely inequitable situation for landowners, as their property can be removed involuntarily at hugely discounted prices only for them to see it lost to developers without proper compensation. Amendment 34 would go some way finally to resolving that unfair anomaly by closing the

loophole by which a nominee other than a family member can avoid the clawback procedures.

I have pleasure in moving amendment 34.

Rob Gibson: Parliament should know that Ted Brocklebank's proposed amendment to the clawback procedure would change the way in which the 1976 act was altered by a judgment in a court case that is known as the Kinlochewe judgment. The altruism of the people who made that case and won it allowed an old couple to get a house on a croft without having to pay the landlord the share that was required under the 1976 act. The wording of the act was challenged in court and was found to be defective. Fortunately, the landlord, who had evicted the old couple from a tied house, was not compensated for the house that was built for them on the croft of my friends, as they had nowhere to go. They would have spent the rest of their lives looking for somewhere to live in their area unless someone had come up with a home.

The procedure has worked in altruistic ways. Crofters told the Environment and Rural Development Committee in evidence that they do not want the legislation on that matter to be altered and that they do not think that it is at the root of the commercialisation of crofts. Ted Brocklebank's amendment 34 is an attempt to turn the clock back to the bad old days before the Kinlochewe judgment, so I urge Parliament to reject it.

Ross Finnie: The matter is simple: no matter how Ted Brocklebank dresses up amendment 34, it actually tries to fetter the rights of individual crofters to determine and decide their personal affairs and instead have someone else dictate to them how they should arrange those affairs. As Rob Gibson said, amendment 34 would turn the clock back a long way, so I invite Parliament to resist it.

Mr Brocklebank: I am sure that it will come as no surprise to the minister or to Rob Gibson and the SNP that I reject their arguments totally. I believe that we are seeing a process that will result in inequality in the relationship between landholders and crofters. I will press amendment 34.

The Deputy Presiding Officer (Trish Godman): The question is, that amendment 34 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)

Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
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 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fox, Colin (Lothians) (SSP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Hyslop, Fiona (Lothians) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Leckie, Carolyn (Central Scotland) (SSP)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)

McFee, Mr Bruce (West of Scotland) (SNP)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinburne, John (Central Scotland) (SSCUP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 16, Against 87, Abstentions 0.

Amendment 34 disagreed to.

Section 20—Transfer of tenancy of croft by executor: special provision relating to the 1993 Act

Amendment 45 moved—[Ross Finnie]—and agreed to.

Section 24—Reorganisation schemes

Amendments 46 and 47 moved—[Ross Finnie]—and agreed to.

Section 27—Decrofting

Amendments 48 and 49 moved—[Ross Finnie]—and agreed to.

Section 30—Use of common grazing

The Deputy Presiding Officer: Group 7 is on the use of common grazing for other purposes. Amendment 35, in the name of Ted Brocklebank, is grouped with amendments 7 to 11, 36 and 37.

Mr Brocklebank: I very much welcome amendment 7, in the name of the minister, which will introduce a right of objection. Amendment 7 echoes an amendment that I lodged at stage 2. I am glad that the minister has seen the logic of including such a provision in the bill. However, further redrafting is necessary to ensure that the

bill will in no way damage harmonious relations between crofters and landlords, and that it treats all parties fairly.

Amendment 35 seeks to ensure that the views of the owner will be properly heard and considered. Amendment 37 and the consequential amendment 36 go slightly further and will simply ensure that an owner is compensated for any work that has been carried out on their land between the time when a decision was approved and when it was subsequently varied or withdrawn. The amendments will in no way prevent reasonable alternative uses of common grazings, but they will be crucial to furthering on-going co-operation between landowners and crofters on a fair and equitable basis. The undermining of that co-operation would be detrimental in the extreme.

I move amendment 35.

Sarah Boyack: As Ted Brocklebank suggests, ministers agreed—in response to amendments that were lodged and withdrawn by Ted Brocklebank at stage 2—that the Executive would look again at the provisions in section 30 and lodge amendments to clarify the right to object to proposals for new uses of common grazings.

Amendments 7 to 11, taken together, will create a comprehensive right to object—the same right that applies to other regulatory decisions that are taken by the Crofters Commission. That right is available to the landlord, the crofters and the members of the crofting community. In our view, amendment 35, which is intended to create a right to object for the landlord, is superseded by amendments 7 to 11.

Amendment 36 is consequential on amendment 37. Amendment 37 reflects concerns that a new use for grazings might come to an end, requiring work to restore them to their previous use, or that grazings could be permanently changed and lose value as a consequence.

Amendment 37 is the same as one that was withdrawn at stage 2. It is founded on two misconceptions. The first is that the alternative use would be by one individual. However, that is not the case. Proposed new section 50B of the Crofters (Scotland) Act 1993 is intended to allow for alternative use by all those who hold grazings shares, either collectively or individually. The second misconception is that new section 50B would allow development on grazings and that it would be possible to start such development but then not finish it, leaving the owner with loss of value or remediation costs.

During our stage 2 debates, Rhona Brankin explained why new uses of common grazings would be unlikely to involve physical development and why, if they did, the fears that underlie Ted Brocklebank's amendments would not materialise.

Rhona Brankin explained that the owner's right to resume use of the land would remain. That would make it difficult to borrow to finance development because, if the owner resumed use of the land, the price that would be payable on resumption might amount to no more than half the development value.

Rhona Brankin also said that, in the event of a physical development's being proposed, planning controls should deal with restoration and remediation issues. New section 50B(9) of the 1993 act will allow the Crofters Commission to set conditions to require restoration where an approved new use ceases.

In addition, I stress that new section 50B(2) of the 1993 act will provide that a new use must not be detrimental to the interests of the owner. A use that could result in a loss of value or a need for remediation at the owner's expense would clearly be detrimental and could not be permitted.

I invite Parliament to reject amendments 35 to 37, and to support amendments 7 to 11.

Mr Brocklebank: I am grateful to the minister for her further explanation. I will certainly take what she has said into account and I will not seek to press amendment 35.

Amendment 35, by agreement, withdrawn.

Amendments 7 to 11 moved—[Sarah Boyack]—and agreed to.

Amendments 36 and 37 not moved.

Section 31—New common grazing

Amendment 50 moved—[Ross Finnie]—and agreed to.

After section 34

Amendment 40 moved—[John Farquhar Munro].

The Deputy Presiding Officer: The question is, that amendment 40, in the name of John Farquhar Munro, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Baird, Shiona (North East Scotland) (Green)
 Ballance, Chris (South of Scotland) (Green)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Frances (West of Scotland) (SSP)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)

Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Leckie, Carolyn (Central Scotland) (SSP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Petrie, Dave (Highlands and Islands) (Con)
 Robison, Shona (Dundee East) (SNP)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)

May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Wallace, Mr Jim (Orkney) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 44, Against 58, Abstentions 0.

Amendment 40 disagreed to.

Section 35—Crofting community right to buy

The Deputy Presiding Officer: Group 8 is on crofting community right to buy. Amendment 12, in the name of the minister, is grouped with amendments 41, 13 to 16 and 19 to 25.

Ross Finnie: Amendments 12 to 14, 16, 19 and 22 to 25 are relatively minor adjustments to the substantial package of complicated amendments to section 35 that were agreed to at stage 2. They are required in order fully to deliver the policy—namely, that the crofting community body will be able to acquire tenants' interests in leases, but only the part of the lease that coincides with the croft land and not any portion of the lease that extends beyond the croft land.

The amendments provide for amendment to the Land Reform (Scotland) Act 2003 to cover the situation in which the crofting community body is acquiring a tenancy that has been created partially over eligible croft land and partially over other land. Only the interest in the eligible croft land can be acquired. If there is a sublease, the tenant—being the landlord under that sublease—who has been bought out will remain as landlord in respect of the non-eligible land, and the crofting community body will become the landlord in respect of the eligible land.

Proposed new section 88A of the 2003 act provides for the allocation by a valuer of the rights and obligations under the sublease between the two landlords. The principal obligation will be the rent. The valuer's determination can be appealed to the Scottish Land Court. As part of that package, the term "the interest of the tenant" will replace references to "the real right of the tenant",

which will ensure that all relevant leases and not just those that are recorded in the register of sasines or registered in the land register of Scotland will be subject to the provisions. The reference had to be changed in a significant number of places in the bill, but in the reprint of the bill after stage 2 one reference was inadvertently omitted. Amendment 20 is therefore necessary to ensure consistent terminology throughout the bill.

10:15

Amendment 21 was lodged to avoid possible ambiguity, because the words "within 6 weeks of" in paragraph 4(6) of schedule 2 could mean six weeks before as well as six weeks after the consent date.

Amendment 15 is a technical drafting amendment that will ensure that the same references are used throughout section 35.

Amendment 41, in the name of Ted Brocklebank, would require a crofting community body that was seeking to acquire an interposed lease to prove that the lease had been devised deliberately to obstruct acquisition by the crofting community body. It would be nearly impossible to prove the intent behind the interposed lease and an attempt to do so would require extensive and difficult court action. Amendment 41 would undermine the purpose of section 35 and the associated amendments that deal with interposed leases, and would restrict the scope of crofting communities.

I invite Parliament to support amendments 12 to 16 and 19 to 25 and to reject amendment 41.

I move amendment 12.

Mr Brocklebank: My fellow members of the Environment and Rural Development Committee might recall that at stage 2 I lodged an amendment that would have had an effect similar to that of amendment 41. At that time, the minister dismissed my concerns—as he has done today—and claimed that it would be too difficult to prove the intent behind an interposed lease. I did not press my amendment at stage 2 and, although I have considered what the minister said, I am not convinced by his logic.

The fact remains that section 35 could have unintended consequences in that the crofting community body would be able to apply to acquire any leasehold interest, whatever the reason for its existence. Such a provision is dangerously broad. I remind the minister that many lease arrangements exist for perfectly valid reasons. Furthermore, in cases in which crofters' opinions were split over a proposed development on the land, it is conceivable that crofters who wanted to frustrate the development could use the powers to

acquire the land and the leasehold interest, thereby preventing the development from taking place.

I fear that developers will not be prepared to make significant investment if a crofting community has the discretion to buy out a tenant's interest in a commercial lease of croft land, because that would create serious uncertainties. It would simply not be worth the risk of investing in a development only to be bought out at a later date.

Amendment 41 would ensure that only leases that were created to frustrate land reform would be affected. It might not always be easy to confirm that the creation of a lease had such a purpose, but that is no reason for accepting the hasty drafting in section 35. Amendment 41 would achieve the desired effect of section 35 but would eliminate the dangers that are inherent in the section as it is drafted.

The Deputy Presiding Officer: Do you want to add anything, minister?

Ross Finnie: I have nothing further to add.

Amendment 12 agreed to.

Amendment 41 moved—[Mr Ted Brocklebank].

The Deputy Presiding Officer: The question is, that amendment 41 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
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 Barrie, Scott (Dunfermline West) (Lab)
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 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
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 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
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 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
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 Smith, Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 14, Against 86, Abstentions 0.

Amendment 41 disagreed to.

Amendments 13 to 16 moved—[Ross Finnie]—and agreed to.

Section 37—Appeal to Land Court and jurisdiction of that court

The Deputy Presiding Officer: Group 9 is on references to the Scottish Land Court by the commission. Amendment 17, in the name of the minister, is the only amendment in the group.

Sarah Boyack: I will be brief, because amendment 17 is relatively straightforward. The Scottish Land Court has a general power under section 53(1) of the Crofters (Scotland) Act 1993 to determine questions of fact or law that arise under that act, on a reference to it by the commission or an interested party. Examples of such questions are whether a holding is a croft or what the boundaries of a croft are. Such questions of fact or law might also arise in the context of an application to the commission under the 1993 act and therefore the Land Court's general jurisdiction must be excluded in that context in order to avoid a conflict of jurisdictions. However, the commission still requires the ability to refer voluntarily to the Land Court preliminary questions of fact or law that are related to an application that is before the commission. Amendment 17 will provide for that and I invite the Parliament to support it.

I move amendment 17.

Amendment 17 agreed to.

Section 41—"Crofting community"

The Deputy Presiding Officer: Group 10 is on the definition of "crofting community". Amendment 18, in the name of the minister, is the only amendment in the group.

Ross Finnie: The deletion of "and is" in the definition of "crofting community" in section 41 is a response to concerns about the clarity of the definition. Amendment 18 makes it clear that it is the two or more crofts that are registered with the Crofters Commission and not the township. There is no legislative requirement to register townships. I invite Parliament to support the amendment.

I move amendment 18.

Maureen Macmillan: I thank the minister for amendment 18, which will remove ambiguity from the definition of "crofting community". Will he confirm that two or more crofts that are in close geographical proximity constitute a township, given that the application of a more formal definition of a crofting community seems to have been at the root of the Taynuilt decision?

Ross Finnie: We seek to make that quite clear by deleting the words "and is". Crofts must register with the Crofters Commission, so the definition refers to two or more crofts that are registered—the township is not registered. We believe that the deletion will remove an anomaly in the interpretation of the definition and that it will provide clarity. Amendment 18 is a response to concerns that were expressed, in particular by Lord McGhie, the chairman of the Scottish Land Court, and by the Scottish Crofting Foundation. I must try to assure Maureen Macmillan that amendment 18 will make the position clear and that it will deal with the issues that were raised by the foundation, and with Lord McGhie's advice on the definition.

Amendment 18 agreed to.

Schedule 2

MINOR AND CONSEQUENTIAL AMENDMENTS

The Deputy Presiding Officer: Group 11 is on the Crofters Commission's chairman. Amendment 1, in the name of Rob Gibson, is grouped with amendments 38, 38A and 2. I will put the question on the amendment to amendment 38 before I put the question on amendment 38.

Rob Gibson: During stage 2, the Environment and Rural Development Committee thought that the opportunity should have been taken to modernise crofting legislation by making the bill gender neutral. Indeed, the committee's chief poacher, who has turned deputy gamekeeper, was vehement that the language should be altered. I want to help that process by suggesting that the chair of the Crofters Commission should become its convener, to use a good Scots word. That would be the effect of amendment 1.

Turning to the complexity of the bill's wording on page 61, we cannot find the bit to which amendment 38 relates without referring back. I note that the chief gamekeeper wants to use the word "chairing", whereas "convening" would be more consistent. I look forward with interest to the response of the gamekeeper or deputy gamekeeper on that point.

I move amendment 1.

Sarah Boyack: I warmly welcome the intention behind Rob Gibson's amendments. As he noted, I have been a strong supporter of clear and gender-neutral legislation—indeed, I have supported it for years. I am delighted to repeat to the Parliament the commitment that Ross Finnie gave to the Environment and Rural Development Committee: at the next opportunity, when we review crofting legislation, it will be not just modernised but made gender neutral. *[Interruption.]* SNP members seem to be having some fun with that, but I point out that Rob Gibson, in moving his amendment 1,

exemplifies the difficulties. When lodging a well-intentioned amendment, it is incredibly difficult to avoid unintended consequences elsewhere in the bill. That is why a thorough review will be needed.

The two passages that Rob Gibson seeks to amend do not refer to the same individual. Amendment 1 refers to the title of a particular office, whereas amendment 2 refers to the function of a person—who may or may not be the commission's chair—at a meeting. Changing the expression to “convener” in both places could cause confusion.

Although I am extremely happy to support amendment 1, I urge Parliament to resist Amendment 2. Amendment 38, in the name of Ross Finnie, will have the same effect as Amendment 2, but it will not risk causing the same confusion that I spoke about earlier—Rob Gibson himself appeared to cause some confusion. Amendment 38A is unnecessary.

I appreciate what Rob Gibson is trying to do and I support his amendment 1. For the reasons that I have given—and in the spirit of harmony and of trying to take us forward—I invite Parliament to support amendments 1 and 38. I ask Rob to consider the comments that I have made and not to move amendments 2 and 38A. If he does seek Parliament's support for those amendments, I urge members to resist them.

Maureen Macmillan: I support the intention behind Rob Gibson's amendments. As an ex-English teacher, when I looked at amendment 38A I realised that we could not substitute “convening” for “chairing” and retain the same meaning. I will therefore not support that amendment.

Rob Gibson: I am glad to hear that we will have a chance to modernise the bill totally “at the next opportunity”. As it has been more than 10 years since the last crofting legislation, people will wonder how soon that might be. It would be a good thing if the Crofters Commission's next chair or chairman instead became the convener. I am delighted that the minister is prepared to accept amendment 1. In the spirit of optimism and co-operation, I am happy to concede on amendments 38A and 2.

The Deputy Presiding Officer: The question is, that amendment 1 be agreed to. Are we all agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)

Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
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 Finnie, Ross (West of Scotland) (LD)
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 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kane, Rosie (Glasgow) (SSP)
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 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
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 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
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 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Davidson, Mr David (North East Scotland) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)

10:30

The Deputy Presiding Officer: The result of the division is: For 97, Against 3, Abstentions 0.

Amendment 1 agreed to.

Amendment 38 moved—[Ross Finnie].

Amendment 38A not moved.

Amendment 38 agreed to.

Amendment 2 not moved.

Amendments 19 to 25 moved—[Ross Finnie]—and agreed to.

Crofting Reform etc Bill

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-5335, in the name of Ross Finnie, that the Parliament agrees that the Crofting Reform etc Bill be passed.

10:31

The Minister for Environment and Rural Development (Ross Finnie): I will deal with the formal part first. For the purposes of rule 9.11 of the standing orders, I advise the Parliament that Her Majesty, having been informed of the purport of the Crofting Reform etc Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

At the start of this session, the partnership committed itself to bringing forward a crofting reform bill as a continuation of the established commitment to a programme of significant land reform measures. In an extensive and complex reform agenda, the Land Reform (Scotland) Act 2003 took priority. The reform of crofting legislation was always—including during scrutiny of the Land Reform (Scotland) Bill—a key element of the whole process, and the Crofting Reform etc Bill is the final step of that process. Having said that, a further process is now in hand.

I am extremely proud that the Land Reform (Scotland) Act 2003 has had such a profound effect on the fortunes, futures and confidence of so many crofting communities. Only two weeks ago, yet another crofting community announced that agreement had been reached to acquire its crofting estate—the Galson estate. In a few short years, the 2003 act has liberated and inspired crofting communities. Renewable energy has been a catalyst in some cases, but it is the 2003 act that has made it possible for those communities to benefit from all forms of renewable energy, and that has built the prospect of a sustainable future.

The Crofting Reform etc Bill was introduced to promote even more sustainable crofting communities, more local involvement in crofting administration, simplified crofting regulation and more active crofters by giving crofters greater scope to diversify their activities. In some ways, it is fortuitous that the Crofting Reform etc Bill has followed the Land Reform (Scotland) Act 2003, as we have been able to address in the bill the threats that are posed to crofting community estate buyouts by interposed leases. Those leases, which attempt to frustrate crofting communities' attempts to buy development rights, have emerged as an issue only since the passage of the 2003 act. We will significantly amend that

act as a result of stage 2 amendments to the Crofting Reform etc Bill.

Since 2001, the Crofters Commission, in its development role, has demonstrated in Jura, Islay, Colonsay, Eigg and Ardnamurchan that creating new crofts through the reorganisation of croft land can play a vital role in developing remote communities and bolstering populations. That work has reinforced our conviction that the bill's provisions on new crofts can contribute to rural development both in the Highlands and Islands and in other areas of Scotland, such as Arran.

The Environment and Rural Development Committee published a comprehensive report on the bill at stage 1, which identified some issues that it thought needed further consideration before the bill could go forward, in particular the role and constitution of the Crofters Commission. The Executive, recognising the strength of feeling on issues surrounding the Crofters Commission, withdrew the sections of the bill relating to the role and constitution of the Crofters Commission and gave a commitment to establish a committee of inquiry on crofting to consider the commission's role as well as the wider issues around market forces and crofting's role in rural development.

That committee of inquiry has been established under the chairmanship of Professor Mark Shucksmith, a well-known and respected academic whose work as co-director of the Arkleton centre for rural development research at the University of Aberdeen will be known to many people in the crofting counties. The committee of inquiry will commence its business in earnest in the next few weeks, and it is expected to report by the end of 2007. I look forward to reading its conclusions.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Can the minister clarify a matter in the interests of the staff who work for the Crofters Commission? Originally, the bill proposed that the commission should become a quango, which would mean that the staff would lose the civil service status that they treasure and do not wish to lose. Will the issue of whether the civil servants would lose their status be considered by the committee of inquiry?

Ross Finnie: As always, I am reluctant to anticipate the conclusions of an independent inquiry. Obviously, there will be no change unless the matter comes before Parliament. The proposal was contained in the bill, and I respect the position that Mr Ewing has consistently maintained on it.

If the committee of inquiry came up with a radical way in which the Crofters Commission should be run, if evidence was led that the vast majority of those in the crofting counties were in favour of it, and if it would result in a change of

structure such that the status of the civil servants would be changed, we would have to consider it. Inevitably, any change in the status of the Crofters Commission could involve that prospect. However, we are not seeking to give an instruction to bring that about. The matter will emerge only from the evidence that is taken by that committee, which will soon commence its work in earnest and will report by the end of 2007.

Following stage 2, we now have a bill that commands a high degree of support. When the bill is enacted, it will be possible to register new croft tenants at any time of year and not just twice a year, at Whitsun and Martinmas. That will allow new crofters to get started on bringing neglected crofts back into use or allow them to start building new croft houses for their families when it suits them rather than up to six months after an assignation has been approved, as happens under current legislation.

In future, if crofters are in dispute with each other over croft boundaries and the Land Court is asked to determine the boundaries but finds that the evidence is inconclusive, the court will be able to take a pragmatic view and declare the boundary to be that which it considers appropriate. The intractable and endless disputes that we currently see between crofters over boundaries should, therefore, be avoidable.

If a crofter should wish to subdivide his or her croft to enable the parts to be assigned to sons or daughters who wish to establish themselves in their community, the landlord will no longer be able to prevent that subdivision.

There are many significant and valuable changes in the bill that will improve the operation of the law in relation to crofting. Crofting legislation will always be complex and what crofters need from legislation will continue to change over time. Rob Gibson has referred to the length of time in terms of modernising the situation. However, as I said to the Environment and Rural Development Committee, there is a need for some consolidation. I am sure that Rob Gibson agrees that there is a need for consistency across the large number of pieces of legislation if we are to bring about the necessary changes.

I hope that the bill will be good for crofters and the crofting counties and that the work of the committee of inquiry will further improve that position. This important bill represents a major step forward. I commend it to Parliament.

I move,

That the Parliament agrees that the Crofting Reform etc. Bill be passed.

10:39

Rob Gibson (Highlands and Islands) (SNP):

The Scottish National Party welcomes the final stage of the bill. The bill is equitable and achieves fairly small administrative changes that benefit crofters. Importantly, it makes a clear statement that it is possible to create new crofts, which we all agree is welcome.

The process has taken 10 years and, as the minister has just indicated, we have come a short way down a long road towards a consolidating bill. We need to find ways to speed up the process. I hope that we will be able to do that.

It is impossible to consider crofting seriously without considering the fabric of life in the crofting counties—that has been the SNP's policy for the past 30 years. That is why the crofting inquiry that will be undertaken later this year has a huge task in agreeing new priorities that have been raised during the consideration of the bill but which the bill was not designed to deliver.

Crofters face a gaggle of acronyms when trying to get support. However, the rural support scheme, the less favoured area support scheme, the crofting counties agricultural grants scheme—the RSS, the LFASS and the CCAGS—and the bull hire scheme are rather underfunded and, it is feared, begrudged. That is not the European Union's fault. If Scotland had full fiscal powers, it could invest in crofting as a nature-friendly element in a buoyant, sustainable economy in the Highlands and Islands. In the meantime, however, if we are to succeed, our ministers with responsibility for transport, enterprise, agriculture and health must all get in harness. If they do not, home production from crofts and public health will suffer.

It is important that we try to stem depopulation. The key question that must be asked in relation to the bill is whether it will stop further depopulation in areas that have great potential.

Speaking to the Environment and Rural Development Committee on behalf of active crofters, John MacKintosh, the former president of the Scottish Crofters Union, said:

"I think that the reason why you get dereliction of crofts is that there is a complete and utter lack of realistic support for crofting and what crofting is about. Until we get that ... fewer and fewer people will work those crofts ... There are quite a few crofts that make a loss, so the crofter is left with one option, which is to start looking at the market and thinking of getting out."—[*Official Report, Environment and Rural Development Committee*, 14 June 2006; c 3349-3350.]

That view is widely held, and we must be able to dispel it. If the bill can help that to happen, so much the better.

Crofts are small pieces of land surrounded by large amounts of legislation. However,

bureaucracy must not be allowed to strangle initiative. We need to restore the ability, the power, the will and the resources to rebuild our economic and social life across the crofting areas. Crofting needs young, new entrants and must try to use the experience that has been built up by small farmers organisations in Europe. If that mood is about, I am glad that this bill will be passed. The UHI Millennium Institute, broadband for all and croft-run renewable energy investment can all help us to turn the corner. Lessons from Norwegian communities show that small farms and crofts can earn huge electricity revenues to invest in local needs. However, that needs to be in the hands of the crofters.

The SNP has consistently supported land and seabed reform and crofting community buyouts. We want the role of the new crofting landlords to be examined carefully, because it is quite different from the role of the old private landlords. Ted Brocklebank's amendments touched on that matter, and I am glad to say that they were unsuccessful.

We welcome new crofts and forest crofts and ways in which small landholders can be welcomed into crofting tenure in places such as Arran. Those will be achieved, at last, by the bill.

The reforms have to tackle the lack of affordable housing that is

"the great Highland scandal of modern times",

as James Hunter writes in the brochure for the exhibition "Fonn 's Duthcas: Land and Legacy". Crofting can provide land for house building. I am sorry that we did not pass John Farquhar Munro's amendments this morning, as they would have emphasised the role of common grazings in achieving that.

Crofting underpins Gaelic and Norse cultures, whose confidence can play a vital part in reversing depopulation to retain and attract working families. If we can do that, we can integrate the north into the mainstream of Scotland's social, educational, agricultural and industrial life, with the help of ferry, rail and road links that are fit for this climate-change age. If crofting communities are to succeed, that has to happen. The bill has a small part to play in that.

The crofting communities have a big role to play in a sustainable future for our remarkable land. The bill, which has been too long in the making, is but an early instalment, but the SNP is, nevertheless, happy to support its passage.

10:45

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): Members will be aware that the Conservatives opposed the bill at stage 1. We

agreed with the Environment and Rural Development Committee's fairly devastating report that the original bill did not address the core problems facing crofting, including the role of the Crofters Commission and issues surrounding the market in crofts.

Although we welcomed the Executive's decision to disembowel the original bill, we would have preferred a totally new bill. We welcome the decision to set up an inquiry into the key aspects of crofting legislation, and we recognise that today's bill is far from the last word on crofting, which it was originally intended to be. What a pity that the inquiry was not held prior to the bill's introduction.

We sought to improve what was left of the bill at stage 2. We are pleased that the Executive listened to our concerns on a right of objection for landlords on the use of common grazings for other purposes, and today we were glad to support amendment 7, in the name of Ross Finnie, which seemed to bear an uncanny resemblance to an amendment that I lodged but did not move at stage 2.

A number of concerns remained, which is why I lodged amendments for today. There is little point in refighting earlier arguments, but I genuinely believe that, had our concerns been accepted on section 10—we sought to restrict the right to buy to only the house and garden of crofts that are created from small landholdings—that would have gone some way to helping to prevent further destabilisation of the let land market. Perhaps even more important was my amendment to close the loophole that allows nominees other than family members to avoid the clawback procedure. Had the minister taken on board those legitimate points, we would seriously have considered supporting what is left of the bill.

We have fundamental problems with extending crofting outwith the seven counties unless the absolute right to buy is suspended in those areas. If that is not done, the current problems will merely be exacerbated. Also, I am concerned that the Executive simply has no idea of the financial commitment that it might be taking on by extending crofting. Indeed, we have that on record. In a written answer to a question that I submitted, Ross Finnie stated:

"The Scottish Executive does not hold information on which to base any estimate"—[*Official Report, Written Answers*, 30 November 2006; S2W-30089.]

of how many small landholders outside the crofting counties will qualify for crofting status under the bill.

Once again, as has become the pattern with the bill, when a key question is asked, official clarification comes there none. It is simply not

good enough—and existing crofters do not believe that it is good enough—to introduce legislation to extend crofting when we have no idea how much it will cost or whether funding for existing crofters will be affected by the introduction of new crofts.

Conservatives have nothing to be ashamed of in their support for crofting over the years. There was some good-natured heckling—I took it to be good natured—when I sought to achieve a level playing field for landholders and crofters with today's amendments. As Secretary of State for Scotland, Michael Forsyth and Ian Lang both introduced legislation that has greatly benefited crofters in recent times. Indeed, contrary to what my friend and that well-known historian the minister's Lib Dem colleague Jamie Stone claimed at the end of the stage 1 debate, Conservatives did not vote against the Crofters Holdings (Scotland) Act 1886. The key division took place on 10 May 1886, and the House of Commons divided 219 in favour with 52 against. The Conservatives, including Balfour, Richard Cross, Henry Fowler and other prominent landowners, all voted in favour of reform.

Scottish Conservatives believe that the rump of the original bill has been improved since it was introduced, but following today's stage 3 it remains essentially flawed, and certainly incomplete. We look forward to the crofting inquiry report later this year, and we anticipate supporting a comprehensively amended and inclusive crofting bill that takes on board the concerns of crofters and landowners alike. We hope that that bill will be introduced early in the new Executive's legislative programme. The Crofting Reform etc Bill is not that bill and, accordingly, today the Conservatives will abstain.

10:49

Maureen Macmillan (Highlands and Islands) (Lab): It is good to see the Crofting Reform etc Bill completing its passage through the Parliament.

It is important that we have legislation that is fit for purpose, and the minister, the former deputy minister, the present deputy minister in her former role as convener of the Environment and Rural Development Committee, the committee itself and the Parliament have worked hard to ensure that crofting communities will be sustained, neglect will be dealt with and new crofts will be created. The bill is still a substantial bill that will deliver substantial benefits.

The Labour Party has always argued that crofting is not a purely commercial enterprise but is about communities; that crofting should in no way be driven by market forces to the detriment of the crofting communities; that the Crofters Commission should do its duty; and that we must make crofting affordable and available to new

young entrants, hundreds of whom are waiting for their chance to rent a croft.

It is important that we address the neglect of crofts, which the tighter rules in the bill should do. It will not prove comfortable for absentees or others who do not keep their land in good heart—“use it or lose it to someone who is prepared to work the croft” must now be the key phrase.

The Scottish Executive Environment and Rural Affairs Department has a responsibility, too. Crofting support schemes must be adequate to deal with the challenges of remoteness, poor land and harsh weather conditions, otherwise, as Rob Gibson said, land will perforce be neglected through lack of resources. SEERAD should be proactive in ensuring that those who qualify for grants are encouraged to take them up. I am particularly concerned to ensure that elderly crofters who are not used to filling in new forms are not penalised for making genuine mistakes in their application forms for grants, which could result in them losing money. SEERAD needs to be more helpful in that respect.

I do not exaggerate when I say that these are exciting times for the crofting counties and crofting communities. We are seeing history being made thanks to our land reform legislation, of which the bill is part. We see crofting community buyouts, the establishment of trusts, the huge potential for regenerating communities and the sustainability that can come from renewable energy projects, which are now supported by the bill's provisions on interposed leases. We see, too, the possibility of diversification into woodland crofts, perhaps to supply community biomass, or into vegetable growing, to supply local schools, hotels and local authority canteens, as demand grows for home-produced food.

There is still unfinished business. The committee of inquiry has been set up to examine the role of the Crofters Commission, in particular its structure and status and the way in which it uses its regulatory powers. That will be painful for the commission, but it is necessary. The process will be like removing a sticking plaster from a cut to let the fresh air heal it or stripping layers of wallpaper to repair the wear-and-tear cracks in the plaster in preparation for a perfect coat of paint—well, we hope so anyway.

The inquiry also needs to deal with the regulation of owner-occupiers, so that owner-occupier neglect can be dealt with. We must find robust ways of preventing croft houses and croft land from becoming the developer's dream or holiday hideaway.

I welcome the appointment of Mark Shucksmith as chair of the committee of inquiry. That was a brilliant stroke, considering his expertise in rural

housing and other rural issues. Moves are already being made to bring the commission into the planning consultation process, which I hope should mean no more Taynuits.

It remains for me to urge ministers not to let bad decisions be made between now and the implementation of the inquiry's findings and, in closing, to thank the committee clerks and the Scottish Parliament information centre researchers, who supported us so well.

I support the bill.

10:54

Nora Radcliffe (Gordon) (LD): Crofting tenure has sustained rural communities in the crofting counties since the Crofters Holdings (Scotland) Act 1886 was passed and the legal concept of a croft has developed through several reforms since then, but there has been widespread consensus in recent years that further reform is needed to ensure that crofting tenure continues to sustain crofting in the face of modern pressures on the system.

The Scottish Liberal Democrat manifesto in 2003 made a commitment to implement a crofting reform bill while supporting the retention of a grants scheme for crofting counties. We accepted that action was essential to re-establish a firm foundation for crofting that would help to sustain and enhance the population of rural Scotland, to improve economic viability and to safeguard our physical landscape and biodiversity and, as Rob Gibson said, our cultural landscape and diversity.

The bill's passage has highlighted the difficulties of meeting the aspirations of a widely diverse crofting community, but the situation has moved forward with the crofting community, Parliament and the Executive working together. I thank all the people who engaged with the Environment and Rural Development Committee and the Executive on a complex series of issues.

The Executive responded to concerns about aspects of the bill and dropped some provisions. A committee of inquiry will tackle issues that include the market for crofts and the Crofters Commission's status, role and functioning. A substantial bill is left and it contains measures that are widely supported and welcomed. The bill will allow the creation of new crofts, clarify and extend crofters' rights to use their land, facilitate renewable energy development on croft land, simplify regulation, give extended rights to appeal decisions of the Crofters Commission and modernise conditions of tenure.

The bill provides a mechanism to allow new crofts to be created outwith the crofting counties, which has been widely welcomed on Arran in

particular and which may deliver substantial benefits in other parts of Scotland. I wait with interest to see how the new ability will be developed. Crofting community bodies will be able to purchase tenants' rights in leases over the land that they have bought or are buying under part 3 of the Land Reform (Scotland) Act 2003.

It has not always been acknowledged that a lot of work, thought and consultation was undertaken before the bill's introduction. A lot of work has been done during the bill's passage and the bill achieves much, despite the Tories' carping comments. More remains to be done and we have established the mechanism to take that forward.

In the meantime, we can welcome the bill. We can welcome what it has achieved and consolidated and what it will do to support crofting in a modern environment. We look forward to the committee of inquiry dotting the i's and crossing the t's on some issues that have been rightly postponed. In the main, the bill is a good piece of work that should be welcomed and supported.

10:57

Mr Alasdair Morrison (Western Isles) (Lab): A week last Friday, I attended the celebrations in the community of Ness when Galson estate, which covers some 54,000 acres and includes some 20 townships, moved from private hands to community ownership. That truly was a great day—the culmination of many hours and days of hard work by the trustees.

It was also the culmination of a struggle and political agitation that straddled three centuries. The first time that the words "land reform" appeared in what we call today a manifesto was when Keir Hardie penned his list of desired legislative and social change for the United Kingdom at the end of the 19th century. Through the decades since, Highland socialists have kept the flag flying for land reform when it was not a fashionable cause to embrace.

If we fast forward to the latter end of the 20th century, it was with the election of a Labour Government in 1997 that an age-old aspiration became a legislative reality. In my constituency today, some 70 per cent of the Western Isles population live on community-owned estates and some 40 per cent of the Western Isles landmass is in community ownership. It is worth remembering that politics ensured that people and communities consigned the dead hand of landlordism to history.

In recent years, I have had the privilege of attending the first and subsequent meetings in four communities in my constituency at which people have gathered to discuss the possibility of buying their land. Thankfully, three of those communities' areas are now in community ownership—North

Harris; South Uist, where the position was finalised at the end of last year; and, as the minister mentioned in his speech, Galson, where the situation was finalised 12 days ago. I hope that Pairc in the district of Lochs will join the ever-expanding family of community-owned estates.

The intention following the passing of the Land Reform (Scotland) Act 2003 was to complement land reform legislation with appropriate reform of crofting legislation. As we know, crofting is a regulated form of tenure. One deficiency of the existing regulation system is that the regulator—the Crofters Commission—has failed to intervene. Over the years, it has allowed the marketisation of crofts to continue unabated.

One of the clear and straightforward issues that witness after witness presented in community after community that the committee visited at stage 1 was the concern throughout the crofting communities that land that should be subject to proper regulation was and is being bought and sold as if it were freehold. To its credit, the Scottish Executive recognised the weaknesses in its first draft. That took some time, but at least we got there. It is right that the bill was subjected to major surgery.

What we are passing makes eminent sense. The minister, Nora Radcliffe and Maureen Macmillan have listed the issues that will be properly addressed. For example, creating new crofts but not giving people who will have tenancy of those crofts the right to buy them is laudable, particularly in the island of Arran, where we are righting an historic wrong. It is also encouraging that ministers will—if they have not already done so—direct the Crofters Commission and urge it to get on with exercising its existing responsibilities and rights to regulate the sale of crofts.

I am delighted to support the bill in the sure and certain knowledge that a committee of inquiry is being established. As Maureen Macmillan said, Professor Mark Shucksmith will chair that committee. He comes with an excellent pedigree as he was the adviser to the Justice 2 Committee when it considered the Land Reform (Scotland) Bill. The committee of inquiry will engage with those of us who live in the crofting communities and crofting counties and will present properly constructed proposals to a subsequent Parliament.

Rob Gibson—the dear fellow—wittered on and claimed to be an expert on matters crofting. It is interesting to note that he has yet to attend one meeting in the Western Isles at which communities have set about putting in place historic changes. It is also worth noting that he never fails to issue a press release on the day when a community celebrates. He does so with great expertise and oozes vomitgenic bilge as is his wont.

It is worth recording that the Environment and Rural Development Committee's stage 1 report led to major changes of emphasis in the Crofting Reform etc Bill. That is a credit to the committee's former convener, who will literally have the last word on the bill. I am delighted to support the bill.

The Deputy Presiding Officer: I ask members please to ensure that their mobile phones are off.

11:03

Eleanor Scott (Highlands and Islands) (Green): I add my thanks to everybody who has been involved in the bill—the committee clerks, people from the Scottish Parliament information centre and the people from the crofting community who engaged with the committee. During consideration of the bill, the cross-party group on crofting met frequently and had the bill as a permanent agenda item.

This is an occasion when the stage 3 debate is different from the stage 1 debate, because we were quite critical of the bill at stage 1. Some criticisms were justified—of the bill, of the process and perhaps of the people who drafted the bill as introduced. The bill provides an example of the parliamentary process working. The committee considered the bill and produced its stage 1 report, which the Executive, to its credit, took on board. I give an honourable mention to the former deputy minister, Rhona Brankin, who engaged realistically and genuinely and sometimes with great courage with the crofting interests and with the cross-party group on crofting and the committee. She took on board what was said and that should be acknowledged.

As has been said, the process resulted in the removal of many controversial bits of the bill, such as those which related to the Crofters Commission, which I will not go into. The committee also supported an amendment by Alasdair Morrison to remove a reference to market value. There was some hyperbole at stage 1 about the entrenchment of market value by the bill in its original form. As has been said, the market-value issues are still there. I hope that the bill, as it is about to be passed, will help to dampen them down, perhaps by improving the regulation of crofts and by increasing the supply of crofts.

That brings me to the important provisions that are still in the bill. The creation of new crofts has been mentioned by other members, and I think that it is crucial. There are communities in Shetland and in other parts of Scotland that are keen to grasp the opportunity, so the extension of crofting beyond the crofting counties is important. The opportunities for forest crofts are also crucial. I attended a reception that was held last night by the Forestry Commission Scotland. It is clear that

the Forestry Commission is on board with the idea of forest crofts. The Executive has also set up a steering group to consider forest crofts. Applying the crofting ethos to forestry by using forest land as common grazings have been used will create opportunities in rural areas.

Also important is the empowerment of the Crofters Commission to be proactive in cases of neglect. That will perhaps bring some other crofts into the hands of tenants who will work them properly. The Scottish Crofting Foundation has raised the issue of what the Crofters Commission could do under existing legislation. The SCF's concern is that the Crofters Commission has not been using the powers that it already has. I hope that the spotlight that the bill process has turned on the Crofters Commission will stiffen its resolve to use the powers that it currently has and those that have been augmented by the bill to more effect. In the eyes of crofters, those powers have been underused, particularly in dealing with neglect or absentee owners.

I believe that crofting has a future and a huge contribution to make in such areas as local food production, delivering environmental goods in the crofting lands and energy production—to name but a few. Crofting has a great future, and the committee of inquiry will show what it has to offer. As has been said, the bill is not the end of the process. It is clear, from the setting up of the committee of inquiry, that it is not meant to be the end. It is one step in the Parliament's reaffirmation of its support for crofting and its desire that crofting should be able to work better and offer still more to the areas in which it has sustained the communities for so long.

11:07

John Farquhar Munro (Ross, Skye and Inverness West) (LD): This is an historic day and a debate in which I am delighted to be involved. Even the elements are kind to us today. The sun is shining down on us, so somebody is happy. The crofting community up in Galson, which Alasdair Morrison mentioned, must have switched on the renewable energy. I thank all those who were involved in bringing the Crofting Reform etc Bill to this stage. The bill has had a stormy passage or has travelled a rocky road—whichever metaphor we choose to use—but it has survived and we have a bill that I am sure is going to sustain crofting for many years to come.

The ministers, Ross Finnie and Rhona Brankin, had the unenviable task of introducing what was always going to be a difficult piece of legislation. We did not often agree, but I think that we can agree today that we have reached an equitable compromise. I also thank the Environment and Rural Development Committee, which was ably

chaired by Sarah Boyack. She took the committee out into the crofting communities on the periphery to listen to their views and concerns. I thank all those people from the crofting communities who gave evidence to the committee on its travels around the country.

The report that was produced by the committee clerks—I make special mention of Mark Brough—is an excellent document, which has resulted in an acceptable and appropriate bill being presented today. I think that the bill will be welcomed by the crofting communities and I hope that it will sustain their viability for many years to come. I also thank the Scottish Crofting Foundation, especially Patrick Krause and Becky Shaw, as well as all those who came along to the cross-party group on crofting. They all helped us to arrive at where we are today. The assistance that the members of the cross-party group gave me in chairing the group and the evidence that the group received were invaluable.

A major outcome of the introduction of the bill has been the establishment of a committee of inquiry on crofting that is chaired by Professor Mark Shucksmith. The hope is that the inquiry will address all the issues that have been of concern to the crofting counties over many decades. In my view, a positive outcome from the committee of inquiry would be that at least 50 per cent of the board of the Crofters Commission would be democratically elected by the crofting community. That would help to ensure that crofting communities throughout Scotland had far more confidence in the body that is tasked to oversee crofting and the legislation that governs it.

Much of the controversy surrounding the bill was brought to a head by the development of housing sites in a small crofting township at Taynuilt, near Oban. The amendments that I lodged were designed to prevent that type of development, which was destroying good agricultural land. The amendments were designed not to prevent development, but to prevent its using so much good agricultural land, as had happened at Taynuilt. There is an undeniable need for housing in the Highlands but, over the past 20 years, far too much housing has been developed on what was considered good croft arable land. In my view, if local authorities or housing associations are to provide housing, it should be built, as far as possible, on the less desirable common grazings land. Also, if crofters are to be expected to provide land for housing, private landowners with huge estates—of which there are plenty in the Highlands—should also be expected to release some of their vast acreage for new affordable housing.

The bill was fairly contentious in its early stages and had a rocky passage. However, it has

survived and will make a worthwhile contribution to a successful crofting sector in the years to come. I commend the bill to the Parliament.

11:13

Mr Jamie McGrigor (Highlands and Islands) (Con): It is sad that John Farquhar Munro's sensible amendments to do with building on the common grazings and not on the arable parts of crofts were knocked back. They were good amendments and it is a shame that they were not agreed to. A great many of the people from the 17,785 crofts in the crofting counties will see the bill as a missed opportunity because it has not enabled a true improvement of the whole crofting set-up. That is because no proper review was undertaken beforehand into the value of crofting to the Scottish economy and to the communities where it takes place.

The well-known former Labour minister and Highland journalist, Brian Wilson, entreated the Executive to

“go listen to the crofters”.

He stated in the *West Highland Free Press* that the Napier commission had done so in the 1880s but that the present Government had not done so and was not doing so, despite the fact that the Scottish Crofting Foundation and the Scottish Crofting Association, which preceded it, continually asked for that type of investigation. The Scottish Crofting Foundation told the committee:

“We have consistently asked for the social and economic benefits that crofting has delivered to be measured—to be quantified and qualified from 1886 to the present day.”—*[Official Report, Environment and Rural Development Committee, 19 April 2006; c 3041.]*

That work was never undertaken.

Instead, the bill that was written for the Executive expressed, frankly, an outsider's agenda rather than one that came from the heart of crofting. The first time that the crofters were listened to was when the committee took to the road to the isles. At that point, it was a question of waking up and smelling the heather. By that time, however, it was a bit late. The bill had been written. The cart had been put before the horse. Next time—if the crofters get another go at crofting reform—I hope that whoever is in government gets things the right way round.

In the meantime, I impress upon the minister the importance of ensuring that the many crofting issues that are not dealt with in the bill and that require urgent resolution are not put on the back burner. For example, the bull hire scheme is important to the quality of crofting livestock but, despite a promise of action by the then Deputy Minister for Environment and Rural Development during a members' business debate that I secured

two years ago, no effective new scheme has been put into place. On top of that, crofters have had to deal with crippling new transport regulations without any replacement so far for support schemes such as the crofting counties development scheme. Like other agricultural schemes such as the countryside premium scheme and the rural stewardship scheme, the CCDS is currently in limbo while we await advice on the future for farming in the Highlands and Islands. Ross Finnie often mentions, very wisely, the need to add value to crofting products to bring value back up the food chain, but what incentives does the Executive provide for local abattoirs and local marketing groups?

Will the SCF be funded to help it to take a leading role in the future crofting inquiry? After all, the SCF represents the crofting industry's most important element, which is the crofters themselves. During the inquiry, the SCF must have the wherewithal and strength to put forward a good case on what is needed in crofting. How will that happen? The inquiry must not simply degenerate into an argument between the Crofting Foundation and the Crofters Commission. The minister must instruct the commission to address now, under existing legislation, the neglect of crofts that has taken place.

I reiterate that the bill as introduced did not address the problems facing crofters. Although what remains contains little with which we disagree, it would have been better to have scrapped the bill to allow a new bill to be introduced after the inquiry.

If we want the crofting system to continue to play a part—as it has done since the Crofters Holdings (Scotland) Act 1886, which was, incidentally, strongly supported by the Tories—in the social and economic fabric of remote communities by linking urban activity in crofting areas to rural and agricultural activity, if we want to ensure that important agricultural skills and knowledge are kept alive and if we want locals to continue to have the opportunity to produce local food, we will continue to need crofting and we will have to treat crofting land as a special asset. We need to pay attention to how crofting can best be used to support the Highlands and Islands economy in the present day. Basically, crofting is the use of a basic agricultural system in a manner that helps social and economic development in communities. It has worked in the past and it can still work in the future.

11:18

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I, too, thank the Scottish Crofting Foundation for its help and support throughout the bill and pay tribute to the cross-

party group on crofting. Of all the cross-party groups in the Parliament, few can have played as significant a role as the one that is chaired by John Farquhar Munro.

I also thank the staff of the Crofters Commission. Due to their position, they were not able to speak out, yet they are the people who deal with crofting issues every day and they possess among them great expertise. They no doubt experienced tensions at some points, but rather than dwell on those I want to look forward. I express gratitude to the former Deputy Minister for Environment and Rural Development, Rhona Brankin, for taking the decision that Crofters Commission staff will retain their civil service status. That is to be welcomed.

As the minister said, the terms of reference of the committee of inquiry will include looking at the role and function of the Crofters Commission. We accept that. I hope that, as part of its work, Professor Shucksmith's committee will consult in detail the individual Crofters Commission members of staff, who basically keep crofting on the road. I hope that the committee will go out of its way to do that so that it can put right the wrongs of the past, when failure of consultation led to the tensions to which I alluded.

The major power in the bill is the capacity to create new crofts. When I attend the opening of Forest Enterprise's new offices in Inverness on Monday, I will discuss with its staff the huge potential that that power has. I know that forestry staff are up for it. They want to be able to use the new powers, alongside their existing powers, to create new housing in the Highlands. If any landowner has the capacity to do that, it is the Forestry Commission.

However, one problem that must be overcome is that the existing schemes by which the Forestry Commission is encouraged to create new housing are, in my view, incredibly complex and unnecessarily bureaucratic. Another problem that is perhaps more pertinent than the rules of the schemes—those could be changed—is, to speak directly, the difficulty of nimbyism, which is always with us wherever we try to create new housing. If the Forestry Commission could designate parts of its forests for housing, that would go a substantial way to overcoming nimbyism, which is—let us face it—a facet of human nature. According to the old story, the difference between the conservationist and the developer is simply that the developer wants to build a house in the woods whereas the conservationist already has one. I hope that the Forestry Commission will be able to create many more such conservationists.

I pay particular tribute to the former Deputy Minister for Environment and Rural Development, Rhona Brankin, for the way in which she took

some difficult decisions. Crofting has many friends. The fact that substantial changes were made to the bill as introduced is proof positive of the influence and power of those friends, who are to be found across the political spectrum. For her decision to make fundamental changes to the bill, she should be commended. Rather than crow over what might be said to be a climbdown or U-turn, we should congratulate her. I can assure Rhona Brankin that she has many friends on this side of the chamber.

Personally, I hope that the committee of inquiry will look carefully at the situation in Strathspey. The concerns of the Strathspey farmers, who were led ably by Hamish Jack, were not fully considered by the committee. I recognise that the committee did a good job in giving careful consideration to the problems in Arran, but I think that the problems in Strathspey have not yet been fully addressed.

I agree with Jamie McGrigor, Maureen Macmillan and others that SEERAD must take a more proactive approach to enabling crofters to access the loans scheme. Like Mr McGrigor, I think that the bull hire scheme is perhaps the most complex scheme with the least money available to it that God has ever invented in the public service. The scheme must be sorted out. I suspect that ministers want to do that, so I hope that positive progress will be made.

A fundamental problem that the Parliament is still to address—although I do not believe in any of the conspiracy theories about venal or malign forces at work subverting decisions—is the treatment of inadvertent errors that farmers and crofters make in filling out their forms. Genuine mistakes in integrated administration and control system forms are still being penalised. The tribunal that Mr Finnie set up was somehow supposed to address that. At the time, I argued that setting up a tribunal would not of itself alter the rules that had to be enforced. I understand that, in a recent case, two members of the three-member panel found that a crofter should not have been penalised for a mistake, but the minister overruled the majority decision and supported the SEERAD member on the panel. I am perplexed as to why that should have happened—

Ross Finnie: Will the member give way?

Fergus Ewing: I will in just a minute.

I am genuinely perplexed about that and I am profoundly concerned about the implications of the decision.

Ross Finnie: I can understand the member's concern. I think that that was the only occasion on which I personally had to make the decision. It might help the member to know that my preference was to look at the matter of law as there was a possibility that the committee had in

fact misdirected itself. My intention was to refer the matter back to the committee. I regret that the independent members of the committee, who had been part of the process and whose period of service had ended—not all members serve for equal periods of time—declined to reconvene. That placed me in a much more difficult position.

Fergus Ewing: I am grateful to the minister for that clarification, but I am still unclear about why he felt bound to take the decision that he did. Perhaps he and I can pursue the issue at a meeting.

I welcome the fact that the terms of reference of the committee of inquiry are extremely wide ranging. It is clear from those terms of reference that the committee can consider all the problems that members from various parts of Scotland, especially the Highlands, have brought to the debate.

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): Fergus Ewing and Jamie McGrigor have set out a worthy list of priorities for the committee of inquiry. However, although we can hope that there may be no more Taynuits, the same thing is happening in many other places, as we speak, and raw market forces are prevailing. Surely that is the key issue for the committee of inquiry.

Fergus Ewing: No one disagrees that that is a major issue for the committee. I am sure that it will examine the matter thoroughly, as Jamie Stone has advocated.

I would prefer to see an elected board. At a meeting that the Scottish Crofting Foundation arranged at Lochaber in my constituency, the only topic on which there appeared to be clear agreement was that there should be an elected Crofters Commission. I do not think that the objections to that proposal are insuperable; they are largely legalistic and technical—the sort of objections that the civil service might come up with on a quiet day. I hope that in future we can have an elected Crofters Commission and that Professor Shucksmith will heed the cross-party pleas for one that have been made in the debate.

11:27

The Deputy Minister for Environment and Rural Development (Sarah Boyack): Sometimes life takes unexpected twists and turns. Who would have thought that, after convening the Parliament's Environment and Rural Development Committee, which gave the Crofting Reform etc Bill such a grilling at stage 1, I would be standing before the Parliament today closing the debate on the motion that the bill be passed? However, the committee did its work extremely thoroughly and engaged extensively with crofting communities.

The bill now contains important provisions that will make a real difference to the lives and fortunes of crofters and crofting communities for many years to come.

I record my thanks to committee members, for their hard work; to the clerks, for the able support that they provided to members; to Executive officials; and to all those who contributed their views to the process, which was extensive. A large amount of evidence was put before the committee. Our consideration of the bill was a very good example of the Parliament's work, with the committee and ministers listening to, and reflecting and acting on, the representations that were made.

The bill is not the last word in crofting legislation.

Mr McGrigor *rose*—

Sarah Boyack: Would Jamie McGrigor like to agree with me?

Mr McGrigor: No. I suggest to the minister that it might have been more appropriate for the Executive to listen before the bill was written.

Sarah Boyack: There was a fair amount of consultation before the bill was introduced. If Jamie McGrigor reads the committee's conclusions, he will find a deep analysis of the issue.

The bill is a good example of working together, but it is by no means the end of our work on crofting. It is part of a long-term commitment by the Executive to the future of crofting, crofting communities and some of the most fragile island and rural parts of Scotland. Alasdair Morrison was right to note that, by passing the bill, we will allow many valuable provisions to be implemented and provide a platform on which to build further action, once the committee of inquiry on crofting has reached its conclusions.

In today's debate, we have heard broadly positive views expressed about the important provisions in the bill—for example, those that tackle interposed leases, simplify the regulation of crofting and tackle the underlying bureaucracy. We heard from Eleanor Scott that for the first time the Crofters Commission will have the scope to challenge the neglect of croft land. We heard from Rob Gibson, Fergus Ewing, Maureen Macmillan and Nora Radcliffe about the importance of establishing new crofts and extending crofting tenure to Arran and other parts of Scotland. The Minister for Communities, Rhona Brankin, is now considering how the Crofters Commission can best contribute to the modernised planning system. I note that she has remained in the chamber for the entirety of the debate, which demonstrates her continuing interest in the topic.

The bill will deliver big headline changes but, as Ross Finnie illustrated, it also includes many

detailed provisions that will have a positive impact on day-to-day matters for crofters. I will give members some examples. Earlier this morning, we debated an amendment from Maureen Macmillan, which stipulates that the Crofters Commission should discharge its functions with regard to local circumstances. The insertion in the bill at stage 2 of the word "specific" will allow ministers to be very clear and precise about what they expect the commission to achieve and prioritise, and to set out how they expect the commission to conduct its business. Much of the rest of the bill and existing crofting legislation is about how the commission should handle local circumstances. By adding the ability to give specific ministerial direction, we have provided sufficient scope to ensure that local circumstances are considered. That may have seemed a modest amendment at stage 2, but it will be important.

There are other detailed changes that we have not had time to debate today. The existing protections in crofting legislation for the spouses and partners of crofters who die without a will, which ensure that they have rights over their croft house, have been extended to give them rights over the croft as well. That simple provision should avoid distress and disputes in crofting households at what are, inevitably, difficult times for people.

The tighter definition of what constitutes family members will prevent croft collectors from gathering up their so-called cousins' crofts. It will be much more difficult to avoid the formal assignation process and to claim that the croft has been assigned within the family. As a result, young people and others who would like to gain access to a croft should stand a better chance of getting one.

One of the more important features of the bill is that, in the future, the register of crofts that is maintained by the Crofters Commission will be a public record that is accessible to anyone. It will be a more comprehensive record and, significantly, if a croft has been registered or recognised as a croft for more than 20 years the matter of whether it is a genuine croft will no longer be open to dispute. In future, it will be possible for land that is apportioned out of common grazings for use by an individual to be returned to common use. Neglected and unwanted apportionments will now be capable of being returned to common use.

Grazings committees, which are important to the effective management of common grazings, will in future be able to challenge a shareholder who breaches grazings regulations and may ask the commission to suspend that shareholder's rights. It will no longer be viable for a single shareholder to ignore the wishes and intentions of the majority of shareholders. The Scottish Land Court and the Crofters Commission will have a definition of a

crofting community on which to base their judgments. The importance of that was only too evident in the now famous Taynuilt case.

In mentioning the details and explaining their importance, I do not underestimate the significance of some of the more complex and involved provisions. I agree with John Farquhar Munro that our passing the bill today will be historic for our crofting communities. It will be recognition of the fact that we needed to modernise crofting legislation in the 21st century and that there is more to come from the Executive and the Parliament.

The provisions in relation to schemes for development have the potential to facilitate large-scale developments on croft land that might otherwise be frustrated. I refer to developments such as renewable energy projects, which—if they secure planning approval—could benefit crofters and crofting communities enormously. Some developments have the potential to create something akin to the Shetland oil fund, which was negotiated in the 1970s and has sustained massive economic and infrastructure development and social progress in those islands for decades.

This is an important bill. I know, because I heard all the evidence. I commend the motion to Parliament.

The Deputy Presiding Officer (Murray Tosh): That concludes this item of business. For the benefit of members of the public in the gallery, I note that business has finished about five minutes early.

11:34

Meeting suspended until 11:40.

11:40

On resuming—

Point of Order

Stewart Stevenson (Banff and Buchan) (SNP): On a point of order, Presiding Officer. I wish to raise a point of order under rules 5.5 and 5.9 of standing orders in relation to the *Business Bulletin*. In today's bulletin, the words "Not Lodged" appear opposite question 4 in the list of general questions in the section announcing oral questions lodged for 1 February. That follows a similar offence—if I may use that word, Presiding Officer—by the same Labour back bencher in relation to question 1 on the list of enterprise, lifelong learning and transport questions asked on 18 January.

Presiding Officer, you will be aware of rule 5.5, which empowers the publication of a daily business list, and of rule 5.9, which includes the statement that

"the Business Bulletin may include any other information which the Clerk considers appropriate."

In the light of those powers, will you suggest to the clerk that, when the words "Not Lodged" are used in the *Business Bulletin*, they be followed by the name of the member who did not lodge the question? That would allow other members, the public and the press to identify more readily members who may be neglecting their duties and, in particular, to pull down a degree of public opprobrium on the heads of serial offenders such as the culprit in this case, Ms Wendy Alexander.

The Presiding Officer (Mr George Reid): I thank Mr Stevenson for advance notice of his point of order, which I take seriously. For some time now, the Presiding Officers have monitored the issue of questions not being lodged and are concerned that procedures are being misused. The Presiding Officers will reflect on your suggestion of naming members in the *Business Bulletin*. However, in the meantime, I remind all members of their responsibility and duty to ensure that, when they succeed in the ballot, they lodge questions.

Question Time

SCOTTISH EXECUTIVE

General Questions

11:42

MSSA Infection

1. Euan Robson (Roxburgh and Berwickshire) (LD): To ask the Scottish Executive what action is being taken to reduce MSSA infection rates in hospitals. (S2O-11795)

The Minister for Health and Community Care (Mr Andy Kerr): An overall target has been set for Scotland to reduce bloodstream infections caused by staphylococcus aureus as a result of health care-associated infection by 30 per cent by March 2010. Recently published figures show that MRSA and MSSA rates in Scotland have been stable, and the increase in numbers reported in the quarter from July to September 2006 is almost certainly due to the introduction of mandatory reporting.

The HAI task force has set in place wide-ranging measures such as a media campaign to raise awareness amongst national health service staff, patients, visitors and the public of the benefits to public health of improved hand hygiene. Local health board co-ordinators are being appointed to help to implement and monitor compliance. Moreover, the task force's delivery plan includes additional training courses for NHS staff and robust monitoring of cleaning standards in Scotland's hospitals.

Euan Robson: I thank the minister for his helpful and detailed answer and welcome a number of the measures that are being taken. However, does he think that measures specifically to combat MSSA need to be introduced? If so, should further guidance in that regard be issued to health boards?

Mr Kerr: First, I should reassure the member that, as the World Health Organization and others have recognised, we are probably one of the leading nations in the world with regard to measures that have been introduced to tackle health care-associated infections. Secondly, to reassure the member further, I point out that we can separate out MSSA from MRSA, which allows us to track that particular difficulty.

Our overall strategy remains consistent in its focus on hand hygiene, with the availability of alcohol hand gel at every front-line bed in our health service; in the involvement and work of NHS staff, particularly the cleanliness champions;

and in the measures that we are taking in relation to hospital visitors and the public. That is how we will defeat this particular cause of infection. We are also taking other measures, particularly in relation to the prescribing of antibiotics by general practitioners, to deal with the problem comprehensively throughout Scotland.

Shona Robison (Dundee East) (SNP): What are the reasons for cases of MSSA being up by 100 in the past three months? Does the minister believe that the extended use of pre-admission screening in elective cases has a major role to play in combating hospital-acquired infections? Will he give the chamber an indication of whether the use of pre-admission screening has gone up in each health board area? If he cannot give us that information today, will he provide it at a later stage?

Mr Kerr: I repeat what I said in my answer to Euan Robson. I am absolutely sure that the reason for the increased number of cases being detected is that our health service in Scotland has probably the best and most internationally verified detection measures. In the identification of, and ways of dealing with, health care-acquired infection, we sit well in relation to other world nations. Our situation is unlike that in other parts of the world. The increase over the quarter—the 100 cases to which the member referred—shows Scotland's success in monitoring and tracking these infections. We have to understand the rationale that lies behind the numbers.

The Golden Jubilee national hospital continues to maintain its rate of zero in terms of health care-acquired infection. In addition to using pre-admission screening, the hospital is able to separate planned elective care from accident and emergency admissions. Those are significant factors in reducing health care-acquired infection. The use of pre-admission screening offers lessons that the rest of the health service can learn with regard to the reduction in health care-acquired infection.

I will come back to the member on the specifics of each NHS health board. I do not have the detail at this time.

Post Office Network (UK Consultation)

2. Richard Lochhead (Moray) (SNP): To ask the Scottish Executive whether it plans to make a submission to the United Kingdom Government's consultation on the post office network and, if so, when. (S2O-11749)

The Minister for Environment and Rural Development (Ross Finnie): We are considering carefully the terms of the UK Government's proposals for the future of the post office network, and how best to respond. We will make that

submission prior to the closing date of 8 March 2007.

Richard Lochhead: On Monday evening, in Elgin, I met representatives from nearly 20 post offices from across Moray. I was told that many of those who run post offices continue to fear for their future. That said, all of us welcome the reprieve that the Secretary of State for Trade and Industry offered last night. It would seem that some rural post offices in Scotland will come under that reprieve; they will not have to close under the Government plans.

Does the minister accept that the big challenge for all the post offices in Scotland that are under threat lies in generating new business? What assistance will the Scottish Government offer in that regard? Post offices are mooting ideas such as bringing together tourist information services under the post office network and issuing local authority bus passes through post offices—a development that is already happening in some local authority areas. Is the minister looking at such proposals?

Ross Finnie: Yes, certainly. First, we are looking at the precise detail of the provisions that the Department for Trade and Industry announced, one of which included the prospect or possibility of the sort of new business to which the member refers. When the First Minister responded to a question in Parliament on the subject, he said that one of the key criteria that the Executive wanted to establish was the extent to which the Post Office and the United Kingdom Government would make efforts to promote innovative means of service delivery that could be used to augment and enhance the business of the Post Office. In the assessment that we are making, that is a key criterion against which we will test the matter.

However, the first and fundamental issue is for the UK Government, which has responsibility for such matters, to set out its financial support. We will assess that before reaching our decision.

Prisons (Private Sector)

3. Mr Kenny MacAskill (Lothians) (SNP): To ask the Scottish Executive what estimate it has made of the percentage of prisoners who will be detained in private prisons if both Addiewell and Low Moss are operated by the private sector. (S2O-11753)

The Minister for Justice (Cathy Jamieson): The estimated figure is approximately 24 per cent.

Mr MacAskill: Does the minister realise that that figure is more than three times that of the United States of America? If the Executive goes ahead in that way, Scotland will be the world leader in the use of private prisons, ahead of not only the US but countries such as Australia and

South Africa. Should not Scotland be ashamed of doing that? Surely some matters, including the safety of our communities, are too fundamental to be put into the hands of those whose first priority is private profit?

Cathy Jamieson: I want Scotland's criminal justice system, and our prison system, to be at the forefront of developments in reducing reoffending. The plans that we have put in place will do that. However, the public expect value for money. I strongly believe that we need to see a 21st century prison estate with the right prison buildings and the right programmes to reduce reoffending.

The question that the SNP has to answer—which it has not answered as yet—is whether it will decide not to use the private sector anywhere in the criminal justice system. Would the SNP put the public at risk by not having the right facilities in our prison system? The SNP has threatened to do that with our schools and our health service. The SNP's sums simply do not add up.

Phil Gallie (South of Scotland) (Con): Will the minister join me in paying tribute to the staff and all those who are associated with Kilmarnock prison for the excellent service that the prison gives to the prison estate? *[Interruption.]* Will she take account of the situation whereby the thieves and felons who are incarcerated at Kilmarnock could well benefit from the fact that they will miss voting in the Scottish Parliament elections? Will she give us an assurance that not one penny of taxpayer's money will go into their pockets?

Cathy Jamieson: As I am sure Mr Gallie is aware, the Scotland Office Minister, David Cairns, was robust on the issue of prisoners and voting when he spoke about it this morning.

There has perhaps been a first in the chamber today: Margaret Jamieson, the MSP for Kilmarnock and Loudoun, was cheering on Phil Gallie in the background. That may never be repeated.

GP Partnerships (Dissolution)

4. Carolyn Leckie (Central Scotland) (SSP): To ask the Scottish Executive, in circumstances where a general practitioner partnership is dissolved, whether there is a statutory requirement for the national health service board to seek to tender the services provided openly to non-general practitioners. (S2O-11742)

The Minister for Health and Community Care (Mr Andy Kerr): NHS boards have a statutory duty to ensure that all patients have access to GPs and primary medical services.

Carolyn Leckie: Again, we do not get a straight answer from the minister. Perhaps I can help him. The minister was responsible for introducing the

Primary Medical Services (Scotland) Act 2004, which the Scottish Socialist Party was the only party to oppose. Section 4 of the act inserted new section 17L into the National Health Service (Scotland) Act 1978, under which

“A Health Board may, subject to such conditions as may be prescribed, enter into a general medical services contract with ... a medical practitioner ... a partnership, where”

at least one partner is a GP, or

“a company limited by shares,”

where the only condition is that

“at least one share in the company is ... owned by a medical practitioner”.

That is the crucial difference—

The Presiding Officer (Mr George Reid): And your question?

Carolyn Leckie: My question is: will the minister finally refute the statements that his department made to the media that NHS Lanarkshire had no option other than to tender openly, including to non-GPs? Will he confirm that, according to the legislation, the board may not have had to do that?

Mr Kerr: The actions of NHS Lanarkshire are entirely appropriate in terms of the provisions in the legislation. A very rare set of circumstances are involved, which is that two GPs cannot agree on the future of their practice. We offered a partnership split that would have allowed them to work as single-handed GPs, but they would not agree even on that proposal. We therefore find ourselves in this situation.

What is important in all this is that the people of Harthill who are patients of that practice are given access to GP services. That is exactly what the board will do. As I have said many times, there is no reason why the traditional model of GP provision should not continue. The circumstances in which we find ourselves are very rare. I understand that the board is looking at the matter today and that it will shortly make known its views on the future of the practice.

Karen Whitefield (Airdrie and Shotts) (Lab): Does the minister agree that it is vital that patients of the Harthill medical practice should be represented on the decision-making panel? Does he also agree that the approach that NHS Lanarkshire has taken in this regard has not been as inclusive as it should have been? Does the minister further agree that the primary focus in the process must be on providing the best possible GP services, in which the health care needs of the people of Harthill, Greenrigg and Blackridge are recognised?

Mr Kerr: Of course, patient need is at the heart of what we do in the NHS in Scotland. The work of GPs in our communities is absolutely vital.

With regard to the consultation process, I understand that all people in the area were lettered, public meetings were held and patients are represented on the panel. Nonetheless, if the member has specific concerns on the way in which the process was conducted, I am happy to look at them. The matter is the responsibility of NHS Lanarkshire, but I want to learn any lessons that should be learned from the process that was undertaken.

I repeat that we are dealing with a very rare set of circumstances. I see no reason why the traditional model of GP provision should not continue in Lanarkshire. It comes down to the fact that two independent GPs—who are not employees of the national health service—could not continue to agree on the way in which the partnership should operate in the future. They could not even agree on the proposal to run the practice as a two single-handed GP set-up. We therefore find ourselves in this very rare situation. The board is doing the right thing: it is ensuring that the community gets access to good-quality GP provision.

Fiona Hyslop (Lothians) (SNP): Will the minister confirm on the record that NHS Lanarkshire could have chosen not to invite a tender from a non-GP company limited by shares? The 2004 act says that such tenders “may” be invited, not that they must be invited. If it is difficult for the minister to answer that question now, will he send a letter to interested members that provides an interpretation of the law?

Mr Kerr: The member has chosen to ignore what I have said. Given the circumstances at Harthill, NHS Lanarkshire has acted entirely appropriately. The provisions of the legislation in question and the National Health Service (Scotland) Act 1978 ensure that boards have sufficient flexibility to discharge their duties to provide primary medical services. How they do so in accordance with the needs of local populations and local circumstances is a matter for each NHS board. I repeat: what the board has done is entirely appropriate and in accordance with the legislation.

Ministerial Attendance at Constituency Events (Guidelines)

5. Ms Sandra White (Glasgow) (SNP): To ask the Scottish Executive which ministers plan in their official capacities to attend constituency events organised by MSPs from their own parties in the period up to dissolution and what guidelines apply to such visits in a pre-election period. (S20-11745)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): The requested information is not

held in such a format. Ministerial diaries retain a record of engagements that have been carried out. However, I assure the member that ministers will give due consideration to all invitations from members of the Scottish Parliament to visit their constituencies.

Ms White: I thank the minister for his interesting answer.

Recently, I asked the Minister for Justice to attend a public meeting in Milton. I am still waiting for a reply to my request. She was able to attend a public meeting in Kelvin; prior to that, she attended a Labour Party election campaign meeting in Kelvin. Will Mr Lyon allay the fears of Scottish people who do not want ministers to be used as electioneering tools? Will the relevant minister accept an invitation from a member of the Scottish National Party to come to a public meeting to allay the concerns and fears of the many people in Glasgow who are affected by the operations of Glasgow Housing Association? I assure him that there will be a full house at that meeting.

George Lyon: Sandra White's allegation is inaccurate. Ms Jamieson attended the Labour Party meeting that she mentioned in her capacity as a Labour representative, and not as a minister.

I repeat: ministers will give due consideration to all invitations from members to visit their constituencies.

Aberdeen Dental School (Consultation)

6. Mike Rumbles (West Aberdeenshire and Kincardine) (LD): To ask the Scottish Executive when it will consult on the need for a full dental school for Aberdeen in line with its commitment to do so in the partnership agreement. (S2O-11801)

The Deputy Minister for Health and Community Care (Lewis Macdonald): In the partnership agreement, we committed to establishing an outreach dental training centre in Aberdeen and to consulting on the need for its development to a full dental school.

On 6 November, I opened the Aberdeen dental institute, which will bring together on one site an outreach training centre for dental students, postgraduate education for practising dentists and a general dental practice that will register up to 6,000 national health service patients over the next two years. We will consult on further development early next year, once the institute has been in operation for sufficient time to inform the consultation process.

Mike Rumbles: The partnership agreement is clear. It states:

"We will expand the capacity of dental training facilities in Scotland by establishing an outreach training centre in

Aberdeen. We will consult further on the need for its development to a full dental school."

The agreement will last until May. Why is the minister so reluctant to implement a Liberal Democrat manifesto pledge, which the Labour Party agreed with in the 2003 coalition negotiations and which would directly benefit people in his own constituency of Aberdeen Central?

Lewis Macdonald: I am delighted that in opening the Aberdeen dental institute, we have gone beyond the commitment that was made in the partnership agreement and put in place a centre for dental education, training and treatment. I look forward to being in a position in Government from which we can consult on the further development of that institute once it has been proven that it has made a significant contribution to dental education and to access to NHS treatment for dental patients in north-east Scotland. I have no doubt that that will be proven.

Richard Baker (North East Scotland) (Lab): Does the minister agree that not only the new dental institute's training role should be considered in such consultation, but that its treatment role for thousands of patients who have been deregistered by dental practices that went private and who are now receiving NHS services again should be considered? Does he expect that treatment role to develop as we encourage more dental practices to provide more NHS treatment?

Lewis Macdonald: Absolutely. That is an important part of going beyond the partnership agreement. The dental institutes and outreach centres in other parts of Scotland are scheduled to come on stream in the next year or two. It is important that we are addressing not only the numbers of dentists, but access to NHS dentistry, which is a critical matter for patients. I expect that in future consultation on how we develop the dental estate further, the success that we have had in improving access to dentistry through salaried services, such as the Aberdeen institute, will be a key part of that consultation.

The Presiding Officer: Before questions to the First Minister, members will want to welcome a delegation from the Government of Tanzania, led by Dr Hussein Ali Mwinyi. [*Applause.*]

First Minister's Question Time

12:00

Cabinet (Meetings)

1. Nicola Sturgeon (Glasgow) (SNP): To ask the First Minister what issues will be discussed at the next meeting of the Scottish Executive's Cabinet. (S2F-2667)

The First Minister (Mr Jack McConnell): I do not intend any disrespect to the many distinguished members who will retire this May but, given Dennis Canavan's family circumstances, it is appropriate today to record our appreciation of his work over a very long career. In 1979, Dennis Canavan was the first parliamentary candidate I ever voted for. In my view, he was an outstanding parliamentarian over a long period, both as a Labour representative and as an independent member. As, I am sure, everyone else does, I wish him a long and happy retirement with his family and I hope that they enjoy it as much as he will. *[Applause.]*

At next week's Cabinet meeting, we will discuss issues of importance to Scotland.

Nicola Sturgeon: I echo the First Minister's comments about Dennis Canavan. Dennis is a man of principle. He has had an incredibly difficult time of late. I know that we all wish him and his family the very best for the future.

Today is Burns day. The bard said that we should

"see oursels as others see us"

because that would free us "frae monie a blunder". Talking of blunders, I refer the First Minister to yesterday's court ruling on prisoners' voting rights. We are told on page 3 of the court's judgment that the Scottish Executive was given notice of the appeal when it was lodged back in 2004, that under the Human Rights Act 1998 it had a right to become involved, but that it chose not to become a party to the case. Why did it make that choice?

The First Minister: Because there is no constitutional responsibility. The matters in front of the court are rightly the responsibility of the United Kingdom Government, which has a legislative and statutory responsibility for the conduct of Scottish elections. Despite what Ms Sturgeon might wish to imply to the contrary, it has been made very clear this morning by the UK Government through the Scotland Office that the Scottish elections will go ahead and that yesterday's judgment does not affect that in any way. In fact, I received a written confirmation to that effect from the Secretary of State for Scotland this morning.

Nicola Sturgeon: I suggest that the First Minister reads the judgment, which makes it clear that under the Human Rights Act 1998 the Scottish Executive had a right to get involved in the case but opted not to do so. I say to the First Minister that that choice represents an abdication of his Government's responsibility, even on reserved issues, to ensure that the Scottish interest is taken fully into account.

Is it not the case that, according to the judgment, the UK Government was slow, bungling and acted with complete disregard to the imminence of the Scottish elections?

Does the First Minister agree with David Cairns, who spoke on the radio this morning, that the Government's failure to find an acceptable solution before the Scottish elections opens the door to the appalling prospect of criminals suing for breach of human rights? Surely, after the slopping-out fiasco, that should never have been allowed to happen again.

The First Minister: It is for Mr Cairns to answer for himself on such matters. I think that he did so quite clearly this morning. No attempt by Nicola Sturgeon and the Scottish nationalists to whip up an issue in an inaccurate way that misrepresents the facts of the situation can take away from that.

Mr Cairns made it clear this morning that the Scottish elections will go ahead. He made it clear that despite what was said by the nationalists yesterday, any financial compensation that might—and only might—need to be paid would be the responsibility of the UK Government and not of this devolved Government in Scotland.

Because the UK Government is responsible for the conduct of the elections to the Scottish Parliament, it is its responsibility to fight this case in court. That is what it did. The UK Government must examine the court's judgment, but it has made clear that the elections in Scotland will go ahead. I would like Ms Sturgeon to get on with the business of fighting the election campaign and give us some issues to talk about instead of this sort of nonsense.

Nicola Sturgeon: I sometimes wonder what planet the First Minister lives on. I do not think that many people in Scotland consider the issue of criminals suing the taxpayer to be nonsense; I think that they consider it to be a grave issue.

David Cairns said this morning that there will be a bill to deal with the matter. Is it not the case that most people in Scotland, me included, do not think that prisoners should have any right to vote, but if the Government believes—as it said in court—that the law must change, was it not incumbent on it to sort something out before the election and to find a solution acceptable to the public and to the courts? Instead, we have a catalogue of

incompetence and delay, as a result of which taxpayers—many of whom are struggling to pay their own council tax—will have to foot the bill for legal aid and compensation payments to criminals. Do Scottish taxpayers not have an absolute right to be furious with the First Minister and his colleagues?

Mr McConnell: I think that if Scottish taxpayers are listening to what goes on in the chamber every week, they will be furious with the SNP because of its consistent attempts to say anything to try to win votes and gain support at the election in May.

The truth of the matter is that Mr MacAskill was squirming last night on the television as he tried to get himself off the hook in relation to who should and should not go to prison and what the SNP's position on the matter was. The position of the UK Government is certainly the same as my position. I do not necessarily speak for the whole Executive on the issue, but certainly my position is that the UK Government's position is absolutely right. It is against the right of prisoners to vote. However, it has to take account of a ruling about the European convention on human rights. The reality is that it is doing that properly by consulting the people who matter most: the voters of the UK and of Scotland, who will ultimately be affected through tax and through the position at elections.

As we move forward on the issue, we all need to know not only what the UK Government's position is but what the SNP's true position is. If the reality is that the current position on prisoners' right to vote contravenes the European convention on human rights, will the nationalists comply with the convention or not? Will this simply be yet another example of the SNP using an issue in an attempt to break up Britain, to create independence and to create a constitutional issue out of a social or legal one? The nationalists ultimately have to answer some questions on those matters, rather than simply try to garner votes.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): On a point of order, Presiding Officer.

The First Minister said, in his answer to the deputy leader of the SNP, that he is not speaking for the Executive. This is question time on the First Minister's role as leader of the Scottish Executive. Will you confirm that he should be speaking for the Executive?

The Presiding Officer (Mr George Reid): The general tenor of the First Minister's remarks was such that they were within his responsibilities as First Minister. I remind Ms Sturgeon that she predicated her remarks on representations by the First Minister and that her final question should be about matters that impact on Scotland or for which the First Minister has responsibility.

Nicola Sturgeon: I suggest to the First Minister that he does not seem to know who he is speaking for or what he is saying. If he had bothered to read the SNP's submission to the consultation, he would know our position. We believe that prisoners should not have the right to vote, but that if change is necessary it should be kept to an absolute minimum. Is it not the case that the problem is that the Government has done nothing and has exposed Scottish taxpayers to the bill? Is it not the case that this is the second time in a week that the Westminster Government has been shown to disregard completely Scottish interests and the Scottish Executive has been shown to sit back and let it do that? Is it not time that instead of a pack of cowran, tim'rous beasties for an Administration, Scotland had a real Government that would stand up for the Scottish interest?

The First Minister: I will make two points. First, it is interesting that, this afternoon, Ms Sturgeon makes clear a position that Mr MacAskill was not willing to make clear on "Newsnight" last night. He was squirming last night, attempting to claim that the nationalists would have a blanket ban. Today, we have a confirmation that, even before that, the nationalists had a different position and one that would comply with the convention. Unlike the SNP's position on the issue, my position has not changed. It does not change from day to day. It remains that prisoners should not have the vote.

I hope that my second point will in some way answer Mike Rumbles's point. The reality is that Nicola Sturgeon does not want to talk about devolved issues in the Parliament because the SNP does not have the policies on education or health, or any consistent policies on transport. It has nothing to say about the interventions in the Scottish economy that will make this country prosperous and successful in the future. SNP members flip and they flop. They say different things on different issues from one week to the next. That is why, week after week, Ms Sturgeon brings to the chamber issues that are the responsibility of another Parliament. She does not want to debate the issues that matter here in the chamber. When she does, she will get far more respect from everybody else.

Prime Minister (Meetings)

2. Miss Annabel Goldie (West of Scotland) (Con): To ask the First Minister when he will next meet the Prime Minister and what issues they will discuss. (S2F-2668)

The First Minister (Mr Jack McConnell): I have no immediate plans to meet the Prime Minister.

Miss Goldie: The First Minister will, no doubt, be aware that his Labour colleague, John Reid, has ordered English judges to stop sending

prisoners to jail, except those who commit the most serious offences. It is clear that Labour in England has given up on the fight against crime. Can the First Minister guarantee that neither he nor any member of his Executive or the civil service has ever, whether in writing, verbally or by implication, ordered or asked a judge or sheriff in Scotland to consider prison space before passing a custodial sentence, or suggested that they should do so?

The First Minister: To the best of my knowledge, which I imagine is complete on the issue, no member of any Executive that I have been part of here in Scotland since 1999 will have sought to issue a formal or informal instruction of that kind. We preserve the independence of the judiciary in Scotland, and we have enhanced that in our proposals for the more independent nomination of members of the judiciary that we have agreed with the appointments board and which I hope we will put on a statutory footing in the next session of Parliament.

Miss Goldie: I am sure that Scotland's judges and the public will find that an intriguing answer from a Lib-Lab pact whose attitude, frankly, is, "To hell with the victims. Let's pander to the prisoners." If we needed more proof of that, yesterday, the First Minister's Labour colleague, Pauline McNeill, effectively conceded that some prisoners will get the vote.

Pauline McNeill (Glasgow Kelvin) (Lab): I did not.

Miss Goldie: Indeed, his Lib-Lab pact colleague Jo Swinson said that prisoners have a fundamental right to vote. In relation to the fiasco about prisoners' having a right to vote, which is completely unacceptable, the First Minister is seeking to blame the European convention on human rights, Westminster, Tony Blair or anyone else he can find, but he has already tried that trick with slopping out. Conservatives allocated the money to end slopping out, but Jack McConnell used it for something else. He cost the taxpayer £58 million—

Pauline McNeill *rose*—

The Presiding Officer: Let Miss Goldie finish the question. Ms McNeill, I will come to you. Briefly please, Miss Goldie.

Miss Goldie: How much will the latest botch up cost?

The First Minister: As I said earlier, it will not cost the devolved Government any money whatsoever. Miss Goldie's last point—that money that could have, as she put it, ended slopping out was reallocated—is completely untrue. I have said that in the chamber before and I repeat it today.

I and my party are against allocating to prisoners the right to vote. The United Kingdom Government has made its position on the issue clear. Although the Opposition parties may wish to attempt to misrepresent that, it remains the position.

Court judgments have been made on which the UK Government is currently consulting to try to find a solution within the convention on human rights—that is its duty and responsibility—but it is clear that the objective of ensuring that prisoners lose some of their rights, including the right to vote, when they are incarcerated is absolutely correct, because prison should act as a deterrent as well as a place for rehabilitation.

Miss Goldie: I listened to the answer, but the trouble is that there is a credibility issue at the heart of the First Minister's position because, just last year in Westminster, Labour and the Liberal Democrats rejected a Conservative proposal to keep the ban on prisoners voting. Scotland's justice system has lost its way and the First Minister has lost control. Criminals are having money chucked at them to compensate for slopping out; convicts are sauntering out of jail halfway through their sentences; the Labour Party is begging judges to empty the prisons; and now prisoners are to be given the right to vote. It is little wonder that ordinary Scots are asking, "Why are criminals in Scotland getting off scot free?" Answer that, First Minister.

The First Minister: The Conservatives and the nationalists want to talk about the issue and distort and misrepresent the situation because they do not want to talk about crime and the issues that affect people in Scotland today. They do not want to talk about the way in which the devolved Government's policies have reduced crime in Scotland, increased the clear-up rate, increased the number of police officers on the streets and improved sentencing. They do not want to talk about the fact that we are toughening up the provisions on bail and those on sentences for the most violent and serious offenders or that we have introduced new offences and new restrictions on sex offenders and violent offenders. All those measures, which the devolved Government has introduced in the Scottish Parliament, were measures that people were crying out for back in the 1990s, when Miss Goldie was apologising for a Conservative Government that was doing nothing.

I remember, back in the election campaign in 1999, meeting future constituents who had been let down as victims and witnesses in the court system of the 1990s. They came to me to plead that the new Scottish Parliament should do something for them. That is precisely why we now have victim support units in every area in Scotland and new provisions to look after witnesses and

ensure that they receive the proper respect in our courtrooms, and why police officers do not now waste time in our courtrooms as they used to do. It is because of all those improvements and the impact that they are having in Scotland that the Tories and the nationalists want to talk about something else.

The Presiding Officer: Pauline McNeill may either make a point of order or ask a supplementary question to the First Minister.

Pauline McNeill: Does the First Minister agree that it is not acceptable for members to misquote other members? In no way have I ever conceded that prisoners will get the right to vote. Like, I am sure, other Labour members, I have made clear my view that it is not right for prisoners to have the right to vote. However, we are dealing with a court judgment that tells the UK Government what it has to do. Does the First Minister agree that we have been forced into this situation because we have been instructed by the European Court of Human Rights that there is an issue, and that it is right for the UK Government to take its time to work out the meaning of the judgment?

I ask for a retraction from Annabel Goldie for misquoting me in the Parliament.

The Presiding Officer: You can let that question go, First Minister, as it was really a statement.

Margo MacDonald (Lothians) (Ind): I regret to say that I am not going to get the First Minister out of jail. My question derives from a ruling by the Court of Session this week that the Scottish information commissioner should have the internal papers that relate to the commencement of sections 25 to 29 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990. My reason for raising the issue is that, in September 2005, I was given an assurance by the then Minister for Justice that the commencement would come along shortly, and the next Minister for Justice repeated that in January of last year, when I was told that the commencement was imminent. When will the measures be commenced? If that will not happen as soon as possible, why not, and might that have anything to do with the ruling in the Court of Session? If not, why are we spending so much money on keeping internal papers on the matter from people who wish to know about it?

The First Minister: I am happy to spell that out to Margo MacDonald in some detail in writing. [*Interruption.*]

If members would stop shouting and listen, they would hear what I hope will be a constructive answer. My understanding is that the original provisions in the act that was the subject of the court ruling this week were updated by provisions

in an act recently passed by this Parliament. My understanding is that the provisions of that act will be enacted as of April this year—2007. I am happy to clarify all that in writing to Margo MacDonald, but that is my understanding of the position.

Senior Citizens (Poverty)

3. John Swinburne (Central Scotland) (SSCUP): To ask the First Minister what further action the Scottish Executive will take to address the essential needs of senior citizens who are currently living below Government-defined poverty levels despite previous initiatives which provided free bus travel, free central heating and free personal care. (S2F-2670)

The First Minister (Mr Jack McConnell): As John Swinburne recognises, we have taken significant steps to address pensioner poverty, lifting 120,000 pensioners from relative poverty since 1997. The work will continue, as is evidenced by the recent expansion of the free central heating programme.

John Swinburne: Does the First Minister agree that fuel poverty among the elderly is a national disgrace? Fuel bills have doubled over the past three years. Since June 2006, wholesale prices of gas have dropped by more than 60 per cent, but no reduction has been offered to the consumer. Fuel suppliers in Scotland have diverse schemes whereby senior citizens can obtain rebates or deductions if they meet certain criteria. Senior citizens call that “the well-concealed kindly face” of the fuel companies. Will the First Minister consider calling an urgent meeting of the chairmen and chief executives of the main fuel suppliers in Scotland with a view to getting an across-the-board collective agreement for a 20 per cent reduction in the tariff charges to every pensioner household in Scotland, effective immediately, in return for doing away with their “well-concealed kindly face” schemes? Such an agreement could save countless lives this winter.

The First Minister: When fuel prices at source go down, the fuel and energy companies should reflect that in their prices—not only because of the positive impact it would have on pensioners but because of the positive impact it would have on hard-working families too.

I will reiterate something I said to the chamber before Christmas. The previous Minister for Communities met the energy companies about this issue. I will be happy to ensure that the new Minister for Communities supplies Mr Swinburne with information on the outcome of those meetings and on the actions that the companies have promised to undertake.

I am sure that discussions with the companies will continue, as will our efforts, in our own right

and under our own responsibilities—yes—to put pressure on private companies to get their pricing systems right and to ensure through our public responsibilities that we provide the sorts of services for elderly people that not only ensure they are looked after well, but ensure that they are able to look after themselves well.

John Swinburne: My final question is on a positive note. Will the First Minister consider fast-tracking a bill to means test prisoners? Senior citizens are currently means tested and regularly lose their homes to pay for residential care. If prisoners were means tested and they were awarded £1,000 for losing the right to vote or £3,000 for having to slop out, it could be pointed out to them that it costs more than £30,000 a year to have them incarcerated and that the sums awarded to them could simply be deducted from the £30,000, reducing their debt to society. Let the no win, no fee lawyers handle that one.

The First Minister: John Swinburne perhaps speaks for many of us in the sentiments behind his question.

I believe in the principle of ensuring that we can pursue those who are responsible for the most serious crimes in our society. That is precisely why there are new provisions, for example on the proceeds of crime, whereby we can ensure that the profits that drug barons and others have made from their crimes are recovered for the public purse and invested in communities, to ensure that the communities that have been damaged are assisted in being repaired.

Although the member's suggested scheme might not be conventional—it might not be legal—in expressing the principles that lie behind it and his emotional reaction to what seems to be an exceptionally unfair ruling that is bemusing victims and witnesses across the country, perhaps John Swinburne speaks for the whole land.

European Union

4. Richard Lochhead (Moray) (SNP): To ask the First Minister whether any recent steps have been taken in conjunction with the United Kingdom Government to improve the effectiveness of Scotland's representation within the European Union. (S2F-2675)

The First Minister (Mr Jack McConnell): I have commissioned a report on those matters. It is currently in draft form and when it is finalised I will consider the recommendations with colleagues.

Richard Lochhead: I take it that the document I have in my hand is the report that the First Minister commissioned. The report was sent to him and his Cabinet colleagues on 27 September and confirms that, in European negotiations,

Scotland is undermined, sidelined and ignored by Whitehall and the UK Government.

Will the First Minister tell us what his response was when he and his colleagues received the report on 27 September? Is it the case that the report makes such uncomfortable reading for him and his colleagues, given that it vindicates the Scottish National Party's arguments for independence in Europe, that he dismissed it when he received it and he and his fellow ministers are now trying to discredit it? Will he explain to members and to Scotland why Lib Dem and Labour ministers circle the wagons to defend the reputation of Whitehall and the UK Government but do not stand up for Scotland and help the civil servants who are fighting for Scotland in Brussels?

The First Minister: The SNP's only contribution to the matter over the years, as I am sure Mr Finnie will testify, has been to undermine negotiations and Scotland's representation in Europe. We know that that has been consistent practice on the part of the SNP.

We also know that the draft report states:

"There is no more effective a position for Scotland than having one of the most influential Member States representing Scotland's interests within all 3 of the EU institutions."

We also know that when the President of the European Commission, President Barroso, was in Scotland last year, he said:

"I believe that Scotland has a voice and is heard in Brussels. They have a great respect for Scotland."

It is precisely because of the way in which Scotland's interests have been represented over the eight years of devolution, in this devolved Government and at UK level, that we have seen the many successes through changes in European Union legislation and decisions that have been important to Scotland. At the same time, as First Minister of Scotland I have a responsibility to ensure that that representation is further improved. That is precisely why the report was commissioned. In Europe, in London and here in Edinburgh we can make improvements. That is our duty and responsibility and it is what I intend to do and will do, no matter what the SNP tries to do to distort the position.

One Plus

5. Rosie Kane (Glasgow) (SSP): To ask the First Minister what action the Scottish Executive intends to take to ensure the continued existence of One Plus. (S2F-2677)

The First Minister (Mr Jack McConnell): I am very disappointed that One Plus, which has a terrific history that stretches back over a few decades, went into voluntary liquidation earlier this

week. Perhaps because of that history, but certainly because of our commitment to the services that One Plus runs, we have worked hard in recent weeks with local authorities and voluntary agencies to put in place contingency arrangements, which mean that the vast majority of services that One Plus delivered will be preserved.

Rosie Kane: Does the First Minister agree that if 600 jobs were being lost anywhere else, the issue would have been the headline question in the Parliament today? I ask the Opposition parties to search their consciences and consider why that was not the case.

Does the First Minister agree that One Plus has supplied an invaluable service for 25 years? Some offers have apparently come in from Glasgow City Council and others, but they are offers of possible provision, so provision is not in place. The problem is that if the organisation is fragmented, the holistic approach that we talk about in the Parliament will be lost. We will lose the advice, which links to training, which links to child care—and other aspects of the organisation. It is imperative that the organisation is held together—

The Presiding Officer: End your question, please.

Rosie Kane: Is the First Minister concerned about that? Does he acknowledge that the Executive spent more than £2 million on a campaign to teach us how to wash our hands? Will he wash his hands and cough up £2 million to save an incredibly important organisation?

The First Minister: I was about to say that I am grateful to Rosie Kane for raising such an important issue and doing so in such an impassioned and constructive way—until her last comment, which was frankly ridiculous. People sometimes die as a result of hospital infections. Helping to ensure that such infections are minimised is a serious requirement.

I agree with Rosie Kane that the services of One Plus are very important. I absolutely agree that it is important that the services that replace those that have been delivered by One Plus are of at least the same quality. It is important that the services that are being lost as a result of the liquidation should not simply be taken over by local authorities. One of the strengths of One Plus has been its nature as a voluntary agency and the way in which it has worked with parents and youngsters over the past two or three decades to improve services. I strongly believe that the services that are being transferred or taken over should, as much as possible, be transferred to or taken over by voluntary bodies. I recognise, however, that there may be a role for local authorities in the meantime to establish some continuity.

The Presiding Officer: As we started question time two and a half minutes late, I will use my discretion to include Alasdair Morrison's question.

Broadband

6. Mr Alasdair Morrison (Western Isles) (Lab): To ask the First Minister how the introduction of broadband is progressing across Scotland. (S2F-2672)

The First Minister (Mr Jack McConnell): The Executive has made highly significant progress in broadband deployment over the past few years. At the end of 2005 we met our commitment to deliver broadband to every Scottish community. With broadband now available to more than 99 per cent of the population, Scotland is ahead of most of the world in terms of coverage, and we are now investing in closing the remaining gap in hard-to-reach locations.

Mr Morrison: I am pleased to hear from the First Minister that we have established broadband coverage to more than 99 per cent of the population. It will come as no surprise to him to hear that I wish him and his agencies to continue to press for 100 per cent coverage.

Will the First Minister continue with the policy of the Executive and the United Kingdom Government of relocating civil service jobs outwith centres of population, given the advent of broadband installation? He will be pleased to hear that the example that has been set by his Executive is now encouraging the private sector to do likewise and locate and create jobs in such places as the Western Isles. On his next visit to the Western Isles, will the First Minister join me and colleagues from the council and Highlands and Islands Enterprise to discuss how we can build on recent successes?

The First Minister: I normally meet local representatives when I visit the Western Isles, and I am sure that the issue Alasdair Morrison has raised will arise in discussions. I would wish to ensure—as, I am sure, would Alasdair Morrison—that we paint a positive picture of the recent developments that have taken place in the Western Isles and of the strategic approach that Highlands and Islands Enterprise and the authorities in the Western Isles have adopted to reverse population decline, to improve the level of services on the islands and to strengthen the economy of the islands. Those are important developments that, in the longer term, will not only secure an increase in the islands population, but ensure prosperity for those who live there.

12:33

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Finance and Public Services and Communities

Employer Levy

1. Frances Curran (West of Scotland) (SSP): To ask the Scottish Executive what powers it or local authorities have to set a levy or tax on employers, in addition to non-domestic rates, to support local public services such as transport, as happens in France. (S2O-11741)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Neither the Executive nor local authorities currently have the power to set a levy or tax solely on employers to support local public services, other than existing powers in relation to non-domestic rates. Any new local levy or tax would require additional powers to be given by legislation. That would be limited to local taxes that fund local authority expenditure in terms of the Scotland Act 1998.

Frances Curran: I suggest that the minister read the Burt report, which his Executive commissioned, and which says that the Executive has the power to levy a national tax, provided that it is for local government services. As a stepping stone to free public transport, will he consider learning from France, where a 1.7 per cent payroll tax on business is ring fenced for local public transport?

Mr McCabe: I disagree with the member's assertion, and I have read the Burt report in some detail. Taxation is a very sensitive issue. It can have a significant impact on economic performance. The Burt report mentions that taxation above a certain level could be a disincentive to work. Given the economic performance of our country at the moment, and the record number of people who are now in employment, that is the last thing we want here in Scotland.

Central Heating Programme

2. Cathy Peattie (Falkirk East) (Lab): To ask the Scottish Executive what action has been taken to address any problems arising from the handover of management of the central heating programme. (S2O-11786)

The Deputy Minister for Communities (Des McNulty): Regular meetings are held between officials and Scottish Gas representatives to

ensure that progress is being made and the requirements of the contracts are being met. That includes any issues that might have arisen from the management handover.

Cathy Peattie: The warm deal is an excellent programme, and many of my older constituents have taken advantage of it. However, there is a long waiting list. I have constituents in their 80s who have been told that they will have to wait at least three months, until the summer. That is not good enough. Will the minister consider some way of prioritising need when dealing with waiting lists?

Des McNulty: Cathy Peattie is well aware that approximately 80,000 people will have benefited from our programme during the past several years. That is a major achievement. After assessment of eligibility, the current waiting list that was inherited from the Eaga Partnership has been reduced to about 4,500. All those who are on the revised list have been contacted and Scottish Gas has given a commitment that they should all receive their heating systems before 31 March. I hope that Cathy Peattie will regard that as good news.

On prioritisation, the Eaga Partnership operated a good system for dealing with people with particular priorities. The priority system was not about health generally because so many of the people who qualify for the central heating programme are of an age at which they might have a health qualification. Where the circumstances arise, Scottish Gas will implement a system that will allow some people's circumstances to be taken into account and people to be moved up the list.

Dave Petrie (Highlands and Islands) (Con): Does the Scottish Executive have in place an accurate record of complaints against Scottish Gas? Is it monitoring the response times to such complaints and, if so, what is the maximum response time?

Des McNulty: I cannot give the member a straightforward answer to that question, but I will investigate the matter and write to him with the information about response times. However, every complaint that is made to the Executive is looked into, and complaints from Scottish Gas are regularly monitored. I will try to find out what the position is on response times.

Christine Grahame (South of Scotland) (SNP): I refer the minister to his written answer of 12 January to my question S2W-30516, in which he said:

"We are on track to deliver our target of 17,500 Warm Deal installations between April 2006 and March 2007."—
[Official Report, Written Answers, 12 January 2007; S2W-30516.]

As of today, how many installations have taken

place? What is the average waiting period between a positive assessment and installation?

Des McNulty: Is the member referring to the warm deal or to central heating?

Christine Grahame: Central heating.

Des McNulty: The member is asking for precise figures, which, again, I do not have. I will write to her with the information.

Housing Stock Transfer

3. Bill Aitken (Glasgow) (Con): To ask the Scottish Executive how the new Minister for Communities intends to reinvigorate the campaign for housing stock transfer across Scotland. (S2O-11736)

The Minister for Communities (Rhona Brankin): The benefits of stock transfer are clear in places such as Glasgow and will become clear in places such as Inverclyde.

The Scottish Executive has supported each of the transfer local authorities with both practical and financial assistance, but it is the tenants' prerogative whether to approve transfer and the Executive will respect the result of any stock transfer ballot. However, tenants should be in no doubt that only the transfer option can provide debt write-off, which is necessary to boost investment and stabilise rents.

Bill Aitken: I am pleased that the minister recognises the value of stock transfer in Glasgow, in particular, where housing associations such as Reidvale Housing Association and Partick Housing Association have been so successful. Will she guarantee that once the Glasgow Housing Association has a new chief executive, the long-awaited second-stage transfer—which will result in houses being passed to the control of local people—will take place as a matter of urgency?

Rhona Brankin: The Executive's view on the way forward for second-stage transfer in Glasgow is set out clearly in the letter that Malcolm Chisholm sent to the chair of the GHA board last month, which was the Executive's response to the recent report by the joint team of officials from the GHA, Communities Scotland, Glasgow City Council and the purchasers, who examined the financial issues associated with SST. We are hopeful that some of the preparatory work on cases for SST can be done before next summer.

Tricia Marwick (Mid Scotland and Fife) (SNP): I think I heard the minister say that it would be next summer before any second-stage transfers took place; perhaps she could confirm that.

Does she accept that stock transfer has stalled because of the debacle surrounding the second-stage transfer from the Glasgow Housing

Association to housing associations in Glasgow? Is it not about time the Executive kept its promises to the people of Glasgow, who have been betrayed?

Rhona Brankin: Although it is clear that the landscape has changed, we remain absolutely committed to stock transfer, when it is appropriate. We should not rule out any delivery options that have been proved to work in the past, but local authorities should always consider carefully full and partial stock transfers as part of their strategic investment appraisals, especially if they expect to have difficulties in meeting the quality standard by 2015. We think that transfer is a very strong option when debt and investment needs are high, but we would not rule out any affordable option that could be effective in securing improvements in the living conditions of tenants in Scotland.

Relocation Policy (Small Units)

4. Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD): To ask the Scottish Executive what plans there are to relocate small units to rural Scotland under its relocation policy. (S2O-11793)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): To date, the Scottish ministers have relocated small units to a number of fragile rural communities, including Dingwall, Tain, Campbeltown, Kinlochleven, Alloa, Dumfries and Tiree. The Executive remains committed to the establishment of small units in fragile rural or remote areas of Scotland. The relocation guide that was published last year sets out the detail that underpins that commitment. I assure the member that I am always encouraging fellow ministers to identify Executive units that would be suitable for the small units initiative.

Jeremy Purvis: The deputy minister will be aware that the list that he gave omitted a particular region. He will also be aware of the success of the relocation of the Scottish Public Pensions Agency to Tweedbank, which has produced an increase in efficiency and productivity for the public sector. Does he agree that the time is now right for there to be regional targets for relocation, especially of small units? The relocation of such units to places such as Eyemouth, Jedburgh and Hawick in my colleague Euan Robson's constituency, and to Walkerburn, Innerleithen and Selkirk in my constituency, would benefit Government and be a success for the local economy in the Borders.

George Lyon: I am very much aware of the success of the transfer of jobs to the Borders through the Scottish Public Pensions Agency. I am also very aware that all areas of Scotland seek to be allocated the benefits of that policy. In discussions at the Finance Committee I indicated the need, in moving the policy on, fully to consider

geographical targeting.

Mr John Swinney (North Tayside) (SNP): The minister will be aware—because I have raised it with him in committee on a number of occasions—that at no stage have any civil service jobs been relocated by the Scottish Executive to the Perth and Kinross Council area. Does he therefore share my concern that the Scottish Executive is currently considering proposals that have emerged from an options appraisal exercise and which may lead to the relocation to other parts of Scotland of civil servants from the freshwater fisheries laboratory at Pitlochry in my constituency? Does he understand that that would be very disruptive to the process of the freshwater fisheries laboratory?

George Lyon: I understand Mr Swinney's point. As I said in my previous answer, all areas of Scotland are keen to experience the benefits of the relocation policy—that bears down heavily upon me—and geographical targeting may be an area that we should consider in trying to progress that policy.

Council Tenants' Right to Buy (Suspension)

5. Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): To ask the Scottish Executive whether it has received, or expects to receive, further representations from local authorities that tenants' right to buy should be suspended, following Fife Council being awarded pressured area status in respect of west Fife. (S2O-11799)

The Minister for Communities (Rhona Brankin): We are currently assessing an application from Perth and Kinross Council. I am aware that a number of other local authorities have noted in their local housing strategies their intention to apply for pressured area designation.

Mr Arbuckle: Is there any danger that the scheme will become a victim of its own success and will be terminated because of the pressures in the housing market?

Rhona Brankin: That is not the plan. We are taking the plan forward; designations are in place in six local authority areas and, as I said, a number of others are actively considering applications. Designations provide for local flexibility and can be a useful tool for local authorities that are experiencing pressures in respect of affordable housing. It is important that we see designations as part of a wider strategic approach to meeting affordable housing need. We are putting massive investment into affordable housing.

Local Government Funding (Inverclyde)

6. Mr Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the Scottish Executive whether it believes that working families contribute

proportionately to the funding of local public services in Inverclyde. (S2O-11779)

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): We want a local taxation system that is fair and proportionate, not just for working families in Inverclyde but for people right across Scotland. That was why we set up the Burt committee. We are now examining the committee's report and we will make a decision on the way forward in due course and in the light of all the facts.

Mr McNeil: I express some surprise that the minister does not acknowledge the fact that hard-working families already pay their fair share for the services that we all enjoy. Such families are the backbone of our national and local economy and as such should be valued, not targeted. Would it not therefore be utterly unfair and counterproductive to hit those hard-working families with an extra local income tax bill, as the minister's party and the nationalists propose to do?

George Lyon: A number of views have been expressed in the Burt committee's report, one of which—recommendation 3—was that the council tax should not be retained in its current form. As I said in my previous answer, ministers will have to consider all the facts in the committee's report. We will reflect on that and in due course we will produce a way forward.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Would the minister agree that working families in Inverclyde, as everywhere else, would be better off with—rather than the imposition of an extra tax—the abolition of the council tax and its replacement by a fair local income tax that is directly related to their ability to pay it?

George Lyon: Far be it from me to move from my neutral position on the matter but, as I said, a number of views are expressed in the Burt committee's report. It is up to all members to consider closely the facts that are set out there, to reflect on them and to come to a view on the right way forward. That is what the Scottish ministers intend to do.

Local Income Tax

7. Janis Hughes (Glasgow Rutherglen) (Lab): To ask the Scottish Executive what personal details would be required for the operation of a local income tax. (S2O-11768)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The personal details required would depend on the details of the system of local income tax that was proposed. However, it is difficult to see how any such system could operate without precise income data.

Janis Hughes: Does the minister believe that people are generally aware that their income data would be available to local authorities? Do they understand the implications of that?

Mr McCabe: I do not think that that is widely understood. Members of the public would need to make their own judgment. Individuals are fairly sensitive about who shares knowledge of their income. Perhaps the fact that their local council would be a party to that information will cause people to weigh up and consider the implications of any change in the tax system.

Alasdair Morgan (South of Scotland) (SNP): Is it not the case that, under a local income tax, there would be no requirement for local authorities to know any individual's income? That would be a matter for the Inland Revenue. The only additional detail that would be required would be to ensure that everyone's postcode was attached to their address. I suspect that that is already the case for most people.

Mr McCabe: The SNP specialises in fantasy policies—once again, it has demonstrated that tendency. The idea that local authorities could, without knowing individuals' personal income data, levy a tax that would bring in the same income that they currently enjoy seems to me to be a fantastic notion.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): Regardless of what data are available on ordinary working people, will the minister confirm how much a local income tax would cost an ordinary working family in Lanarkshire?

Mr McCabe: Once again, we do not have precise data. However, if we take some of the projections from the Burt report, there is an indication that such a tax could cost hard-working families a bigger proportion of the money that is available to them.

Flooding (Financial Assistance to Local Authorities)

8. John Farquhar Munro (Ross, Skye and Inverness West) (LD): To ask the Scottish Executive how much financial assistance it plans to provide to local authorities under the formula which it operates, similar to the Bellwin formula, to compensate for losses incurred during recent flooding. (S2O-11798)

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The Bellwin scheme was substantially improved earlier this year. It allows the Scottish ministers to provide local authorities with additional revenue support in the event of unusual conditions. Beyond that scheme, there is no formula, as such, that provides assistance.

John Farquhar Munro: I am sure that the minister is aware of the extent of the damage that was caused in Dingwall and Easter Ross, in my constituency, by the recent flooding. Given the probability of increasing frequency of such events in Scotland, what action is the Scottish Executive planning to take to ensure that local authorities receive compensation—through the Bellwin scheme or a similar scheme—as quickly as possible after the event?

Mr McCabe: As I suggested, we reviewed the scheme earlier this year and the level of support was increased. The results of the review were warmly welcomed by local government. The Scottish Executive's performance on making payments under the scheme in the recent past—particularly in the aftermath of recent tragedies in the Western Isles—shows that a responsive system is in place. If there is any evidence that the system was ever less than responsive, we would look at that closely but, to date, I do not think that such evidence exists.

Relocation Policy (UK Civil Service Jobs)

9. Mark Ballard (Lothians) (Green): To ask the Scottish Executive how the planned relocation of United Kingdom civil service jobs will impact on the Executive's relocation strategy. (S2O-11804)

The Minister for Finance and Public Service Reform (Tom McCabe): Our aim is to encourage the relocation of UK public sector posts to Scotland alongside our own relocation strategy within Scotland. Executive officials are working closely with Scottish Development International to communicate to UK departments the potential benefits of operating from all parts of Scotland.

Mark Ballard: Is the minister aware that UK civil service job targets, centralisation and job cuts are sending UK civil service jobs from Inverness and Fife to Edinburgh, which is the polar opposite of the Scottish Executive's strategy? Given that complete contradiction, would not it make sense for ministers to take up the call of the civil service unions for a moratorium on further relocations, so that ministers can take into account the job flow throughout the civil service, for the UK and for Scotland?

Mr McCabe: I am surprised to hear the term "complete contradiction". I thought that Mr Ballard's party's policy was for independence for Scotland but, in an independent Scotland, it would be somewhat surprising if we had any interest whatever in what the civil service south of the Border did. Mr Ballard seeks to face two ways at once: when it suits him, he calls for independence for Scotland but, at other times, not unlike his colleagues from the Scottish National Party, he tries to get even more benefits from the United Kingdom.

Education and Young People, Tourism, Culture and Sport

The Deputy Presiding Officer (Trish Godman): Question 1 has been withdrawn.

Reliance

2. Mr Jim Wallace (Orkney) (LD): To ask the Scottish Executive what discussions its Education Department has had with Reliance regarding the security arrangements for young people while attending children's hearings from custody. (S2O-11797)

The Deputy Minister for Education and Young People (Robert Brown): There have been no such discussions, but our attention has been drawn to a case in Orkney in which a parent who was attending a hearing from prison was handcuffed during proceedings. There has been an exchange of correspondence between my officials and Reliance on the practice. I understand that Reliance has offered to meet the chair of Orkney children's panel advisory committee to discuss the matter.

Mr Wallace: As the minister knows, I have written to him raising concerns about a case in Orkney in which a 16-year-old boy appeared before the panel in handcuffs. That may be a separate case from the one that the minister mentioned—I do not know. Does the minister accept that, although we need proper security arrangements, having someone sitting in handcuffs is contrary to the ethos and spirit of the children's hearings system? When the minister engages with Reliance, will he try to ensure that, while maintaining proper security, it uses more suitable means of safeguarding and securing premises than handcuffing, which, as the chair of the Orkney children's panel has told me, detracts from the purpose of the hearing?

Robert Brown: Jim Wallace raises a difficult and sensitive issue. It is important that we are clear about which cases we are discussing. I am happy to engage with Mr Wallace further when we know the full details of the issue that he is concerned about.

The handcuffing of young people during transport to or appearance before a children's hearing is pretty rare. We must remember that, in what can be a highly emotive situation for a young person, the safety of the young person and the public is paramount. The risks are not theoretical. The Executive's policy is that restraint is used only if absolutely necessary and after an assessment that the young person poses a high risk to themselves or others. In most cases in which the young person concerned is held in a secure unit, the hearings are convened there, but only a small minority of children are detained in that way. For

children who come from custody in a young offenders institution or prison but not from a secure unit, the risk assessment is the responsibility of Reliance, under the terms of Scottish Executive policy and Reliance's contract.

As I said, I am happy to meet Jim Wallace to discuss the issue further if he has concerns, whether they relate to young people or adults.

Speech and Language Therapy

3. Cathie Craigie (Cumbernauld and Kilsyth) (Lab): To ask the Scottish Executive what provision for speech and language therapy is available to nursery-age children. (S2O-11761)

The Minister for Education and Young People (Hugh Henry): All national health service boards have drawn up local plans with their local authority partners that identify priorities such as speech and language therapy for children and young people, including nursery-age children.

Cathie Craigie: Will the minister join me in welcoming children, parents and staff to the brand new Kildrum nursery, which recently opened in my constituency of Cumbernauld and Kilsyth? Is he aware that the nursery, which caters for children from the age of six weeks to five years, boasts multipurpose rooms where speech and language therapists and learning support teachers can work with children and staff? Does he agree that, for children with speech or language difficulties, early intervention is essential to ensure that they receive the best start in life, and that the practice at Kildrum should be held up as an example for nurseries throughout Scotland?

Hugh Henry: Kildrum is one of many excellent early years facilities throughout Scotland that aim to give our children the best start in life. I agree whole-heartedly with Cathie Craigie that early intervention is critical. When a child has difficulties of any nature, we must ensure that help and support are provided as early as possible. I know that Kildrum and other nurseries provide a high-quality service.

It is incumbent on us to encourage parents to support and assist their children from as young an age as possible. The earlier that children are encouraged through their parents talking and reading to them, and playing, singing and playing music with them, the better those children will develop. All too often, we have to deal with the consequences of a failure, for whatever reason, to intervene at an early stage. That failure can then manifest itself in difficulties when the child is in primary and then secondary education.

All power to the staff at Kildrum and other places. I hope that their excellent practice will continue.

Lord James Douglas-Hamilton (Lothians)

(Con): Is the minister aware of the substantial concern that some local authorities are cutting back on the number of qualified teachers in their nurseries, or even completely eliminating such teachers? I regret to say that West Dunbartonshire and Glasgow are cases in point. Against such a background, is the minister satisfied that everything necessary is being done to ensure that additional support needs are identified early and will continue to be identified early?

Hugh Henry: Two separate issues arise. The early identification of additional needs must be undertaken, irrespective of what else might be happening according to Lord James Douglas-Hamilton.

Teachers are critical to the development of the early years curriculum. Their influence and involvement are important. However, we should remember that a range of other members of staff also provide first-class services for children in the early years. It would be wrong not to question the impression that Lord James has given that somehow the early years services in Glasgow and West Dunbartonshire are of anything less than high quality. I know from experience that facilities in those authority areas operate to very high standards, with dedicated nursery staff from a variety of backgrounds. We should celebrate the contribution that they make, while also acknowledging the contribution that teachers clearly make to early years education.

Minister for Tourism, Culture and Sport (Visit to Inverness)

4. Maureen Macmillan (Highlands and Islands) (Lab): To ask the Scottish Executive whether the Minister for Tourism, Culture and Sport will make a statement on her visit to Inverness on 12 January 2007. (S2O-11773)

The Minister for Tourism, Culture and Sport (Patricia Ferguson): I am sure that those of us who were there would agree that the launch of Scotland's year of Highland culture was a real success. It gave people a taste of the many cultural and sporting events that are to be held this year, particularly in the north, thus ensuring that the rich cultural heritage of the Highlands is properly understood and celebrated. We also want to use this year of Highland culture to raise the profile of the Highlands as a great place to live, work and invest in, as well as to visit. We hope that that will, in turn, bring real benefits to the Highlands and to the whole of Scotland for a long time to come.

Maureen Macmillan: I welcome the minister's remarks—it was indeed a fantastic evening. I say to the minister that this is the Scottish—I emphasise Scottish—year of Highland culture.

The whole of Scotland is invited to take part. I ask the minister to promote this great festival, which showcases the modern Highlands, not only to visitors from outwith Scotland—plenty of whom were at the launch on 12 January—but to Scots themselves. We would dearly love our countrymen to visit the Highlands—too few of them do—to see for themselves the reality of our lives and culture.

Patricia Ferguson: I am happy to assist the year of Highland culture in any way that I can to promote events, whether international, national, regional or local. I look forward to attending many more of those events over the coming year.

Maureen Macmillan makes a valid point. I hope that the extremely diverse attractions that are on offer this year will ensure that as many people from other parts of Scotland as possible will want to visit the Highlands, and not only this year. I sincerely hope that they will visit this year and then come back in future years.

Rob Gibson (Highlands and Islands) (SNP): Does the minister agree that properly understanding and celebrating the Scottish year of Highland culture would be aided by some interpretation for the exhibition "Fonn's Duthcas: Land and Legacy", which will tour to Edinburgh, Glasgow and Stornoway after it leaves its Inverness base? Does the minister also agree that the number of people who visit the exhibition would increase if the Executive provided every school with a DVD and explanatory notes for youngsters? Does she agree that that would help more young people in Scotland to understand the Highlands properly?

Patricia Ferguson: The best thing that young people could do would be to visit the exhibition, see for themselves the items on display and read the interpretative information that is available. Some of the material that has been produced for the exhibition is of the highest quality.

The exhibition is an excellent example of an approach that I have been trying to encourage for some time, whereby our national collections cooperate with local providers to ensure that the best materials are on display around the country. The fact that the exhibition will tour other parts of Scotland as well as the Highlands means that not only children but as many people as possible of all ages will have an opportunity to view the objects and understand their relevance to the Highlands and Scotland as a whole. I hope that they enjoy the experience, too.

Mr Jamie McGrigor (Highlands and Islands) (Con): Not only is 2007 the year of Highland culture, it is the first year in which St Andrew's day will be a public holiday in Scotland. I congratulate Oban on being the first Scottish town to plan a St Andrew's day festival. However, the company that

is organising St Andrew's day Oban 2007 is apparently experiencing difficulty in securing funding from the area tourist network and has been told that budgets for events and festivals have been cut. Will the minister comment on that and say how communities such as Oban can be helped with funding and marketing for St Andrew's day festivals?

Patricia Ferguson: I am happy to look into the matter that Jamie McGrigor raises and to ascertain whether funding has been cut. The best thing for the company that is arranging the St Andrew's day celebrations in Oban to do would be to contact EventScotland, which has budgets for regional, national and international events. I am sure that, as long as the company meets the criteria, it will have an opportunity to secure funding.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I heartily endorse the minister's stated objective that people should visit the Highlands, not just this year but in future years. Does she agree that the proposed new degree in adventure tourism at Lochaber College would contribute significantly to that objective? Does she also agree that the proposal to offer the degree under the umbrella of the UHI Millennium Institute is unique in the United Kingdom, and that it is important to give every assistance to the people who are developing the degree and to the students who might want to participate in it, such as the pupils from Grantown grammar school whom I met on Monday?

Patricia Ferguson: As Fergus Ewing knows, I have been keen to promote the Highlands as an area in which adventure sport can be enjoyed by local people, Scots who visit the area and international visitors. That is one of the reasons why our agencies have been so involved in helping to secure international adventure sport events.

Adventure tourism is expanding all the time and Scotland is fast acquiring a reputation in that area. Although I have not seen the proposal from the UHI Millennium Institute for the degree course to which Fergus Ewing referred, it sounds like a good idea and it probably is unique in the UK. I hope that if the course goes ahead, it meets the high standard that our graduates expect.

Schools (Health Promotion and Nutrition) (Scotland) Bill

5. Patrick Harvie (Glasgow) (Green): To ask the Scottish Executive what amendments it intends to lodge to the Schools (Health Promotion and Nutrition) (Scotland) Bill. (S2O-11806)

The Minister for Education and Young People (Hugh Henry): Following yesterday's welcome and productive debate on the bill's principles, the

Executive will consider lodging amendments at stage 2. If amendments are considered necessary, they will be lodged within the usual timescale.

Patrick Harvie: I understand that the Executive still thinks that it is necessary to introduce anonymised systems for pupils who receive free school meals. However, given the mixed views on the issue, particularly on fingerprinting and other biometric systems, is the minister open to proposals to amend the relevant section of the bill? In particular, will the Executive close the gap between its initial statements that parental consent for biometrics would be an essential prerequisite and its later statement that parental consent would merely be a matter of good practice? Is the minister open to accepting amendments to ensure that parental consent is a legal requirement?

Hugh Henry: We have never specified how an anonymous system should be introduced. That is a matter for local authorities, as we have made clear. We encourage local authorities to engage with and involve parents. Despite what Patrick Harvie says, there are powerful arguments for anonymous systems. There is conflicting evidence on the matter, as we heard during yesterday's debate. There are people who hold diametrically opposed views to those of Patrick Harvie.

The systems that I have seen operate very well, and they have the support of the teaching staff. They also find a great deal of favour with the pupils concerned. They can make a contribution beyond the issues of anonymity and the security and collection of cash. I urge Patrick Harvie and others not to close their minds to the wider issues. I recognise that there are questions of confidentiality and of security of personal information, but the picture is not always as extreme as Patrick Harvie portrays it. Local authorities are well placed to take the appropriate decisions.

Fiona Hyslop (Lothians) (SNP): Does the minister recognise the inconsistency in the Executive's position? We are regularly told that we must respect the rights of local authorities to make decisions about education in their areas, yet the Executive is setting its face against giving powers to local authorities to decide whether or not to fund free school meals, regardless of whether or not the Executive supports their position.

Hugh Henry: The Parliament had an extensive debate on that very point yesterday, and I see no point in adding anything further to what was said.

Children in Care (Education Champion)

6. Bill Butler (Glasgow Anniesland) (Lab): To ask the Scottish Executive how the creation of a national “champion” will help to improve the educational performance of children in care. (S2O-11760)

The Minister for Education and Young People (Hugh Henry): Anna Fowlie, who is on secondment from the Convention of Scottish Local Authorities, will work closely with chief executives and senior officials in each local authority to identify what more needs to be done to improve educational outcomes for their looked-after children.

Bill Butler: Given the fact that children in care gain far fewer qualifications than other pupils, that development, together with the £12.8 million that goes with it, is very positive, and has been welcomed by COSLA and Barnardo’s. Will targets that have to be met within a specific timeframe be set, so as to gauge the success, or otherwise, of this latest initiative to improve the educational performance of children in care?

Hugh Henry: It might be difficult to have specific targets and timeframes at this stage. It is generally recognised that we as a society collectively fail children in care. All of us—local authority staff, councillors, MSPs and ministers—must take our responsibilities for those children seriously. Too many of them start their young lives disadvantaged, and that disadvantage continues when they go into care. It is not good enough that many of them are more vulnerable to failure at a relatively early stage in life. We need to do something about that. We are determined to ensure that we all face up to our responsibilities.

The financial contribution that we have made is part of that, but we are also asking the various inspectorates, including the Social Work Inspection Agency, Her Majesty’s Inspectorate of Education and the Scottish Commission for the Regulation of Care, to undertake specific inspection work to ascertain what is happening in each local authority area, to go into schools and ask questions and to inspect care homes. We are working with local authorities to improve data collection and the reporting framework, so that we can be confident of having robust evidence about what is happening locally. Anna Fowlie, as the new senior executive who has been appointed to this area, will report twice a year to Cabinet on the progress that has been made. I hope that the Parliament will continue to take an interest in the issue and debate it.

Nursery Education (Funding)

7. Marlyn Glen (North East Scotland) (Lab): To ask the Scottish Executive what the total additional allocation to local authorities has been for nursery education since November 2006. (S2O-11765)

The Deputy Minister for Education and Young People (Robert Brown): On 27 November 2006, the Minister for Education and Young People announced the allocation of £40 million of additional resources for the purchase of educational materials for use in schools, including local authority nursery classes and schools. On 12 January 2007, the minister announced an additional £12.8 million of funding for children’s services. Options for the use of that funding include play equipment provision by providers of pre-school education.

Marlyn Glen: I ask the minister to join me in welcoming such additional funding, particularly the additional £1 million for Dundee, Angus and Aberdeenshire, which is proof of the on-going commitment of the Executive to expanding and improving early years education.

Will the minister outline the Executive’s plans to monitor the improvements in attainment that are expected to follow the changes?

Robert Brown: The Executive has a good record on extending early years education and care to more people throughout Scotland, with the result that 96 per cent of three-year-olds and 99 per cent of four-year-olds are registered for pre-school education.

With regard to the spending of the money that I referred to, that is primarily a matter for the local authorities concerned, but we are interested to see the kind of things that it is spent on. There is considerable scope for innovative projects and taking forward new ideas. In that context, I mention that, in July 2006, the Executive launched pilot projects for pre-school provision for vulnerable two-year-olds. As Marlyn Glen will be aware, those pilots are taking place in Dundee, as well as in Glasgow and North Ayrshire.

Interests of Members of the Scottish Parliament Act 2006 (Determinations)

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motions S2M-5431 to S2M-5434 inclusive, in the name of Brian Adam, on behalf of the Standards and Public Appointments Committee, on its fifth, sixth, seventh and eighth reports of 2006, on determinations required under the Interests of Members of the Scottish Parliament Act 2006.

14:57

Brian Adam (Aberdeen North) (SNP): The Interests of Members of the Scottish Parliament Act 2006 received royal assent on 13 July last year. Certain sections of the act came into force the day after that, to enable Parliament to make determinations. Those determinations will replace existing determinations under the current members' interests order, which were made by the Presiding Officer.

In giving powers to Parliament in relation to those matters rather than to the Presiding Officer, the act gives all members a greater say in the content of determinations. Determinations can be replaced as required to suit future arrangements, which will enable us to keep the requirements of the act current, relevant and pertinent in the future. Without that method, the only way in which we could amend the requirements imposed on us by the act would be by way of a further bill.

A procedure for making determinations under the act was agreed recently by the Parliament and is set out in rule 1.8 of our standing orders. The purpose of today's debate is to discuss four determinations. The Standards and Public Appointments Committee agreed to make separate determinations under separate parts of the Interests of Members of the Scottish Parliament Act 2006. The four reports that members have before them are deliberately designed to stand alone. The committee could have produced an omnibus report and an omnibus determination covering all the determinative powers under the act, but for the following reasons, we decided not to adopt that approach.

First, it is important that each determination is capable of being reviewed and revised on its own merits. As a consequence, only one determination will require to be reprinted and debated. Secondly, further to increase transparency, the approach will enable any interested observer to consider a determination and follow a single audit trail of revisions, reports and debates.

Members will have read the reports, but it might be useful if I were to comment briefly on them. The reports span four determinations: one relating to the form and content of a written statement; one relating to the publication of the register of interests; one relating to a declaration of interests; and one relating to gross income from heritable property.

Under section 4 of the 2006 act, the Parliament may determine the form and content of a written statement of interests. I hope that members will recognise the form of the statement that is presented in annex A of the relevant report. We have tried to keep the statement as close as possible in format and content to the current statement. Some additional information, as set out in the consultation document, has been included. For example, more use has been made of bandings for financial values in the proposed statement than in previous statements.

Under paragraph 8 of the schedule to the 2006 act, the Parliament may determine the amount of gross annual income that triggers a requirement to register heritable property. That amount is replicated in the relevant section of the written statement relating to heritable property. Again, there is a stand-alone report in case the Parliament decides at some point in the future to revise the thresholds for income from property.

The committee has taken the starting point that all income from property should be registered. The approach taken is that all remuneration is registrable, and the same approach has been adopted for property. That is a change from the previous arrangements.

Under the 2006 act, the income threshold must be expressed as an amount, so the amount in the determination has been set at zero. The registration of any income from heritable property is required under the determination. However, the committee appreciated that just registering a figure for income may provide a distorted picture to an observer. Members should bear it in mind that there is provision in the statement to include the income from heritable property in bands. They should also note that, to provide a fuller picture, additional information may be included in a statement. If a member considers it relevant, information such as any profit or loss connected with a property may be included.

Overall, we are all agreed that there should be a register of members' interests—that was agreed by the Parliament—and we hope that the register will also cover other possible or perceived external influences. For the register to be meaningful, we need to disclose a reasonable amount of information, and I hope that our proposals in the determination on the written statement are reasonable.

I do not intend to speak for much longer because I am aware that, although the determinations are important, they may be rather less than riveting as a topic for debate. I hope that the determinations proposed under sections 11 and 13 of the 2006 act are relatively straightforward, as they replicate the practices of sessions 1 and 2 of the Parliament, with which members should be familiar. However, in relation to the determination proposed under section 13 of the 2006 act, members should note the requirement to have relevant interests registered prior to voting. Members should also note that the requirement to cover declaration of interests for voting purposes as well as other actions stems from mandatory requirements in section 39 of the Scotland Act 1998.

We have set out to fine tune the system that has worked in sessions 1 and 2. The Parliament is quite young, and I hope that we have provided a good basis for coming sessions, with practical arrangements for encompassing change if required.

I move,

That the Parliament notes the Standards and Public Appointments Committee's 5th Report, 2006 (Session 2), *Determinations required under the Interests of Members of the Scottish Parliament Act 2006 - Determination required under Section 4* (SP Paper 706), and agrees that the determination set out in Annexe A to the report be made with effect from 4 April 2007.

That the Parliament notes the Standards and Public Appointments Committee's 6th Report, 2006 (Session 2), *Determinations required under the Interests of Members of the Scottish Parliament Act 2006 - Determination required under Section 11* (SP Paper 707), and agrees that the determination set out in Annexe A to the report be made with effect from 4 April 2007.

That the Parliament notes the Standards and Public Appointments Committee's 7th Report, 2006 (Session 2), *Determinations required under the Interests of Members of the Scottish Parliament Act 2006 - Determination required under Section 13* (SP Paper 708) and agrees that the determination set out in Annexe A to the report be made with effect from 4 April 2007.

That the Parliament notes the Standards and Public Appointments Committee's 8th Report, 2006 (Session 2), *Determinations required under the Interests of Members of the Scottish Parliament Act 2006 - Determination required under the schedule, paragraph 8* (SP Paper 709), and agrees that the determination set out in Annexe A to the report be made with effect from 4 April 2007.

The Deputy Presiding Officer (Murray Tosh): Remaining speakers will have four minutes each.

15:03

Alasdair Morgan (South of Scotland) (SNP): I hope that the time allocated is enough to cover the many important issues that arise from the four reports.

My first point is one that the committee convener alluded to, perhaps because I have discussed it with him. We have four reports, three of 28 pages and one of 48 pages. All were published on the same day, and when we look at them, we realise that 24 pages in each report are identical. They cover the committee minutes, the act that governs the determinations, the membership list of the committee, blank pages and so on. Looking at the 10 or 12 paragraphs of each report, we see that the first eight paragraphs are identical as well.

I understand the argument for having separate determinations so that the Parliament can revise them individually. However, I fail to see how it is beyond the wit of man or woman to provide for that without having all these reports that contain the same information. I do not swallow the committee convener's argument that separate reports give the interested observer—of which there will clearly be a large number—an audit trail to follow the discussions. The committee has not applied that logic to its reports, as they contain many footnotes that refer to the *Official Report*, for example, which is of course not included in the reports.

Brian Adam: Is the member seriously suggesting that, instead of using footnotes rather than adding in information, the committee reports before the Parliament should have been even longer? Others suggested to the committee that the consultation document and the lack of response to it ought to have been included. Mr Morgan cannot have it both ways.

Alasdair Morgan: I am not suggesting that. I am saying that if footnotes are good for some matters, they are equally good for minutes, the act and the committee's membership list.

I will get on and address the reports. The sixth report of 2006 contains an interesting comment on how the register is kept. It says that the clerk keeps the register in hard copy

"as this has proved the most reliable format".

That is the only format that has been used to keep the register, so it must be the most reliable. The report also says that

"no 'electronic glitches' can occur in hard copy."

I am not arguing that the register should not be kept in hard copy, but that approach to keeping records is slightly luddite, especially in a Parliament that has dealt with electronic records to a large extent. Glitches can affect hard-copy records; they are not electronic glitches, but hard-copy reports can be lost or mislaid, so the comment is a bit spurious.

It is interesting that the seventh report of 2006 says that when a member only votes, declarations of interest do not necessarily need to be made.

We should make that clear. How many members are aware that if they have a registrable interest, even if they only intervene in a debate, they must declare that interest? That may make interventions somewhat longer, but it is the thrust of our rules.

It looks as if I will be unable to address the significant point that the level for declaring income from heritable property will be reduced, which is contrary to the thrust of the debate in Parliament on the Interests of Members of the Scottish Parliament Act 2006. That may need to wait for another time.

15:07

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I am not sure whether I need to speak in the debate, because it is clear that an animated debate is taking place among Scottish National Party members. I am sorry that Mr Morgan did not have more faith in his party's two very capable members of the Standards and Public Appointments Committee—I am sure that he does really.

I remember with slight horror the first time that determinations were mentioned when the committee met in committee room 2. The mention of determinations triggered a wave of indignation, which I partly egged on. All sorts of accusations were made—we heard that Parliament was to be bypassed and all sorts of other suggestions that turned out to be scare stories.

If nothing else, what has emerged from the process is clarification of the procedures that are encompassed in determinations and—I hope—the acceptance that they are a perfectly normal and respectable way forward.

Alasdair Morgan made several good points. I am deeply impressed that he has read the reports. I suspect that he is not unique in the Parliament in that regard, but it sets him apart from all ordinary mortals.

The convener answered well the question why four reports were issued—that is because it is easier to make changes later without following undue processes. If nothing else, that has doubled the number of reports that the committee has issued this session. Why each report replicates some information is a good question. That is hard to defend. Sometimes we just have to accept that laid-down procedures are hard to follow.

I will say a few words about the eighth report of 2006, which covers the determination on income from property. I argued strongly that banding rather than giving the exact figure that was received was imperative—I argued strongly about that to protect people such as farm tenants, house tenants and others from having exact financial

details of their businesses and perhaps of their personal income and expenditure made public knowledge.

I have no doubt that some people will argue strongly that we have introduced the banding in order to protect members. I simply do not accept that that is the case, if for no other reason than the fact that, if a member declares income from property of between £15,000 and £20,000, every one of our friends in the press will determine that income to be £19,999 and not a penny less. There is no doubt about that.

Alasdair Morgan was correct to say that we have perhaps gone against the way in which the debate in the Parliament went in introducing a banding from zero to £5,000. I think that that is absolutely justified for simplicity and ease of understanding, as the same is required for the registration of remuneration and I would defend it on those grounds. We have tried hard, all the way through the tortuous debate on the issue, to bring simplicity and ease of understanding across the board. Those were our biggest priorities.

I accept the points that Alasdair Morgan made, and other members may feel the same. However, I hope that the Parliament will accept the reports. A lot of work has gone into them and they are a good outcome of a fairly tedious but nonetheless important process.

15:11

Donald Gorrie (Central Scotland) (LD): The procedure that is being adopted is correct, and the documents set out basically what the Parliament decided on previous occasions. There is perhaps the argument that Alex Fergusson raised about the figures for heritable property; however, on the method—as opposed to the substance—I am happy to endorse the documents.

I lost the argument about the substance on previous occasions. I think that the whole thing is a grossly over-the-top hair-shirt exercise. It is Calvinism at its worst. However, I lost the argument before and I have to accept that.

The documents reasonably translate into document-type language what the Parliament decided. We are at least in control of our own affairs, passing our own house rules, which is a step forward. I hope that all members—who are obviously riveted by the issues—will vote to accept the reports.

15:12

Chris Ballance (South of Scotland) (Green): I congratulate the Standards and Public Appointments Committee on the completion of a useful exercise. I have a question that I hope will be answered in the summing-up of the debate.

On page 13 of annex A of the fifth report, on section 4, it is stated, under the heading "Sponsorship", that

"the provision of the services of a research assistant or secretary whose salary, in whole or in part, is met by an external organisation"

will be covered. I wonder whether the committee has considered whether a member's political party is to be considered an external organisation. My view is that it should be considered such, and I would be interested in having on record the committee's advice to members who find themselves in that situation.

15:13

Brian Adam: I thank all the members who have spoken for their contributions to the debate. Although we did not manage to attract any responses to our consultation exercise, it has been interesting. As Mr Fergusson said, it is obvious that Alasdair Morgan has taken the time and trouble to read the reports. His contribution might have been more useful had it come at the consultation stage, as we might have arrived at a different conclusion; however, I suspect that we would not.

Alasdair Morgan: Does the member accept that it would perhaps have been easier if the consultation document had more explicitly flagged up the fact that the limit on income from heritable property was being reduced from £4,000 to zero? One had to look quite hard to discover that in the consultation document.

Brian Adam: Again, I am grateful to Mr Morgan for that suggestion, but he is wide of the mark. Only the slothful servant needs to be commanded in all things. I do not know how much detail he wanted, but page 26 of the consultation document spells out exactly what the proposed bandings are and page 27 explains what the consultation is about. I totally refute his suggestion that our proposal was unclear.

Mr Morgan is also rather wide of the mark in suggesting that the register will be available only in hard copy. Those who wish to do so will be able to consult a hard copy, but the register will also be put up on the web. If he is concerned about that and wants to offer an alternative, he might have an opportunity to do so when the Parliament revisits the issue at some point in future.

We do not suggest any change to the requirement on members to make a declaration of interests during interventions. Our suggestion is that the current practice should continue. Whether that is honoured or not is up to individual members.

In response to Donald Gorrie's reference to Calvinism, I accept that we may well have adopted

a hair-shirt approach. However, the Parliament made a number of significant changes to the Interests of Members of the Scottish Parliament Bill that made it less of a hair shirt. Although Mr Morgan has advanced the argument that reducing the declarable amount for income from heritable property to zero will add to that hair-shirt approach, our aim has been to make matters open and transparent. We also want the requirements to reflect the provisions for remuneration.

I remind members of the overall aim of our work on replacing the members' interests order with a new act and with the determinations that are set out in the committee's reports. The main purpose of the register is to provide information on any financial interest or other material benefit that a member receives that might reasonably be thought by others to influence his or her actions, speeches or votes in the Parliament or other actions that might be taken in his or her capacity as a member of the Parliament.

The appearance of an entry in the register implies no element of judgment on the substance of the interest. The purpose of registration is to ensure openness by giving other members and the public the opportunity to know about interests that may be thought to influence a member's actions in his or her parliamentary capacity. Observers can make their own assessment of the significance of an entry. The rules on declaration of interests also place members under a more general obligation to keep the overall purpose of the register in mind.

Work on replacing the members' interest order has taken place over two parliamentary sessions. That work has been carried out in committee and in meetings of the full Parliament and is a matter of public record. I believe that the Scottish Parliament has set high ethical standards. That is what is needed. We need practical arrangements to ensure that those standards are reflected, and are seen to be reflected, in public life.

Chris Ballance: Will I get an answer to my question?

Brian Adam: Let me deal with Mr Ballance's point about sponsorship. With regard to individuals who are employed by both a member and a political party, the member should seek advice from the clerks to the Standards and Public Appointments Committee. That is precisely the clerks' role. Given that the details of such arrangements may vary from case to case, the individual circumstances of the case would need to be discussed with those whose role it is to give such advice. It is not the role of the Standards and Public Appointments Committee or the convener of that committee to give such advice. The answer will depend very much on who is paying for what. My advice to Mr Ballance is that he should consult

the standards clerks as the issue relates to the act rather than to the determinations that we are considering today.

Expectations of standards in public life are constantly changing. For example, paid advocacy—cash for questions—was regarded as a matter of some concern in the early 1990s. I hope that we have moved beyond that issue today, but the example illustrates how the sands shift and why we need a system that places a range of information in the public domain. That system must be practical and capable of adaptation to meet future standards and expectations.

One reason why we have put four reports before members today is to make the process easier in the future; a bit of expenditure on energy and trees at the beginning may mean that subsequently we do not need to produce so many reports. The four reports propose a fair, practical system. I urge members to support the motions that the Standards and Public Appointments Committee has lodged.

Budget (Scotland) (No 4) Bill: Stage 1

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-5441, in the name of Tom McCabe, that the Parliament agrees to the general principles of the Budget (Scotland) (No 4) Bill.

15:21

The Minister for Finance and Public Service Reform (Mr Tom McCabe): Today's proceedings bring us to the final stages of the 2007-08 budget process. All members recognise that it is an extremely important process, although at times members regard it as excessively long and somewhat confusing, despite all our efforts. In today's stage 1 debate in Parliament, we are considering the Finance Committee's stage 2 report. It is difficult enough for members to understand, so it must be even more difficult for those who watch our proceedings from outside. There may be some merit in our thinking about the terminology and different stages of the process.

We strongly welcome the Finance Committee's constructive report. We also welcome what it has to say about the approach that it and we should take to improving the budget process. We in the Scottish Executive have responded to the report in a way that indicates our broad agreement with the recommendations that have been made.

Every year we say—I am happy to say it again—that it is the Executive's sincere wish to continue to work with the committee on the areas that are of particular concern to it. The committee has mentioned again the standard of cross-cutting information in the documents. It has placed a special emphasis on the way in which we engage during the forthcoming spending review. We have made significant progress—not just this year, but over recent years—on the scrutiny process, which involves the Executive, the committee and Executive officials, and on the transparency and rigour that are attached to it. We look forward to continuing what I regard as a constructive relationship. We do not agree with the committee on everything, but the intent of both sides is the same—to do our best to improve the process and to shine a brighter light on the important parts of the information that is contained in the budget.

As in previous years, we have done our best to ensure that as many people as possible around Scotland are aware of the process. We have circulated more than 1,300 copies of the budget document to individuals and organisations, and have published it electronically on the worldwide web. We are doing our best to ensure that anyone who has an interest in the process—we hope that

an increasing number of people will take such an interest—is able to engage with the various pieces of information as they are published.

One of the major recommendations in the Finance Committee's report related to local government finance. The report was issued the day before I announced a new package of measures for local government for the financial year 2007-08, totalling about £250 million. Members from all parties agree that local government provides the services to people in Scotland that they deserve and require as they make their way through life. We now allocate more than a third of the Scottish budget to our colleagues in local government. In the financial year 2007-08, that amounts to about £10.6 billion—a substantial amount, by any measure. The figure equates to more than 33.6 per cent of the total budget—a substantial proportion of the resources that are available to us.

The new £250 million funding package for local government that we announced has been warmly welcomed. It will mean that local government finance has increased by 4.7 per cent on the previous year's figures and that, in the eight years since devolution began, local government will have received increases of around £3.2 billion—or just under 58 per cent.

With that kind of money, the ability exists to provide the core services that are so necessary to the public and which allow them to experience personal advancement and have the personal security that they seek. We want to ensure that not only the new funding but the totality of funding help us to sustain such services. Moreover, we want to ensure that all that funding adds to our ability to transform our public services and ensures both that they are consuming the human capital that they need and no more and that they are sustainable.

People care about having good, reliable public services. After all, they make a real difference and allow people to make substantial choices about their lives. That is what the budget does, and I am more than comfortable with commending it to the chamber.

I move,

That the Parliament agrees to the general principles of the Budget (Scotland) (No. 4) Bill.

15:26

Jim Mather (Highlands and Islands) (SNP): Once again, we are invited to debate the Scottish budget; once again, we are reviewing an expenditure-only approach to national financial management; and once again, we have only a very short time to debate our nation's financial affairs.

At this point, businesses and other revenue-earning organisations would be scratching their heads as they tried to work out how efficiency, effectiveness, staff motivation and productivity can be achieved without making the motivational link to revenue maximisation and without any credible attempt to boost Scotland's competitiveness and the value of its balance sheet. Indeed, the debate coincides with news that has filtered down to me from the International Institute for Management Development in Switzerland that it is dropping Scotland from its "World Competitiveness Yearbook". Such a move is certainly convenient, given that, otherwise, we would have received in March the IMD's annual reminder of the lack of a United Kingdom-level playing field and Scotland's lack of the comprehensive array of powers that it needs to compete effectively.

However, this year, the lack of IMD data is not the only problem. We still lack the Howat committee's report, and on Tuesday the Auditor General for Scotland qualified his report on the Government's efficient government initiative by saying that it was not possible to confirm the accuracy of the efficient government technical notes. In so doing, the Auditor General produced an elegant response that appeared to pull its punches while leaving the so-called efficient government initiative in tatters.

There is no doubt that real efficiency would have helped this year's budget; indeed, it should always have been a permanent and credible feature of Scottish government. There is also no doubt that the Howat report would have informed this debate, the scrutiny of the Finance Committee and the Audit Committee and a proper efficiency programme.

That said, I recognise that the process has one tangible benefit. Many people want to be part of a process of perpetual improvement in their own sphere of public sector endeavour. I am happy to say that we can build on that—and we intend, after May, to provide the leadership, methodologies and motivation to make that happen.

One budget issue that affects everyone in Scotland is Scottish Water. In last year's autumn budget revisions, the original £314 million that was to be available for Scottish Water in 2006-07 was reduced by £161.8 million to a net sum of £152 million. However, in schedule 3.8 of this year's budget documentation, the comparative figure for 2006-07 is not £152 million, but the original £314 million. As a result, we lack a true and fair view not only from the efficiency technical notes and the "Government Expenditure and Revenue in Scotland" document but from the budget documentation.

Such an approach Snopakes away the release of £161.8 million of capital back to the Executive

and the reallocation of some of those moneys to other organisations, such as Scottish Natural Heritage. That is an unacceptable attitude to accurate reporting. The whole approach needs to be beefed up, particularly given that people should understand that the £161 million came from their payments.

Mr McCabe *rose*—

Jim Mather: I will let the minister in, but first I will set the stage for him.

This is the point in time when the Executive tells us that everything in Scottish Water is fine. It says that Scottish Water is okay because the Finance Committee and the Audit Committee say so. I put it to the minister that the majorities in question were the result of either members not getting to grips with the complexities of water industry finance or their excessive tendency to accept the sort of unproven assertion that no doubt the minister will now give us.

Mr McCabe: I am surprised at how lightly Mr Mather dismisses the Finance Committee and the Audit Committee of the Parliament, particularly given that he is a member of the Finance Committee.

The Water Industry Commission sets the framework for Scottish Water. It has now set Scottish Water's total expenditure and determined the capital expenditure that is required over the period 2006 to 2010. Lest the SNP yet again deliberately mislead people in Scotland, it is important to stress that Scottish Water has available to it every pound that the Water Industry Commission says that it needs—and that Scottish Water itself says that it needs. If Scottish Water needed an extra pound today, that would be made available.

The Deputy Presiding Officer: I will give you an additional minute to compensate, Mr Mather.

Jim Mather: Thank you, Presiding Officer.

I enjoyed the minister's speech but, unfortunately, it was very inaccurate. The reality is that Scottish Water is overcharging—the methodologies that encourage that are clear to see. That overcharging will continue because those methodologies will continue into the future, given the regulatory capital value approach that Ofwat is using down south, which is now being used up here. That approach is the reason why the money was released and why, in the accounts for the three years up to 31 March 2005, of every pound of capital expenditure, 87.7p was paid out from income from current water charge payers.

I put it to the minister that the approach that the Executive is taking with Scottish Water is a prime example of Executive mismanagement. Not only does its approach amount to a stealth tax, but it

has caused development bottlenecks and created disaffected communities. The Executive has created a cash cow that is ripe for privatisation by increasing Scottish Water's assets and holding down its debt. We are also talking about massive tax losses and about risk being topped up, particularly given the new regulatory capital value approach. Water charge payers and communities are now pointing the finger at Scottish Water. The regulatory capital value method has to be challenged, if not in Scotland, then in England. Instead of focusing on fixing leaks, that approach creates the false priority of building up new assets. When the people of England realise that, more pressure will be put on the Executive, Scottish Water, the WIC and all those who have been complicit in the confidence trick that has been perpetrated on the people of Scotland.

I will leave it at that, Presiding Officer.

15:32

Derek Brownlee (South of Scotland) (Con): Mr Mather made a point about the short amount of time that is devoted to debates on the budget process in the Parliament. It is also worth noting the low level of interest that is generally accorded to a process of such importance—not just by MSPs but by the media and the wider political community. There is something wrong when the spending of more than £30 billion seems to attract so little scrutiny both outwith and within the Parliament. The minister spoke about process improvements and it is clear that we need to look at how the process can be improved. If the minister brings forward any substantive proposals to aid the beefing up of the process, he will have our full support.

It is obvious that, in looking at the budget in this very short debate, we need either to focus on individual specifics or to take a broader approach. I will take the latter option. Our central argument on the budget, and on the record of the Executive, is not to say that the Executive has not presided over a significant increase in public spending in Scotland—we concede that it has—but to point up the significant increase in the level of money that is being wasted. That is a matter of very real concern.

If Executive ministers do not want to take my word for it, they can hear what their colleagues have said. The consultant contract—the cost of which is four times greater than predicted—is but one example of the way in which the Government has spent taxpayers' money without paying sufficient attention to what the money will buy.

On Tuesday, the Audit Committee considered Audit Scotland's report on the subject. The *Official Report* of the meeting is not yet available.

Thankfully, *The Herald* of yesterday is, and Margaret Jamieson is reported in it as saying:

"When I was in the health service these were things that were ongoing. It didn't take a truckload of cash to be up front for individuals to change the way in which they worked."

Not to be outdone, Susan Deacon is reported as saying:

"I think many groups within the health service and many other sectors could quite reasonably ask the question as to why it required such a substantial and costly change in terms and conditions ... I think some of these are actually quite marginal changes in improvements and practice."

Just in case we had forgotten that the situation is not exclusively the fault of the Labour Party, Margaret Smith added:

"That's a pretty good contract if you can get it. Get your workload reduced and your pay packet increased".

Indeed, but I ask Margaret Smith, "Who signed it?"

The problem is that we in Scotland have not paid sufficient attention to what we get for our public spending. We have spent far too much time talking about the quantum of public spending. In the Finance Committee on Tuesday, the minister conceded that there are further opportunities to deliver greater efficiencies in government—he will get no argument from us on that. More can be done, and more efficiencies can be realised. Better public services can be achieved by means other than simply throwing money at them. We can get better value for money, but we need the political will to do that.

There are many worthwhile initiatives in the budget documents with which we would agree, but given the levels of tax, spending and waste that ministers and Executive members seem to wear as almost a badge of honour, we cannot support the motion. There is a better alternative to the budgetary path that the Executive has chosen—one that pays much more attention to delivering value for money; that does not see an inexorable rise in the levels of spending as an end in itself; and that places much more emphasis on the quality of public services rather than the quantity of money spent on them. It is an alternative that the Executive has rejected for the past eight years, but in only a few weeks' time, the people who pay for all the services will have the opportunity to reject the Executive and, frankly, that cannot come a moment too soon.

15:36

Mr Andrew Arbuckle (Mid Scotland and Fife) (LD): In considering the Scottish Executive's budget for the forthcoming year, it would be beneficial to consider the wider economic situation in Scotland. With interest, I picked up the latest edition of the "Lloyds TSB Business Monitor",

which looks at the Scottish economy. Its verdict on the final quarter of 2006 was that

"This is the second best quarterly result"

of the past nine years, and the

"trend rate of growth identified in Scotland's economy during the summer has been sustained and even increased into autumn this year."

Further quotations from the document include:

"Growth is expected to come largely from new business ... Scottish claimant unemployment is near to its lowest level for thirty years ... The Scottish economy continues to grow above its trend rate".

Against that background, it is therefore easy to state that the increased level of funding from the Executive has helped to fuel the surge of economic activity. I accept that there is concern about the high level of public spending in Scotland, but a great deal of capital investment has been required after many years of infrastructure being allowed to wither. As far as I am concerned, the budget marks the latest successes for the Liberal Democrats in their role in the coalition.

The detail within the spending of £31 billion is bound to give rise to some criticism, especially from those who take a different view, but the impartial onlooker is now able to see positive changes across the board. In education, we have more teachers and more new schools, all heading towards the coalition objective of a better educated Scotland.

We also see positive changes emerging from our support for transport, especially the promotion of public transport. Many capital projects are now getting under way, despite lengthy delays in getting them on the road or, indeed, on the rail track. In my area, the reopening of the Stirling-Alloa-Kincardine rail line is going ahead, and other projects will help the train to take the strain, such as the park-and-ride facilities that are aimed at reducing the level of private car usage. The coalition always intended to increase its commitment to public transport, so those who are poring over the detail in the budget document will see that Scotland now spends two thirds of its transport budget on support for public transport systems. It is of particular interest to me that some of that money will go towards subsidising rural bus routes that would not otherwise be economically viable. Therefore, there has been a lot of benefit to the people of Scotland.

I know from first-hand experience that, last year, there was concern about the budget and the local government settlement. As the minister indicated, the financial allocation to local authorities has increased—that was announced in December—and some of the pressure has been taken off councils.

I am concerned that, with council elections under 100 days away, some councillors are looking as if they could be tempted to go for a 0 per cent increase in last year's council tax level. I hope that that has nothing to do with political posturing and something to do with the real issues that face local government.

Councils still face the added financial burden of introducing single status, which was supposed to be cost neutral. When other major issues such as changing demographics are taken into consideration, it must be acknowledged that, even with the increased allocations, local government is going through an extremely challenging period.

As the minister said, many councils have brought fresh thinking to their delivery of services and how to achieve their financial targets. Some of the old work practices have been binned and councils are now more focused on how they can best deliver all important services.

As a Liberal Democrat, I would like the financial rigour that councils have applied to be carried through to all other parts of government. The Finance Committee, of which I am a member, has been examining how the efficient government programme is working. That is essential to ensure that we get the due outcomes from taxpayers' cash investment.

As I said at the beginning of my speech, most services have received considerable extra financial support in the short lifetime of this Parliament. As we enter a period of greater financial stringency, we should demand positive results from that investment. We must ensure that the public sector in Scotland is as alert to efficiency as private businesses are.

In my view, the budget settlement is good for Scotland and for the people of Scotland, so I support the motion.

15:41

Ms Wendy Alexander (Paisley North) (Lab): I welcome the debate and commend the Budget (Scotland) (No 4) Bill to the Parliament. In keeping with past practice in such debates, I speak not in my capacity as the convener of the Finance Committee but as an individual member.

I begin by welcoming what the minister said in response to the Finance Committee's report on stage 2 of the budget process, the central recommendation of which was that local authorities should be treated more generously. We welcome the fact that the bill provides for the allocation to councils of an extra £250 million. There are improvements that could be made to the budget documentation, but it is more appropriate

for such detail to be discussed in depth by the committees.

Let me turn to the bigger picture. As other members have mentioned, the debate is about the authorisation of the expenditure of £28 billion, which will be the largest sum that has ever been spent on services in Scotland. That settlement reflects the stable economic climate that has been created in the UK and the secure financial arrangements that exist under devolution. Derek Brownlee was wise to observe that in such a debate, it is possible either to focus on the detail of line items or to take a broader approach to the budget-setting process. In the same vein, Andrew Arbuckle talked about some of the bigger issues.

It is astonishing that the principal Opposition party, which not only wants a budget with different content, but would turn upside down the process of setting the budget in Scotland in less than a hundred days from now, had not a word to say about it. The Scottish National Party told us all about Scotland's position in some obscure Swiss academic's league table and we heard a great deal about a single line item in the budget. Why is the SNP so coy? It wants to turn the entire system upside down. Instead of being so coy, it should tell Scotland's national Parliament about its system.

In the most recent finance debate, Alex Neil told us that he wanted pensions to be decided in Scotland. In vain I searched the SNP's website for a line describing how its new budget process for Scotland would treat pensions; there was not a single line on how the pensions system would operate in Scotland under the SNP. Moreover, we have not had a single statement from the SNP about how taxes might have to rise to meet its promises to pensioners, students and small businesses. We have been told nothing about how its promise to cancel public-private partnership contracts would set back infrastructure in Scotland and given no details of the proposals whereby businesses would be asked to prepare for 32 collection rates for local income tax. Imagine what it would be like if employers had to track changes in residency in a system that involved 32 different rates. No details have been provided on how the SNP would compensate local government for cutting its revenue base in half by capping local income tax.

It is quite extraordinary that although the SNP proposes that we should transform the basis of financing in Scotland, we have not had a line on how the process would work—no line on the SNP website and no line in the chamber today. We have not had a line on what services are in and what services are out, or on how the £10 billion gap—or, on the most recent figures, when oil is included, the £5 billion gap—would be covered.

Jim Mather: Does the member recognise that in five minutes she will struggle to produce a list, let alone allow the SNP to produce comprehensive answers? The Scottish Council for Development and Industry has today produced a document that says that the jury is out on the status quo and that GERS does not provide a credible basis for the debate. How does that fuel her argument? Where are the foundations for her argument?

Ms Alexander: Last week, the Finance Committee had a debate that Jim Mather was not so keen to have. We asked every international expert we could find and heard that GERS is regarded as a state-of-the-art document. When it comes to the SCDI, it provides not a shred of evidence for the argument that Jim Mather has been promoting that constitutional change and tax devolution would inevitably lead to growth. The rest of us would love to debate the SNP proposals, but we only ever get a budget when the oil price is high and we never get a proposal on how the SNP's plans for financing Scotland would work, 99 days from now, under devolution.

The people of Scotland deserve better. It is not serious politics to say to Scotland that it should hand over health, education and police services to the mercy of a financing system about which the SNP cannot even provide a one-page guide, much less a motion or indeed a speech. We look forward to hearing one later today.

15:47

Mark Ballard (Lothians) (Green): Here we are again. The last time we had a debate on the budget process, we had the graveyard slot immediately before we broke up for the Christmas recess. This time, although it is not in a graveyard slot, the debate still has some of the atmosphere of the graveyard. Derek Brownlee made a valid set of points about why there is so little apparent interest in the debate. There is no one up there in the press gallery and I doubt that there will be anything in the papers tomorrow. We are spending a vast amount of money—as Wendy Alexander said, the largest amount of money ever spent on services in Scotland. I presume that that was why Wendy Alexander decided to go for the approach of a little light nat bashing to fill in her six-minute allotted slot.

All that is because the budget is quite difficult to discuss. Looking through the details of the budget, and its various sections, we see that it is quite hard to construct a debate about the budget. If we consider the budget for transport—my other portfolio—it looks as though rail funding has received a major financial boost this year, which would be very welcome. However, although it looks like a boost, it is not in fact new money; it is simply a transfer of funds from Westminster to

Holyrood. There are still anomalies in the wider public transport budget in Scotland. Two years ago, Robin Harper raised with the First Minister the question why the road haulage modernisation fund is in the public transport budget. I have no doubt that road haulage modernisation is a good thing—something of which I have no doubt we need more—but road haulage is not public transport and yet it still appears in the budget as public transport.

Andrew Arbuckle praised the fact that two thirds of spending in the transport budget is now on public transport. It depends which figures we include in transport. If we include the £517.8 million that goes into motorway and trunk road capital charges, the share of public transport falls. If we exclude it from the transport budget—hey presto!—we have the high figure for public transport to which he referred.

We could have a debate about capital charges, although it might attract even less interest than today's debate has. The problem with the budget is that it is not a full budget, partly because it covers only expenditure and not how we generate income. In its current form, it covers huge areas and there are huge discrepancies.

There is also a problem with the link between the budget and what happens on the ground. The budget mentions

“developing and delivering anticipatory care for those ‘at risk’ wherever they live”

and

“increasing health care services delivered in disadvantaged communities”.

That is welcome. However, a few weeks ago, I hosted a members' business debate on community health, which is anticipatory care, and in that debate we heard that community health projects in Scotland face a massive funding crisis. Greater Glasgow and Clyde NHS Board's funding for community health has been cut by up to 50 per cent. How can we reconcile that with the fact that millions of pounds are being pumped into the health service? We do not have the links and the clear targeting that would ensure that the money that we vote for the health objectives in the budget—such as anticipatory care, which the minister will no doubt talk about—results in things being delivered on the ground.

The Finance Committee also heard about the failure to reconcile the budget with what happens as a result of Executive legislation. The budget proposes an additional £106 million for two new prisons in Scotland to deliver the extra prison places that are required, but recent Executive legislation is set to increase the number of prisoners by more than 1,000. The cost of that increase cannot be met from the limited funding

for prisons. The solution is not to build yet more prisons but to look at another budget line. We spend only £12 million on reducing reoffending. The gap between the expenditure on prisons and the minimal expenditure on reducing reoffending shows us where we need to spend the money.

At present, the Executive's legislation is outstripping its budget. If the Executive truly wants to tackle persistent reoffending, it should concentrate not on warehousing offenders in prisons but on the reducing reoffending agenda, which is starved of funding. It should focus on parole and the supervision of prisoners when they leave prison and get out into the community. Those areas still lack funding.

I move on to one of my favourite topics in this area of debate. Sustainable development is a cross-cutting theme that appears in every budget document, but we still cannot tell what impact the cross-cutting themes have on spend. What difference does it make that there are fine words about sustainable development in the foreword to the budget? We cannot tell from the documents what departments have done differently, what changes they have made, or what re-evaluation has taken place in departments due to the cross-cutting themes. That is why the budget process and debates on the budget are so frustrating. We cannot see the impact of what we vote on in real changes on the ground or real changes in ministerial and departmental spending.

As Derek Brownlee said, there is lots of good stuff in the budget. We can all vote to support much of the spending. However, I hope that we will begin to rethink the ways in which we spend the money and evaluate where it is spent so that we can see the outcomes and not merely the outputs. If we do that, we might have a budget process that gets the audience that it deserves.

15:54

Bill Aitken (Glasgow) (Con): I agree with quite a lot of what Mark Ballard said. He built on Derek Brownlee's point that the way in which we handle the budget process in the Scottish Parliament is perhaps a little questionable. After all, £30 billion is hardly a mere bagatelle. There are many priorities in the budget and many of the decisions are highly political. Perhaps we should look for a way to debate the budget more intensively than it is debated under the present system. It is clear that we cannot debate expenditure line by line in the way that is possible in local government, but the picture that has been brought before us consistently since 1999 is far too broad to be sensible.

Mr McCabe: As I said earlier, I concur with the desire to introduce more rigour and transparency

into the process. However, the member is in danger of undermining the good efforts that go on in committees of the Parliament. The subject committees have an opportunity to examine in detail the budget for particular portfolios and report back to the Finance Committee. Work is going on in the committee system to try to ensure that committees take that work more seriously in the future, but good work is being done in the Parliament, by the Finance Committee and other committees. Although we should express our desire for improvement, we should not undermine the many hours of work that many members do.

Bill Aitken: I acknowledge that good work is done, but the fact is that we are painting with an extremely broad brush and some of the expenditure could bear more critical examination.

Mark Ballard: Will the member take an intervention?

Bill Aitken: Let me proceed for a while.

I am pleased to hear the minister's comments about transparency but, unfortunately, they do not hang well with the fact that the Howat report has still not been brought before the Parliament. How can the minister speak about transparency when the Howat report is being deliberately concealed and held back from the Parliament and the Scottish people until after the next election? I do not know what the report contains, but we in the Parliament have the right to know.

One or two worrying little features can be detected elsewhere. Audit Scotland's report "The Efficient Government Initiative: A progress report" casts doubt as to whether the efficiency savings, which have been much trumpeted by Mr McCabe and others, are as effective as they might be. The report states that the Executive must do more

"to provide assurance on the level of savings ... and their impact on service delivery."

The one way in which he could provide that reassurance is to let us see the Howat report, but he will not do so.

Mr McCabe: I am sorry to intervene again, but does the member accept that the Auditor General for Scotland also said that the efficient government initiative represents the most comprehensive attempt to embed efficiency into government for a considerable time?

Bill Aitken: He did indeed, but with the caveat that the auditors were concerned about the way in which some efficiencies have been calculated. For example, the Executive claims that, in local authorities, savings of £122 million have been achieved, but the auditors described the approach that was taken in calculating the savings as being insufficient to guarantee their validity, which is worrying. At the end of the day, we may have

nothing to worry about, but we should be given the full picture and, until that happens, debates such as this will take place in a vacuum. Another aspect that the Audit Scotland report highlighted was the reporting on absence because of sickness in the national health service. That reporting mechanism appears to be sadly lacking, on an issue that is potentially costing millions of pounds. We do not know the facts and the minister should give them to us.

We cannot support the bill and we will abstain in the vote on it today, for the simple reason that the Executive, and Tom McCabe in particular, is asking us to sign a blank cheque, which we are not prepared to do. We await the full facts.

15:59

Mr Frank McAveety (Glasgow Shettleston) (Lab): I welcome the opportunity to commend the bill to the Parliament, as other members have done. Members have touched on key points in the bill and commented that we have had a chance to amplify the issues on a number of occasions. It is tempting to revisit some of the debates that we have had, so I will rush in headlong and touch on issues that I have raised before.

The first is the broader context within which the bill operates, which Wendy Alexander highlighted. The employment level in Scotland is now markedly better than it has been for generations and the level of unemployment in all constituencies in Scotland is markedly lower than it has been for years.

Today a report from the Institute for Public Policy Research—more credible than the report mentioned by Jim Mather—identified the ways in which the experiences of many Scottish constituencies have changed over the past 10 years.

The budget identifies key areas for investment. Most members in the chamber would agree that we will have to continue to invest in education and skills. Investment in higher and further education has been increasing year on year. I note with interest a recent report on ways of leveraging in more money to early years education. I hope that the Executive will take that on board after May. The spending review will have to address long-term investment in young people's lives; investment in the early years will be part of that.

In my parliamentary area, another important investment is capital infrastructure investment. Again, such investment has been increasing year on year. I hope that all the members on my side of the chamber will be returned with substantial majorities but, irrespective of the result of the election in May, there will have to be a debate on major investment in the M74. That investment will

be critical for the east and south-east of Glasgow and it must not be used as a bargaining counter in debate by my very gentle friends in the Green party or in any other party. Economic growth is one of the key themes of the budget and investment in the M74 could unlock the great potential within the east and south-east of Glasgow.

The Experian report has been part of the budget process in the past couple of years. It says that we can have greater improvements in the productivity of the public sector, and that we can experiment with innovative ways of raising revenue for the public sector. Those were fairly legitimate points.

I note with interest that one local authority—my own—has announced a council tax freeze. Council tax was meant to be a major cause for the SNP in the forthcoming elections, but who is the first to criticise that commitment by Glasgow City Council? Not a citizen of Glasgow, not even someone in reasonable proximity to Glasgow, but the mighty David Alexander of Falkirk Council. He said that it was nothing but an election bribe. If even a leader of an SNP authority cannot recognise a tax freeze when he sees one, there will be great difficulties for future generations of councillors involved with the SNP.

Furthermore, any of us who have been involved in local government will remember the shocking idea of centralising the decision-making process of local government so badly that people in this chamber would determine council tax levels for local authorities across Scotland through a capping procedure. Many of the other parties in here have opposed that idea consistently since it was presented as part of local government policy in the 1980s under the Conservative Government.

The minister was right to say that the efficient government drive is a continuing process. The Finance Committee continues its vigilant assessment of that process, and we feel that much more can be done with efficiency drives.

Today at the annual general meeting of Epilepsy Scotland, we heard about an example of efficiency. A speaker told us about the use of telemedicine to offer access to neuro consultants for the assessment of individuals with epilepsy. Rather than staying with the old way of waiting eight, 10, 12 or 14 months for an assessment, telemedicine ensures that waiting times can be broken through and that people can receive appropriate assessment and care.

Telemedicine does not require a lot of money; it requires more efficient use of resources that are already in place. We have to connect with a changing public. The speaker at the meeting asked whether anyone did not have access to a television, or a mobile phone, or a digital camera,

or any other form of modern technology. Only one or two people could put their hands up to say that they had no access to any of those items. The vast majority of Scottish citizens have access to them, and that fact could transform the way in which we deliver services. Even in health, one of our areas of biggest spending, there can be more efficiency.

I want to talk about what we have to look forward to. The most recent alleged recruit to the SNP's campaign for a change in the way in which Scotland is governed is Crawford Beveridge. According to newspaper reports last week, he would be sympathetic to the party's ideas. However, on financial independence for Scotland, even Crawford Beveridge said that it

"could potentially plunge the place into recession, because it is unlikely that the total tax take would be as much as Scotland currently receives under the Barnett formula."

If a new recruit to the campaign is so sceptical, how can we trust anything that the SNP has said in the debate?

I commend the bill and look forward to a continuing, stable financial arrangement with the wider UK, in which we in Scotland prioritise as we see fit.

16:05

Mr David Davidson (North East Scotland) (Con): I am sorry to say that this is the eighth budget debate that I have sat through, but nothing seems to have changed in principle.

In his opening speech, the minister made some fair comments. We agree that the process is not transparent—we have been saying that for the past eight years. I liked even better his comment about transparency, when he said that he wants to "shine a brighter light" on the budget information. We have all been trying to achieve that for the past eight years, but I have not seen a lot of results. However, I agree that ministers work well with the Finance Committee. The relationship is always wonderful, but when Parliament debates the budget there is little in the debate because of the timescale.

The minister talked about the work of the subject committees. Committees are rushed. The Justice 1 Committee and the Justice 2 Committee came together to consider the budget, but even though we had an advisor we struggled to pick an area that we could consider in depth. The general view of members of both committees after two or three meetings was that we did not have enough time to do more than pick one issue, to which we would try to give reasonable consideration. To be fair, the Minister for Justice came along and gave a fairly robust account of the Executive's position on the area that we had picked. However, even if we

add up all the areas that committees scrutinise, we still do not have enough to go on.

We all know that the press are interested only in headlines; that is their job, but we cannot go on hiding reports such as the Howat report.

Mark Ballard: Will the member give way?

Mr Davidson: In a minute.

Is the local government distribution formula fair to councils? We are not arguing about how much money has gone out. There might be a lot of money in the pot, but it all seems to end up in the central belt, if we consider the councils that are spending more than their grant-aided expenditure. I am talking about an individual council exercise, not just a glossy, over-the-top exercise by the Convention of Scottish Local Authorities.

The minister did not talk about efficiency at the beginning of his speech, although he mentioned it eventually. Members have asked what the efficient government programme really means. Derek Brownlee was right to say that the programme should be about outcomes and not just about how much is spent and the size of the cheque. What are we getting for our money? Where is the value for money? If ministers reported back to Parliament on outcomes, value for money and potential savings, we would have a productive debate.

Mr McCabe: I could not agree more. We have expressed on a number of occasions our determination to move as fast as we can to a more outcomes-based approach. It is interesting that the focus is on outcomes. When we began the initiative and people thought that we would not meet the targets that we had set, the focus was on outputs. Now that we have met—or are very close to meeting—the financial targets, the goalposts seem to have been shifted. However, I am glad that they are shifting in the right direction.

Mr Davidson: I am on the record in the Finance Committee throughout the first session of Parliament talking constantly about outcomes, rather than spending. Spending figures can give a false impression. The public initially think, "Things will get better, because there is extra money. We'll get to see the doctor quicker and there'll be a dentist somewhere or other," and so on. However, that has taken time. I am happy that the minister is talking about outcomes and not outputs, because the public are interested in outcomes. If we knock on doors, we meet people who say, "Why can we not get such and such a service? All this money is running about, but where has it gone?" Of course, that brings us back to waste.

Councillor Arbuckle, as I think he prefers to be called these days, said that the Lib Dems could take the credit for high spending. I note that in the

past few debates on financial matters, the Minister for Finance and Public Service Reform and Deputy Minister for Finance and Public Service Reform have not sat together. Even now, the Minister for Parliamentary Business is sitting between those two ministers, to stop them arguing—I welcome her to the debate.

In fairness, Mr Arbuckle did mention single status. I seem to recall everybody being told that there would be no costs involved, but representatives of every council in Scotland wrote in to say, “Yes, there will.” That is just one of those things. The best comment that Mr Arbuckle made was to ask why the rigour that is imposed on local government not imposed on Government departments.

Margo MacDonald (Lothians) (Ind): Am I correct in deducing from what Mr Davidson says that he is prepared to confer special status on Edinburgh because of the outcome of expenditure in the city, which results in a growth rate of twice the Scottish average, I think?

Mr Davidson: I do not think that I said anything as simplistic as that. Aberdeen City Council and Aberdeenshire Council have a very low tax base and they do not do well. [*Interruption.*] They must spend more than their GAE year on year. Aberdeen City Council has a structural deficit of £20 million. The Minister for Finance and Public Service Reform can shake his head if he likes, but I got that figure from the leader of the council, the finance director and the chief executive last week. They showed us the figures.

I was interested in Wendy Alexander’s new approach to the big picture—which is all we really have time for in such debates. I am sorry that I did not take Mark Ballard’s intervention—he has now vanished—but he, too, spoke about outcomes and referred to a funding cut in community health. [*Interruption.*] The voluntary sector is desperate to get money to deliver things that it does on behalf of the Government. It was all summed up beautifully in a wonderfully good unionist speech by Frank McAveety.

Mr Arbuckle: Perhaps Mr Davidson can explain why, if there are so many things wrong with the budget, we have had an indication from the Tories that they are going to sit on the fence on the issue.

Mr Davidson: It is very simple. There is not enough evidence to support anything, not enough facts are put on the ground and there are not enough explanations. All we have is a list of spending with nothing about outcomes. The two parties that occupy the middle of the chamber—they seem to be two different parties now—do not even agree with each other, yet we are supposed to have faith in the Executive’s budget. Mr Arbuckle should get a life.

The Deputy Presiding Officer (Trish Godman): I remind members that their mobile phones should not be switched on.

16:12

Alex Neil (Central Scotland) (SNP): David Davidson said that, in the eight years of holding this debate, not much has changed. With all due respect, that could be said of his speeches. I reassure Frank McAveety that the incoming Administration following the election of 3 May will complete the M74. We are totally committed to that, and we will see it completed no matter what negotiations we have to enter into.

I thoroughly enjoyed the latest, and very entertaining, instalment in Wendy Alexander’s campaign for the Labour leadership once Jack McConnell is sacked following the election.

Ms Alexander: Will the member give way?

Alex Neil: It is okay—I will let Wendy Alexander in soon. I was not winding her up deliberately. I was interested to note that, last week, according to the Labour Party, the alleged black hole in the budget was £11 billion. This week, Wendy says that it is £10 billion. There are 14 weeks to go until the election. At that rate of decrease, by the time we get to polling day there will be a structural surplus of £4 billion a year.

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon) rose—

Ms Alexander: Will the member take an intervention?

Alex Neil: Who do I take first? I will take George Lyon first.

Ms Alexander: He should take an intervention from—

Alex Neil: I will take an intervention from Wendy Alexander first. Come on, Wendy.

Ms Alexander: Thank you very much. On the matter of leadership, I would simply say “pots and kettles”. On the matter of the size of the deficit, we really are interested in the Scottish National Party’s estimate of the black hole for 2004-05, and we will ask the SNP about it every day for the next 99 days. The question to which we want to know the answer is whether the SNP will publish its plans for how it will change the budgetary system in Scotland under devolution, so that Scotland knows what it will be voting on. Will the SNP do that? Yes or no? It has had no plan for three and a half years. There are 99 days to go. Will we have a document on how the SNP’s financing system will work under devolution?

Alex Neil: I was hoping for an intervention, rather than a speech. The first major change that we will make is that the new Executive's finance minister will be responsible for all revenue raising, as well as all expenditure. That is by far the biggest and most productive change that we can make.

In answer to the second question, there is no black hole. Let us go through the so-called black hole. GERS starts with £11 billion, it ignores the oil money, it then includes a deliberate mistake—an accounting error, which has been admitted—of £300 million and it also allocates to Scotland a payment of £400 million for English prisons. We know that John Reid is in charge of English prisons—well, we think he is—but it is a bit unfair to allocate the spending for them to this Parliament. Further, GERS takes out our share of Gordon Brown's deficit in the United Kingdom and the mistakes in corporation tax revenue, which result in the document suggesting that we get only £2.4 billion, despite the fact the top companies in Scotland, put together, make profits of about £24 billion a year.

Bristow Muldoon (Livingston) (Lab): Will the member give way?

Alex Neil: I will not give way to Mr Muldoon as he has only just come into the chamber.

When we add all the figures up, we can see that, far from there being a structural deficit, Scotland will be in surplus.

Margo MacDonald: If the Scottish National Party is sitting in the middle seats in the chamber after May, will it ensure that Edinburgh gets special capital status in terms of funding?

Alex Neil: We have always recognised the special needs of Edinburgh as a capital city. I am absolutely sure that the additional money that is required by the capital city of what will be not only a nation but a nation state will be recognised. When we win the referendum, Edinburgh will be one of the capitals of the nation states of Europe.

As I was saying, far from there being the structural deficit that Wendy Alexander talks about, there would be a surplus.

I direct members' attention to the share of money that is allocated to us as our share of defence expenditure. Our share of the cost of defence is 8.9 per cent, which includes our share of the cost of nuclear weaponry, the illegal war in Iraq and the illegal war in Afghanistan. However, only 5.5 per cent of that money is spent in Scotland. If our share was spent in Scotland, it would be creating many more jobs in Scotland and this country would be far better off. Of course, GERS does not take that into account.

George Lyon: I take it that Mr Neil is implying that he will defend only the constituencies that have a Ministry of Defence base in them. That is what he is saying if his position is that it is only the defence spending that occurs in a constituency in which there is a defence base that he is willing to take into account. He is saying that none of the benefits of the wider defence budget accrues to Scotland. That is complete and utter nonsense.

Alex Neil: For a deputy finance minister, Mr Lyon does not have much of a grasp of what I have just said. I said that our share of the money that is wasted on nuclear weapons will be spent in Scotland on schools, hospitals, education and housing. On current figures, that amounts to between £700 million and £800 million a year. That substantial additional investment in essential services in Scotland will mean that we will not resort to the expensive Tory policy of using private-finance initiatives, which is practised by the Executive. We will save £110 million a year just by getting rid of PFI and by more wisely funding investment through far better methods.

Unfortunately, I do not have time to finish my little lecture, but I am happy to do so after the vote.

16:19

The Deputy Minister for Finance, Public Service Reform and Parliamentary Business (George Lyon): This has been an interesting debate. It is quite interesting to note that, in the various speeches, there seems to be some agreement about the Executive's spending plans for 2007-08.

Margo MacDonald: I ask my question in that spirit of all-round agreement. We know that the Tories are not going to give Edinburgh the money that I am asking for, but does the Scottish Executive intend to recognise the special status of Edinburgh in Scotland, and the contribution to the economy that it makes, by giving us capital city funding and status?

George Lyon: That is already recognised through our cities growth fund, and much extra spending is devoted to Edinburgh to ensure that its capital status is reinforced and that it gets the proper resources to invest in its future.

I hope now to make some progress. As no amendments were lodged to the budgets, I conclude that not only are we all agreed on the need for the bill but that we seem to have some measure of agreement on the detailed contents. I note that our Conservative colleagues are undecided about that, although they have not put forward any alternative proposals—they are just undecided.

Derek Brownlee: On the subject of fence-sitting, the Deputy First Minister told *Scottish Business Insider* magazine in October—

George Lyon: I am actually deputy finance minister.

Derek Brownlee: I would apologise, but I am talking about the Deputy First Minister. He told *Scottish Business Insider* magazine that a further cut in business rates and

“a lower basic rate of income tax would give businesses a real competitive edge.”

The deputy finance minister told Parliament a few weeks ago:

“The only proposal that Nicol Stephen has made is to cut business rates”.—[*Official Report*, 10 January 2007; c 30895.]

Is that fence-sitting or flip-flopping?

George Lyon: What I stated was the current position, and the member will see the detail in our manifesto once it is published. I have no doubt that he will be delighted to read it.

Members have raised a number of important issues during the debate, and I will try to address some of them now.

Mr Mather said once again that there is a great need to make Scotland more competitive and, as the SNP always says, that more powers are the answer to making Scotland more competitive. I am sorry, but the important point is not the powers but the policies that it would implement if it ever got those extra powers. As Wendy Alexander pointed out, with roughly 100 days until the election it would have been helpful if the SNP had told us what its post-election fiscal policy would be. As Mr Neil has now confirmed—this is what I understood from his speech—we will be independent from day 1, which obviously means that the SNP has dumped the pledge on a referendum.

Jim Mather *rose*—

George Lyon: Given that we now know that monetary policy will be reserved to, and interest rates set by, the Bank of England, the only tools that are left to the SNP to make the economy more competitive are fiscal. We have heard that it intends to cut corporation tax, although it has not told us how it will afford that. It might be useful—given that fiscal policy will be its only tool—if it were to tell us what the individual tax bands, national insurance contributions and inheritance tax will be, so that we can see what fiscal framework this competitive Scotland will emerge with.

Jim Mather *rose*—

George Lyon: As I said, the SNP has given monetary policy to the Bank of England. It might

have taken the time to explain how that might work. How will the Bank of England’s independent monetary committee take into consideration the needs of Scotland when Scotland is no longer part of the United Kingdom? That is a conundrum that Mr Mather and Mr Neil might have spent some time on, but there was not a word—complete silence.

Mr Davidson *rose*—

George Lyon: Mr Davidson might have something to offer.

Mr Davidson: The minister is hazarding some guesses. As the SNP is totally dependent on oil and as the oil west of Shetland, which will be the future, will be three or four times as expensive to exploit, what does he think that the SNP will do with tax rates to make up for that loss?

George Lyon: When Mr Robertson was across in Norway, he gave the game away: higher taxes for Scotland. However, it would have been interesting if we had been given some indication today of what those taxes might be. Indeed, when I asked whether there would be Irish spending levels and Scandinavian tax levels, Mr Mather said that we would choose our own tax levels. They would be Scottish ones, but what are they? Please tell us. It is 100 days to independence, according to Mr Neil, and we have heard not a word. Mr Mather will tell us.

Jim Mather: I thank the minister for finally taking an intervention. I put it to him that there is a double standard, because when we ask him for details of his proposals, he tells us to wait for the manifesto. The minister should wait for our manifesto.

George Lyon: We are not promising independence on day 1 after the elections in May 2007—that is great difference between the two of us. As I said, there has not been a word from either Mr Mather or Mr Neil about how on earth the Bank of England will take Scotland into consideration when it will have suddenly become independent. That is a pretty far-fetched proposition in anyone’s terms.

I know that Mr Neil is a big fan of moving quickly towards the euro, but even that seems to be growing a little cool, according to our good friend Mr Salmond, who spends much time down south.

As Wendy Alexander said, the SNP might even say how it would replace private finance when it scraps the private finance initiative. How many of the schools that are being built under PFI will be stopped in their tracks? Where will the money come from? Will it be on book or off book? That is the key question if PFI is to be replaced.

We could have had some enlightenment on a whole lot of questions, but the SNP is reticent about telling us exactly what its plans are,

although it can tell us that it will spend £1 billion on pensions. It will be interesting to hear how all that will be done.

Several members, including our friends in the Conservatives, have said that we must ensure that we spend the money in the right way and that we obtain the best value for every pound that we spend. We agree, which is why we introduced the efficient government agenda. According to the Auditor General's report, we are making good progress on that.

It is worth stressing that the budget is important because of the impact that it will have. It will allow us to deliver our ambitious plans for 2007-08. The budget is a key part of the plans that were announced in the spending review in 2004. As we have said many times before, growing the economy is our top priority, and the budget will do just that. It will deliver excellent public services, support stronger, safer communities and develop a confident, democratic Scotland.

Alasdair Morgan (South of Scotland) (SNP): On a point of order, Presiding Officer. At the beginning of his closing speech, the deputy minister said that the fact that Opposition parties lodged no amendments suggested that there is some satisfaction—I think that he used that term—with the bill. Will you confirm that—whatever else it means—our having lodged no amendments means no such thing because standing orders allow only ministers to lodge amendments to a budget bill?

The Deputy Presiding Officer: Apparently that is true not for amendments to the motion, but for amendments to the bill.

Alasdair Morgan: That is what the deputy minister meant.

Scottish Local Government Elections Order 2007 (Draft)

The Deputy Presiding Officer (Trish Godman): The next item of business is a debate on motion S2M-5454, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, on the draft Scottish Local Government Elections Order 2007.

Motion moved,

That the Parliament agrees that the draft Scottish Local Government Elections Order 2007 be approved.—[*Ms Margaret Curran.*]

16:27

The Minister for Finance and Public Service Reform (Mr Tom McCabe): The opportunity to discuss the local government election rules is welcome. They are of course important, particularly this year, because they provide the details of the administrative processes that are involved in running a local government election. The forthcoming local government elections will be different. As members know, a new system of election by the single transferable vote will be introduced and we will for the first time count votes by electronic means.

The bulk of the rules deal with administrative steps that must be taken in the run-up to the election. The rules cover issues such as the timetable that is to be followed, the procedures that govern nomination, actions that are to be taken before the poll and the procedure at the poll. Much of that is broadly similar to what happened at the 2003 elections.

The biggest changes relate to the method of voting and the method of counting the votes, which are substantially different. The new voting system is the key change. I am pleased to confirm to Parliament that we will use the weighted inclusive Gregory system, in line with the recommendations of the Local Government and Transport Committee as far back as 2004.

As members know, the ballot paper's shape was the subject of some discussion. We took the unusual step of presenting two options to the Local Government and Transport Committee. One option, in which candidates were blocked by party, was based on independent research about what would make the paper easier for the public to understand. We had a fairly full discussion at a committee meeting and the committee recommended that we retain alphabetical listing of candidates. I am disappointed that the committee could not accept the findings of the research, but I am pleased to confirm that its recommendations have been incorporated into the order.

As members would expect, preparation for the elections has involved a great deal of work. Officials have spent a considerable amount of time preparing for an entirely new set of circumstances. Further orders will be produced in the next few weeks, but for the moment I commend the order to the Parliament.

16:30

Bruce Crawford (Mid Scotland and Fife) (SNP): I welcome the fact that, at last, we are debating the draft Scottish Local Government Elections Order 2007. It is a pity that we did not manage to get the order before the Parliament in October, as was originally envisaged. It is a pity that it has taken this long to get to this stage.

As the minister said, two debates on the issue have been held at the Local Government and Transport Committee. Reading through the *Official Report* of the committee's deliberations in December, it is clear that not the best tempered of discussions took place over the design of the ballot paper. I do not want to dwell too much on the outcome of that.

Alasdair Morgan (South of Scotland) (SNP): Oh, go on.

Bruce Crawford: Okay then. The Labour Party suffered an embarrassing reversal on the issue. I welcome the committee's decision to reject the minister's original proposals for the design of the ballot paper. That has led to common sense winning the day and to the revised proposals that are before us today. I leave the last word on this point to the Electoral Reform Society. It said, in its letter of 29 November:

"We recognise the importance of parties and the part they will play in election campaigns, but believe the ballot paper should re-affirm that candidates rather than parties stand for election."

That is an important principle, and it is one that we support.

Mr McCabe: As a matter of principle, will the member be prepared to stand simply as Bruce Crawford, with no party designation, when he stands for election in a few weeks' time?

Bruce Crawford: The minister is twisting the argument that was put forward by the Electoral Reform Society.

Margo MacDonald (Lothians) (Ind): As I am an independent member, I have a particular interest in the matter. I do not speak for anyone else, but people to whom I have spoken who want to stand as independent candidates believe that they are at a disadvantage because the only description of them on the ballot paper is their name. They are not allowed an emblem or a photograph on the

ballot paper. I am interested to hear what the Scottish National Party has to say about that.

Bruce Crawford: I am sure that if Margo MacDonald wants to put on the ballot form, "Margo MacDonald, the Champion of Edinburgh"—which she has obviously been in the chamber this afternoon—she can feel free to do so.

Is the minister aware of the plethora of potential differences in practice that are being considered by returning officers throughout Scotland for the holding of counts? I am told that some returning officers will scan all the papers together as soon as they are received from polling places to avoid a manual rummage of the local government boxes, process the Scottish Parliament results and then continue straight on to the local government count. Other reporting officers will scan all the papers together as soon as they are received from polling places, process the Scottish Parliament results overnight, take a break and then start to take the remainder of the local government count at some point on the Friday—probably mid-morning. For spatial and logistical reasons, yet other returning officers will scan the Scottish Parliament papers only, undertake a manual rummage of the local government boxes, count the Scottish Parliament papers overnight, take a break and then start to count the local government papers on the Friday morning. I accept the fact that it is for returning officers to make appropriate arrangements.

Mr McCabe: Will the member take an intervention?

Bruce Crawford: Can I do that, presiding officer?

The Deputy Presiding Officer: Very briefly.

Mr McCabe: I appreciate the points the member is making. Guidance will be offered to returning officers and we will indicate a preference that the counts follow on one from the other, wherever that is practicable. Ultimately, the decision is for the returning officer, but the guidance will encourage as much consistency in practice throughout Scotland as is possible.

If Margo MacDonald could get her photograph on the ballot paper, I would be minded to do my best, as that would add an interesting dimension to the election.

Bruce Crawford: I appreciate the fact that the minister has confirmed exactly what I was going to ask—that guidance will be provided from the centre. That is comforting.

I am concerned about the potential impact of local government ballot papers for the same council ending up in different count locations. Candidates and counting agents must be able to ensure that the process is accurate. It is inevitable that some local government ballot papers will find

their way into Scottish Parliament ballot boxes and be taken to a different count centre, given that some councils intend to count ballot papers for the two elections in different places. In those circumstances, how will the minister ensure that there is proper scrutiny by counting agents?

I have other questions but, given the lack of time, I will deal with them in correspondence with the minister.

The Deputy Presiding Officer: I call David Davidson to open for the Conservatives.

Mr David Davidson (North East Scotland) (Con): David McLetchie will open for us.

The Deputy Presiding Officer: That is not what my script says. I apologise, Mr McLetchie.

16:35

David McLetchie (Edinburgh Pentlands) (Con): That is quite all right, Presiding Officer.

I am pleased to be able to contribute to the debate, although in many ways I regret the necessity for it. The order that we are discussing will implement a flawed system of election to our councils and will sweep away a system of representation that has served Scotland well at local level.

I value the contribution that Scotland's councillors make to local government and their service to the communities they represent. In my experience, irrespective of party, councillors genuinely seek to represent everyone in their community to the best of their abilities. I know how much they value the councillor-ward link and their ability to get to know the people, organisations and communities that lie within their relatively small wards.

Mr Stewart Maxwell (West of Scotland) (SNP): Will the member give way?

David McLetchie: I will in a second.

We are moving to a situation in which councillors in our cities will, on a multimember basis, be responsible for representing between 18,000 and 25,000 people. I fear that the consequence of that move will be to sweep away the intimacy of the relationship between the elected councillor and the local community that is one of the strengths of the system.

Mr Maxwell: Does the member realise that some multimember constituencies exist in England and Wales, albeit that the elections are not by means of the single transferable vote? Does he think that the people who live in such council areas have less representation because of that? Has the link between member and ward been lost

in those areas, where wards may have three or four members?

David McLetchie: Yes, I am aware that multimember wards exist in some councils in England, but I do not think that that is a perfect system of representation. I am surprised that the Scottish National Party should hail England as a model for representation in Scotland. The SNP does not usually call on English models in aid of its arguments.

The second reason why I voice some regret at the necessity to discuss the order is that, in my opinion, we should not hold elections to our councils at the same time as we elect a new Scottish Parliament. That point would hold true irrespective of the voting system for council elections. Personally, I believe that council elections and Parliament elections should take place on separate days so that appropriate attention is given to both elections and so that the parliamentary elections do not bury the appropriate discussion of local issues that would occur in communities if the elections were separated.

I note with interest that the Arbuthnott commission—virtually all its recommendations seem to have been rejected by the Government—recommended a separation of Scottish Parliament and local council elections. Such a separation would be a particularly good idea in the context of the elaborate new voting system that we are introducing for the local government elections on 3 May. The new system will be a recipe for confusion and for a mountain of spoiled ballot papers.

Regarding some of the details, I was somewhat alarmed to learn at this week's meeting of the Local Government and Transport Committee that the counts for the Scottish Parliament elections—apparently, the Scottish Parliament count will precede the local government one—may be even slower under the electronic system than they are under the current manual system. It would appear that most of us will have a long night on 3 May.

I am interested in the minister's reference to the "independent research" on the form of the ballot paper. That subject excited much debate in the Local Government and Transport Committee. The examination of the proposition showed that the methodology behind the research was surprising, if not flawed. It was based on showing people a ballot paper on which there were no fewer than 14 candidates' names. I notice that no fewer than 10 candidates are listed on form 4, the sample ballot paper that is annexed to the draft Scottish Local Government Elections Order 2007.

I wager Mr McCabe and others that there will be 10 candidates in barely one ward in Scotland,

whether it be a three or a four-member ward. The optimum number of candidates will be approximately five in a three-member ward and six or seven in a four-member ward. Research that suggests that people will have to look at lengthy lists of 10 or 14 candidates is fundamentally flawed, and the committee's decision on the appropriate form of the ballot paper is undoubtedly correct.

16:40

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I urge Parliament to support the Scottish Local Government Elections Order 2007 at decision time. The order is the logical consequence of the decision that we took earlier in the session to change our voting system and to move away from the discredited first-past-the-post system that was designed for 19th century politics to a fair voting system that is designed for a modern 21st century Parliament and modern 21st century councils. The order will allow the people of Scotland to express clearly whom they want to represent them. Instead of placing a simple X on a ballot paper, people will be able to indicate their preferences between candidates by writing 1, 2 or 3.

The beauty of the new system is that it takes power away from the political parties and returns it to the voter. For the first time, the voter will be able to indicate their preferred choice of candidates: they will be able to choose different candidates from within the same party and from outwith the parties.

Bristow Muldoon (Livingston) (Lab): Does Mr Rumbles not realise that in the vast majority of cases political parties will put forward only one candidate in a ward and that people will have the chance to choose between candidates from the same party only in a minority of cases?

Mike Rumbles: Bristow Muldoon is being somewhat disingenuous. If a party puts up only one candidate, it does not think that it can win more than one seat. The choice is for the voter to make; the system gives the voter power to choose between the candidates who are placed before them. If the Labour Party intends to put up only one candidate in each ward, I look forward to that; we will see what happens.

Mr Davidson: Will Mr Rumbles take an intervention?

Mike Rumbles: I have just taken one.

It is no wonder that David McLetchie and the Conservative party, who opposed this renewal of democracy, complain most loudly about it. David McLetchie says that it is a complicated system. In a way, it is—yes and no. It is complicated for the

officials who have to count the preferences, which is why it is helpful to have e-counting; but for the voter it is as simple as 1, 2, 3.

Alasdair Morgan: It is too difficult for the Tories.

Mike Rumbles: The member is absolutely right: the Tories have not yet quite reached the 21st century. The change for the voter—of putting 1, 2 or 3 on the ballot paper, rather than an X—is not exactly demanding. Conservatives such as David McLetchie, who argue that this is a complicated system for the voter, are—to use parliamentary language—being less than straightforward.

This is a long-overdue reform that real democrats, who put the wishes of the voter first, should support whole-heartedly at decision time.

16:44

Bristow Muldoon (Livingston) (Lab): The order is important, as it sets out all the rules that will govern this year's local government elections in Scotland. We all realise that the elections are being conducted under an electoral system that is different from what we are used to. The order is important for ensuring that those who are responsible for the conduct of the elections, such as returning officers, understand the detail of the manner in which the elections are to take place, can prepare the documents and organisational arrangements for the elections, and can convey information to participants and voters. It is important that voters understand how the new system will work.

The vast majority of the measures are not contentious and, although I feel that the wrong decision has been reached in one particular area, which I will outline in due course, I will support the motion so as to ensure the smooth and efficient operation of this year's local government elections.

I fully support the proposals for electronic counting, which will speed up the counts in local government elections, but I share Mr McLetchie's concern that the process will not be as swift as we might have imagined. Indeed, during this week's meeting of the Local Government and Transport Committee, it emerged that many parliamentary counts might not be completed until about 5 in the morning and that many local government counts will not be completed until some time after that. Although I support the draft order—which, after all, enables electronic counting—I ask the ministerial team to reconsider the issue and find out whether it is possible to put additional resources into ensuring that the counts are completed more swiftly than is currently envisaged.

The Scottish Executive looked at the design of STV ballot papers in other parts of the world, but found no consistency. For example, and as Tom

McCabe pointed out to the committee, candidates in Australia and Malta are grouped in party blocs, whereas candidates in Northern Ireland and the Republic of Ireland are listed alphabetically by name. Feedback from the Executive's subsequent research into the issue indicated that, when shown different ballot paper designs, a significant majority of participants chose the design that grouped candidates by party.

At one point, some committee members questioned the quality of the research, but when the minister indicated that he might be prepared to carry out further research, some members, including Mr Rumbles, who had dismissed the original research, got very agitated and, instead of wanting more research to be carried out to allow Parliament to reach a proper decision, wanted to reach a decision right away.

I should also point out that Age Concern Scotland wrote to the Executive on behalf of itself, Help the Aged, the Scottish Pension Association and the Scottish pensioners forum to urge that candidates be grouped by party because, in their view, it would make the ballot paper easier to negotiate. Unfortunately, the two Executive parties were unable to agree on the issue, which is why the matter was referred to the Local Government and Transport Committee. When the committee discussed the issue, the Liberal, Conservative, Scottish National Party and Solidarity members, in a state of collective paranoia, combined to reject the ballot paper design that had been supported by research.

Mike Rumbles: Will the member give way?

Bristow Muldoon: No; I have only 40 seconds left.

I do not think that either design will make much difference to the number of councillors from each party that are elected.

Mike Rumbles: So why are you going on about it?

Bristow Muldoon: I am about to tell the chamber why. I ask Mr Rumbles not to shout at me from a sedentary position.

The design might make a difference to the way in which some voters cast their vote—indeed, some might well make errors in doing so. Of course, that will apply only to a small percentage of people, but I believe that the design of ballot papers should make the process easy for the voter, not give any party an advantage one way or the other.

The SNP's position on this matter is particularly rich. The nationalists say that the proposal is designed to aid the Labour Party even though, week in, week out, they tell us that they will sweep to success in May. If that turns out to be the case,

the only party that will have gained any advantage from the proposal will be the SNP—but I do not believe that that will be the case.

In spite of my concerns about electronic counting and the design of the ballot paper, I will support the draft order and encourage the Parliament to do so. However, I recommend that, once the election is by, further research be carried out on the issue to ensure that ballot papers are properly designed with the voters' interests in mind.

16:48

Mark Ballard (Lothians) (Green): I, too, welcome the draft Scottish Local Government Elections Order and will support it today. However, I ask the ministerial team to look again at a number of issues. The minister has indicated that further secondary legislation for the local government elections will be introduced soon, and that should provide an ideal opportunity to make the necessary changes.

At Tuesday's meeting of the Local Government and Transport Committee, the Deputy Minister for Finance, Public Service Reform and Parliamentary Business said that he will very soon consult on making available an anonymous version of the voting information that the electronic counting system will capture. I welcome that commitment and look forward to seeing the options for such publications. After all, it should be perfectly possible to publish such information in a way that would maintain the secrecy of the ballot by not permitting individual voters to be identified but which would let people in the academic community and political parties know how votes were cast and what transfers were made.

That has already been done for STV elections in Ireland, where the full ballot data are freely available on the returning officer's website. Such publication, soon after an election, would demonstrate the openness and transparency of the process and enhance public confidence in the new voting system and counting procedures. I welcome the assurance that the deputy minister has given, but I look for more detail on the publication date and how we will ensure the proper balance between the secrecy of the ballot and the transparency of the information.

My second point concerns by-elections in which there is only one vacancy. The order makes it clear that the standard STV counting rules will apply. The process will therefore include the calculation of the quota to identify the winner. My concern is that major problems can arise when the winner's votes fall well short of the quota. Although the rules in the order provide for that situation, the public may perceive that, because no candidate

achieved the quota, something is wrong with the result. The public may even think that it is not valid.

I speak from personal experience of the election of the rector of the University of Edinburgh, which is conducted using STV and is a single-winner election. Last February, a record ballot was cast. All four candidates had substantial support and the count went to three stages, with one candidate being eliminated at each stage. However, by the third stage, around 15 per cent of the votes had become non-transferable. I was declared the winner at the third stage. I was several hundred votes short of the quota required, which could have been regarded as a problem had not the Electoral Reform Society looked at the situation and devised a system whereby no quota was declared. The election was conducted using STV, but without the requirement for a calculation of the quota. There was therefore no question in voters' minds about why no single candidate had reached the quota to fill the vacancy. The Electoral Reform Society wrote that version of the rules to avoid that well-established problem. At the moment, the rules under the order do not allow us to cope well with the situation that I described. Making provision for that alternative approach would require only a small change to the rules.

Proportional representation is a much-needed part of the reform of local government. I wholeheartedly welcome the introduction of STV to the local government elections. The changes that I have suggested would increase voter confidence and improve the transparency of the system, particularly in by-elections. Although we should not require to cover that situation in May, by-elections will need to be covered in proper detail in future.

16:52

Margo MacDonald (Lothians) (Ind): I did not expect to be called. However, having listened to Mark Ballard, I now understand why Archie Macpherson beat me by 70 votes about 22 years ago in the election of the rector of the University of Edinburgh.

I move on to more serious topics. I have absolutely no wish to throw a spanner in the works of the local government elections. However, at the Local Government and Transport Committee earlier this week, I was heartened to hear that it was not too late, as I had thought, to make changes. At the meeting, I complained that independents in the local government elections are being put at a disadvantage because of the way that their names will appear on the ballot paper.

Since then, I have looked forward to the minister putting my mind at rest on the matter. Will he

confirm that the ballot paper will not disadvantage independents? If an independent produces an emblem that is identifiable in some way with their independent status, surely that emblem can be included on the ballot paper. I am thinking of the local campaigns that local councillors promote; an emblem could help to associate in the public mind the campaign and the councillor. For independents not to have an emblem would definitely put them at a disadvantage. If the person was unable to use the emblem to promote their candidacy on the ballot paper, that would represent unfair and unequal treatment.

Will the minister tell the chamber whether there is time to put right this wrong? I would be pleased to co-operate in any way that I can.

Alasdair Morgan: Might not the opposite also work? People have begun to associate emblems with political parties. If someone is looking for a candidate who is not the product of a political party, they may well look down the ballot paper to find a name that does not have a logo beside it.

Margo MacDonald: The member may be right. On the other hand, I might stand a better chance of getting re-elected if I were to put a battle axe beside my name. [*Laughter.*] That was just a suggestion.

I am genuinely concerned that independents could be steamrollered in an election such as the one that we are about to hold. As Paul Martin—I was going to call him Michael—pointed out to me, some wards contain 25,000 people, which would require an independent candidate to put in a quite disproportionate effort if they were to be elected. I do not think that we should heap insult upon injury by putting independents at a disadvantage through their description on the ballot paper.

I look forward to the minister setting my mind at rest on this point. I took legal advice and was told that there was a case to be made because unfairness is being visited upon independent candidates. That is all that I have to ask the minister; he has been so helpful already today that I hope he will help me with this question, too.

Mr McCabe: As I said, we would do our best to accommodate Mrs MacDonald, but as it stands, the law prevents us from doing that. If the prospect was a photograph of Mrs MacDonald on a ballot paper, we would move heaven and earth to make that possible.

The Presiding Officer (Mr George Reid): You are done now, Mrs MacDonald, are you not?

Margo MacDonald: I want to hear more.

The Presiding Officer: Mr McCabe?

Mr McCabe: What was that?

Members: She wants more.

Mr McCabe: I think that Mrs MacDonald and I should discuss this in private.

The Presiding Officer: We have finished three and a half minutes early, so I will suspend the meeting until 5 o'clock.

Alasdair Morgan: On a point of order, Presiding Officer. Members have made some valid points in the debate—certainly in this part of the chamber. Will not the minister take the opportunity to respond to any of those points?

Mr McCabe: I can certainly do that if we have some spare time.

When Mr Crawford spoke about his concerns about the arrangements and the possibility that ballots might end up in different counting centres, we agreed that we could deal with some of the detailed issues in correspondence.

Bruce Crawford: One of the newsletters that came out in support of the Local Government Elections Order 2007 said that an information officer will be employed as a personable person at the ballot box in the future. They will be able to guide us on what will happen with our STV. That might well be a useful process, but I hope that the minister can assure us that the personable information officer will be beyond reproach and will not be giving advice to people entering the polling booth on how to vote for specific political parties. That could invalidate the process. How will we tell the difference between a personable person and someone who might be there as a polling agent on behalf of the parties?

Mr McCabe: I am sure that Mr Crawford in no way means to impugn the integrity of the returning officers. Clearly, the returning officer will ensure that the person inside the polling station—who is there to assist electors during a new process, which some people might find more complicated than that which they have been used to—is there for the sole purpose of ensuring that as many people as possible play the fullest part in our democratic processes. I am sure that every returning officer in Scotland would be shocked and surprised if there was any suggestion whatsoever that the opposite was the case.

Several members made points during the debate—*[Interruption.]*

The Presiding Officer: Order. Will members who are having private conversations do so outside?

Mr McCabe: Mr McLetchie indicated that he was concerned about the professionalism of the independent research that was undertaken into the shape of the ballot paper. I am almost too shocked to find the words to express my surprise that he would say such a thing. The process was conducted under the most rigorous and widely

accepted procedures, but Mr McLetchie decided to deride the research for his own party-political interests. Any proposals that were made were put forward because there was a sincere belief—

David McLetchie: Will the minister confirm that the methodology consisted of a poor soul standing outside a shopping centre with a clipboard, on a wet day, and that the information was then collated rigorously by the Scottish Executive to give the results that were then reported to the committee?

Mr McCabe: My information is that the individual concerned was, in fact, wealthy and highly educated and that it was an extremely sunny day. I will end on that note.

Decision Time

17:00

The Presiding Officer (Mr George Reid):

There are four questions to be put as a result of today's business. The first question is, that motion S2M-5335, in the name of Ross Finnie, that the Parliament agrees that the Crofting Reform etc Bill be passed, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)
 Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 MacDonald, Margo (Lothians) (Ind)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)

May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Byrne, Ms Rosemary (South of Scotland) (Sol)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (Sol)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 91, Against 5, Abstentions 20.

Motion agreed to.

That the Parliament agrees that the Crofting Reform etc. Bill be passed.

Maureen Macmillan (Highlands and Islands) (Lab): On a point of order, Presiding Officer. My console would not work and I was not able to get to one that worked on time. I am extremely concerned that I have not been able to vote in favour of the Crofting Reform etc Bill.

The Presiding Officer: The fact that you have made that point of order, which will be recorded in the *Official Report*, means that the whole Parliament will recognise your support for the bill.

The next question is, that motions S2M-5431 to S2M-5434 inclusive, in the name of Brian Adam, on the Standards and Public Appointments Committee's fifth, sixth, seventh and eighth reports in 2006, on determinations required under the Interests of Members of the Scottish Parliament Act 2006, be agreed to.

Motions agreed to.

That the Parliament notes the Standards and Public Appointments Committee's 5th Report, 2006 (Session 2), *Determinations required under the Interests of Members of the Scottish Parliament Act 2006 - Determination required under Section 4* (SP Paper 706), and agrees that the determination set out in Annexe A to the report be made with effect from 4 April 2007.

That the Parliament notes the Standards and Public Appointments Committee's 6th Report, 2006 (Session 2), *Determinations required under the Interests of Members of the Scottish Parliament Act 2006 - Determination required under Section 11* (SP Paper 707), and agrees that the determination set out in Annexe A to the report be made with effect from 4 April 2007.

That the Parliament notes the Standards and Public Appointments Committee's 7th Report, 2006 (Session 2), *Determinations required under the Interests of Members of the Scottish Parliament Act 2006 - Determination required under Section 13* (SP Paper 708) and agrees that the determination set out in Annexe A to the report be made with effect from 4 April 2007.

That the Parliament notes the Standards and Public Appointments Committee's 8th Report, 2006 (Session 2), *Determinations required under the Interests of Members of the Scottish Parliament Act 2006 - Determination required under the schedule, paragraph 8* (SP Paper 709), and agrees that the determination set out in Annexe A to the report be made with effect from 4 April 2007.

The Presiding Officer: The next question is, that motion S2M-5441, in the name of Tom McCabe, that the Parliament agrees to the general principles of the Budget (Scotland) (No 4) Bill, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)

Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
Baillie, Jackie (Dumbarton) (Lab)
Baird, Shiona (North East Scotland) (Green)
Baker, Richard (North East Scotland) (Lab)
Ballance, Chris (South of Scotland) (Green)
Ballard, Mark (Lothians) (Green)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (Moray) (SNP)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Maclean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Mather, Jim (Highlands and Islands) (SNP)
Matheson, Michael (Central Scotland) (SNP)
Maxwell, Mr Stewart (West of Scotland) (SNP)
May, Christine (Central Fife) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McFee, Mr Bruce (West of Scotland) (SNP)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)

Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Byrne, Ms Rosemary (South of Scotland) (Sol)
 Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)
 Sheridan, Tommy (Glasgow) (Sol)

ABSTENTIONS

Aitken, Bill (Glasgow) (Con)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Davidson, Mr David (North East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Johnstone, Alex (North East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Petrie, Dave (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Tosh, Murray (West of Scotland) (Con)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 90, Against 7, Abstentions 18.

Motion agreed to.

That the Parliament agrees to the general principles of the Budget (Scotland) (No. 4) Bill.

The Presiding Officer: The fourth and final question is, that motion S2M-5454, in the name of Margaret Curran, on the draft Scottish Local Government Elections Order 2007, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)
 Baillie, Jackie (Dumbarton) (Lab)

Baird, Shiona (North East Scotland) (Green)
 Baker, Richard (North East Scotland) (Lab)
 Ballance, Chris (South of Scotland) (Green)
 Ballard, Mark (Lothians) (Green)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 Lyon, George (Argyll and Bute) (LD)
 MacAskill, Mr Kenny (Lothians) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Maclean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Mather, Jim (Highlands and Islands) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 Maxwell, Mr Stewart (West of Scotland) (SNP)
 May, Christine (Central Fife) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McFee, Mr Bruce (West of Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Mrs Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)

Morgan, Alasdair (South of Scotland) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Petrie, Dave (Highlands and Islands) (Con)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Radcliffe, Nora (Gordon) (LD)
 Robison, Shona (Dundee East) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)
 Scott, Eleanor (Highlands and Islands) (Green)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Tosh, Murray (West of Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Curran, Frances (West of Scotland) (SSP)
 Fox, Colin (Lothians) (SSP)
 Kane, Rosie (Glasgow) (SSP)
 Leckie, Carolyn (Central Scotland) (SSP)
 MacDonald, Margo (Lothians) (Ind)
 Monteith, Mr Brian (Mid Scotland and Fife) (Ind)

ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (Sol)
 Sheridan, Tommy (Glasgow) (Sol)
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

The Presiding Officer: The result of the division is: For 108, Against 6, Abstentions 3.

Motion agreed to.

That the Parliament agrees that the draft Scottish Local Government Elections Order 2007 be approved.

Royal Hospital for Sick Children Edinburgh (Fair Parking)

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S2M-5414, in the name of Mike Pringle, on fair parking for the Royal hospital for sick children in Edinburgh.

Motion debated,

That the Parliament welcomes the plan to build a new hospital for sick children alongside the Royal Infirmary of Edinburgh at Little France in south Edinburgh; notes that parking costs only 70p per hour and is free in the evening and at weekends near the current Royal Hospital for Sick Children site in Sciennes but that parking at the Royal Infirmary is almost £1.20 per hour, up to a maximum of £10 per day, and that this applies for 24 hours a day, 7 days a week, and believes that bus services to the Little France area should be improved from all parts of the city and that NHS Lothian should guarantee that parking at any new hospital will not cost any more than the current site and that the mistakes that were made in respect of fixing parking charges at the Royal Infirmary of Edinburgh are not made in planning the new sick children's hospital.

17:06

Mike Pringle (Edinburgh South) (LD): In lodging the motion, I wanted to highlight not only the issue of parking at the sick kids hospital but the charging situation at the Edinburgh royal infirmary, to whose site the sick kids is likely to be relocated. I am glad that the issue can be debated and I thank everyone who has signed my motion.

I welcome yesterday's news that the Edinburgh royal infirmary has decided to decrease its excessive charges from a whopping £10 a day to a slightly less whopping £7 a day from April—I am not sure why that cannot be done immediately. That still makes it the most expensive hospital in the country for parking, and, unlike charges for parking in most towns and cities, the charges apply 24 hours a day, 365 days a year.

I thank the Royal College of Nursing for its briefing paper ahead of today's debate. I certainly agree with the RCN's position—accepted at its annual conference in April—which calls for an end to parking charges in health care settings. As the RCN says, only some boards charge while the majority do not. No charging is the ideal, but I accept that in some circumstances some charges are needed to encourage the use of public transport, to deter commuters and to maintain the car park.

The contract for the Edinburgh royal infirmary was finalised by the current Government back in 1998, prior to devolution. I do not want to cover old ground, so I will simply say that something has gone seriously wrong when anyone agrees to a contract that permits a £10-a-day charge for

hospital parking. It has taken four years of negotiations since the hospital opened to get Consort to reduce the charge by £3. I wonder what NHS Lothian has sacrificed to allow Consort to do that.

The £10-a-day charge caused outrage from its inception and, although there were discounts for long-term users, the high charges caused chaos in residential areas in my constituency near to the hospital. As public transport has improved, that problem has lessened, but I still receive—as I am sure other MSPs in Lothian do—regular complaints from constituents who have to pay the high charges when they have no choice but to travel by car to the hospital. Such complaints are primarily from those people who may be unable to travel by public transport because they are unwell, because they are not served by buses or because they are visiting or working at the hospital at night.

The other item of background to the debate is the decision to move the Royal hospital for sick children from its current cramped Victorian site in Sciennes to a new site adjacent to the ERI at Little France. The Royal hospital for sick children is one of the busiest in the United Kingdom. The hospital sees almost 90,000 patients a year, while the staff help nearly 250 children a day. That is a lot of people, many of whom need to park at the hospital.

The decision to relocate the hospital is a good one and I hope that the Executive will fully support it when the business case goes to it later this year. The hospital's reprovion board is working on its proposals for relocation, which afford an exciting opportunity. If any member has not seen the document that the board produced, I advise them that it makes a short but good read. Relocating the hospital to a site adjacent to the ERI will have many benefits, not least the ability to share specialist facilities and to cut down on ambulance journeys from accidents, perhaps where families—parents and children—are involved.

The hospital does a fantastic job at its current location. Many years ago, I had to take my seriously ill young son there when he had meningitis. The care that he received was excellent; I would say that the hospital probably saved his life. Last year, I was pleased to help to open the new drop-in centre for parents at the current site, and I know that the new hospital will be even better.

However, as with the royal infirmary, it must be acknowledged that the new site is not in central Edinburgh. That might be good news for some people, but we must ensure that the transport issues are addressed now. I hope that tonight's debate will highlight the matter. Bus services to Little France have improved, partly due to funding from the Scottish Executive—recently, I took

Tavish Scott, the Minister for Transport and Telecommunications, to see the improvements. However, it is not enough to reduce parking charges and increase bus services after the hospital has opened. We need a modern sick children's hospital that is fit for the 21st century and we have a real opportunity to get it right.

With the decrease in parking charges, it will cost about £1 per hour to park at the Little France site, up to a maximum of £7 per day. That is slightly more than the current costs near the sick kids hospital in Sciennes, but the crucial difference is that, at the ERI, charges apply 24 hours a day, 365 days a year. On the streets round the current location, charges apply only from 8.30 in the morning until 5.30 in the evening and only on Mondays to Fridays.

Margo MacDonald (Lothians) (Ind): First, the member said that we have an opportunity to get things right, but can we ever get them right if the project is tied to the private finance initiative and a public-private partnership?

Secondly, I apologise that I will not be able to stay for the whole debate, but the member has my 100 per cent support for his comments about parking.

Mike Pringle: I thank Margo MacDonald for that. I understand that there is a debate about PFI. I have never been an enthusiast for PFI projects. That is part of the debate that we will have from now on and I am sure that the reprovion people at the hospital will look at that.

Evening and weekend parking at the current site is free of charge. The charges at the ERI site have nothing to do with the management of demand at the car park or attempts to deter commuters from using it. They are simply about raising money. We cannot have such a regime at the new children's hospital. It would be wrong for parents who take their child to casualty in the middle of the night to be charged to park in an empty car park. I am pleased that guidance on parking at hospitals has been issued to the health boards. It will apply to the new sick kids hospital, but it is disappointing that it is not to be applied retrospectively at the ERI.

I hope that members will support my campaign to ensure that the parking disaster that was created at the ERI is not repeated at the sick kids hospital and that parking charges do not increase when the hospital relocates. Ultimately, parents should not be penalised for staying at the bedside of their ill children.

17:14

Mr Kenny MacAskill (Lothians) (SNP): I thank Mike Pringle for bringing the matter to the

chamber for debate. His motion focuses on parking charges, but he discussed a variety of matters in his wide-ranging speech. For example, he paid tribute to the service that we receive from the sick children's hospital and he mentioned the plan to resite it. He also mentioned the problems that have been created by siting the ERI at Little France and he mentioned the question of parking charges there.

Margo MacDonald is correct to say that pivotal among those issues is the PFI contract, which at the end of the day is the driver of the problems at the Little France site. That problem cannot be solved until the entire PFI scheme is reconsidered. As Mr Pringle correctly said, progress has been made and charges have been reduced, but the ignominy and the difficulties for staff, patients and visitors remain, even with the slightly reduced charges.

Mike Pringle is correct that the sick kids hospital is an institution. It is a small distance from where I live, so I am aware of the parking charges and difficulties that are caused as a result of its being within the resident-permit area. However, the charges are relatively modest. The institution has served well not just the south side of Edinburgh, but the whole city; indeed, given the expertise at the hospital, it has served all of Scotland well. We should pay tribute to the staff and to the volunteers, who have given a great deal of service in raising the additional funding that has been required. Obviously however, as with everything, times move on. The location is not exactly ideal and there are problems with the Victorian building, so a new site is almost certainly required. There are good arguments relating to centralisation of expertise and services for why the new site should be adjacent to the ERI and the medical school. However, if the hospital moves to Little France, problems will arise.

The problems with the ERI at Little France are twofold. The first, as Mike Pringle correctly mentioned, is transport; the second is parking charges. That goes back to the point that Margo MacDonald raised in her intervention that, if we were starting from scratch, we would probably not seek to locate the ERI at Little France because it is not only the hospital for the city of Edinburgh, but one of the two principal hospitals for the Lothians. We now have huge difficulties in the region because the two pivotal hospitals—St John's hospital at Howden in West Lothian and the ERI at Little France in Edinburgh—are in extremely difficult locations. Issues arise not only for people in West Lothian who need to access St John's, or for people in Edinburgh who need to access Little France, but for those who must go back and forward along the M8 and the other routes that connect east and west and elsewhere.

The problems are created by the locations, but we are left with them.

Improvements have been made, such as the additional services that Lothian Buses has introduced, which the Executive partly funded and which have been beneficial. Doubtless, the park-and-ride site that is being created at Danderhall will lead to further improvements in that it will increase the through-flow of traffic, which will be of benefit. We must consider how we mix the two modes of transport. The subject is not part of the debate, but I broadly support the point that Mike Pringle has made previously about consideration of some form of guided busway to Little France. We must do something to break the logjam and ensure that there is a regular service.

To be frank, irrespective of what we do, the ignominy and the disaster of the parking charges at Little France will remain. However, we must not compound the difficulties as a result of a requirement to move the sick kids hospital from Sciennes to Little France. We cannot impose on users of that hospital the situation that those who go to the ERI—whether for work, visits or treatment—endure. We must ensure that the charges are capped and that the difficulties that those who use the ERI face are not also faced by those who use the sick kids hospital.

17:18

Robin Harper (Lothians) (Green): I congratulate Mike Pringle on bringing the debate to Parliament. An issue that arises is that this is not so much about specific transport links to the hospital as it is about situating the hospital within a transport system that works for the whole of Edinburgh. The first suggestion that springs to mind in that connection is not a guided busway, but the proposed tramline 3, which would connect the hospital to the whole of Edinburgh and out to the west, through links to other tramlines. That would be a sensible and good way of preventing many car journeys.

Another measure would be to persuade Lothian Buses to continue the move away from the present system, in which to get from parts of west Edinburgh to parts of south Edinburgh, people must come into the city and then catch another bus out. I need to take two buses, or sometimes three, to get from Morningside to Parliament. We clearly need a system with more links, and Lothian Buses should be persuaded to consider what more could be provided.

Only a small number of Edinburgh's buses are part of the new system that allows passengers to see the times of the buses. The next thing will be for the times to be linked; in other words, passengers on radial buses who get off will know

that there will be a link within five or 10 minutes down to the ERI.

My next point is not exactly germane to the parking issue. Both the main hospitals have been mentioned, and Mike Pringle mentioned the new sick kids hospital. I would love to see the plans for it, and I hope that it will be designed to the highest environmental standards and will not be the environmental disaster that is the ERI. Far too many things are wrong with the ERI in terms of its environmental impact. We had a chance there, but we missed it; we will have another chance to build a hospital that is an icon of sustainability. We will have to give some thought to that.

If we get the transport links right, fewer people will want to park at the hospitals. However, I absolutely agree with Mike Pringle that people who park should not be punished for visiting sick children or members of their families. The charges should be reduced as much as possible; they should cover maintenance of the car parks and should not be making profits for a PFI group.

17:21

Lord James Douglas-Hamilton (Lothians) (Con): I congratulate Mike Pringle on his success in securing the debate and I welcome the plan to build a new hospital for sick children alongside the Edinburgh royal infirmary. The new hospital will be purpose built, which should allow it to offer multiple benefits to the many children who will need the very best of medical treatment. I understand that the new site will offer huge improvements for motorists in the availability of parking. So far so good, but the issue of fair parking charges is of great relevance and importance.

It is fair to say that when parents or patients have to visit a hospital, or take their children there, they do not welcome parking charges; their thoughts are totally focused on the circumstances and welfare of their child or children. However, of course I understand that car parks have associated costs—for security, maintenance and capital charges—and that car parking charges will be designed to discourage unauthorised users who simply want to park free for the day.

The debate raises a big moral issue for the majority of car park users who are visiting the hospital for medical treatment. The question is whether car parking charges across the board are absolutely necessary. If they are, how much do those charges, realistically and morally, need to be? I feel that concessions should be made for staff and patients who attend regularly, and for parents of children who are hospitalised for an extended time. I also feel that overnight and weekend parking should be seriously considered

for concessions. Similarly, the circumstances of individuals must be considered. Children who have to attend the hospital regularly—for example, for dialysis or radiotherapy—and children who are hospitalised for several weeks or months should most definitely be taken into consideration for concessions or, even better, exemptions.

The main issue for NHS Lothian is surely to ensure that, when we are dealing with some of the most vulnerable and fragile members of our community, any charges for car parking have to be totally justified. Charges must not be simply a means of generating income.

At the forefront of the list of priorities must be the need to provide the best for the people of Edinburgh, the Lothians and Scotland. We should lead by example by putting the needs of child patients and their parents first. We owe them nothing less.

17:24

Colin Fox (Lothians) (SSP): I add my congratulations to Mike Pringle on securing the debate. One year ago today, the Parliament held the stage 1 debate on my bill to abolish prescription charges—so I had better button up my coat. Today, we are debating the case for other charges for accessing the health service—car parking charges for visitors, patients and staff.

Members will accept that I believe in the principle that access to the health service should be universally free. I note that the helpful briefing that the Scottish Parliament information centre prepared for the debate highlights the fact that the decision on whether there should be car parking charges is left to the local health board, which is right. The briefing also says that it is clear in the Executive's guidance on car parking charges that charges should not be introduced as a means of generating income, which is also right. However, the Executive has compromised the clarity of its guidance by saying that charges are okay if they cover the cost of providing current or future parking facilities, or if they cover the cost of management of the parking facilities in order to discourage unauthorised users.

As Mike Pringle and other members said, a coach and horses is being driven through the Executive's guidance. Three quarters of hospitals in the country now charge for parking. The charges at the new Edinburgh royal infirmary were £10 per day but were recently reduced to £7. I live on the scheme that is adjacent to the hospital, so I know that many visitors, staff and patients park their cars in the adjacent schemes in the Inch and Moredun to avoid having to pay the daily charge. That causes difficulty for residents.

The Deputy Minister for Health and Community Care (Lewis Macdonald): On a matter of factual information, does Mr Fox accept that there are parking charges at hospitals in only five of the 14 health boards in Scotland? I question his claim that there are charges at three quarters of hospitals.

Colin Fox: I am happy to say that I got that figure from SPICe. Perhaps it refers to the whole of Britain. However, if there are charges in five boards, that is five boards too many.

A £10 daily charge is clearly a problem for residents in the local schemes who, like me, find it difficult to park their cars or even get their kids to school. The charge also acts as a disincentive to staff who want to work in the national health service. Staff are in work every day. My partner works at the new ERI, but she can walk to work rather than get the bus or use the car—Robin Harper will be happy about that. It is appalling to ask people in what is unfortunately a low-pay industry in this country to pay £10 a day out of their pitifully small income.

I understand that the minister was at the sick kids hospital today. I am sure that all members welcome the plans for a new hospital, as I do, and I have no problem with its being built at Little France, nearer to me and further from Mike Pringle and Kenny MacAskill—it seems that the hospital is moving to the left. However, it is not wise or in the best interests of patients in the Lothians for the new hospital to be a PFI project. The fact that the new Edinburgh royal infirmary is a PFI hospital has been an unmitigated disaster for patient care in the Lothians, without question. If time allowed, I would happily talk about Professor Allyson Pollock's recent report, which highlights the exorbitant costs of PFI and how hundreds of millions of pounds have been taken from NHS Lothian and given to shareholders in Balfour Beatty and other private companies.

I pay tribute to the staff at the sick kids hospital. My kids have been to the hospital a couple of times, unfortunately—that's kids for you—and they received superb treatment. I am sure that that is the case across the board.

I hope that the health board will consider the opportunity that the move to Little France presents to scrap charges altogether. The hospital is moving from a residential area in which there is pressure on parking to an area on the outskirts of town. The board could take a step in the right direction and ensure that no one who uses the sick kids hospital has to pay car parking charges.

17:28

Margaret Smith (Edinburgh West) (LD): I congratulate Mike Pringle on securing the debate.

I will talk about the new children's hospital, as well as about parking at NHS Lothian's hospitals in general and at the proposed site for the new hospital.

The sick kids hospital has a place in the hearts of the people of Edinburgh, who have shown their affection, respect and gratitude over the years by giving the hospital financial support through appeals that have raised millions of pounds. For that reason, as well as because of difficulties that are faced at Edinburgh royal infirmary because its site and build have been procured through PFI, I do not feel comfortable supporting the construction of the new children's hospital through PFI—nor, I think, are most people in Edinburgh comfortable about it.

Parking and transport issues are fundamental aspects of proper health care planning. Those of us who took part in Colin Fox's recent debate on buses mentioned the need for good bus links to major hospitals. We must acknowledge that many patients, visitors and staff, many of whom work shifts, will still have to travel to hospital by car.

My constituents still have concerns about the siting of the new royal infirmary. Better bus services are now available, however, and some of them are supported by the Executive. Despite that, the location of the infirmary is not ideal for many people, as has been said.

I am very supportive of the proposals for tramline 3. I have always supported new trams for Edinburgh on the basis that the current plans are just the beginning. One of the most important things that we could do would be to extend the Edinburgh trams project to tramline 3, leading to the University of Edinburgh's buildings and to the royal infirmary.

A lack of car parking facilities can cause major problems for patients and local residents. That has certainly been the case around the Edinburgh royal infirmary, as Colin Fox and Mike Pringle said. The Western general hospital, in my constituency, is also affected. I am glad that NHS Lothian is taking the matter seriously there. There are additional spaces, and the health board is planning to build a tiered car park and to extend the assisted parking facilities at the Western's oncology department, which have proved to be such an innovative success. That will happen not only there; the board is considering taking the pilot beyond the Western to the royal infirmary.

If I may be slightly cheeky in mentioning this—although I believe I have the support of other members in doing so—one real present concern is to do with the shuttle bus service to the Western general hospital, which was promised to Parliament and to my constituents by TIE Ltd under the tram proposals. We should do all that

we can to ensure that TIE honours that commitment, rather than simply diverting existing bus services. I know that other members have also been pursuing that matter.

I recently responded to NHS Lothian's consultation on child and young people's health. I support the health board's proposal to move the sick kids hospital from the existing buildings to the new site at Little France. The excellent care that has been provided at the hospital in the past has been possible despite the buildings that have housed it, rather than thanks to them.

I believe that the royal infirmary has suffered from a lack of flexibility, which is due to the contract-based approach that is inherent in PFI. One of the most startling examples of that is, of course, the car parking charges. Although yesterday's news that the health board will be cutting car parking charges at the royal infirmary is welcome, surely a maximum charge of £7 remains too high. It is essential that parents and families who go there to visit children, who have to stay for prolonged periods and who often have to travel significant distances—given the regional and national remit of the sick kids hospital—should not have to pay excessive parking charges. Many people could, and should, be exempted entirely. Although it might be argued that having car parking charges stops the car park at Little France becoming a commuter park-and-ride site during weekdays, that argument is not tenable when we consider charging parents who are sitting at a child's bedside overnight or during weekends.

I thank the RCN for its very helpful briefing. It is clear that no standard approach is being taken across Scotland. I know that Lothian NHS Board is trying to address that issue by bringing in standard charges for patients and visitors, and I welcome the salary-related car parking charges for staff. The board is to be commended for that, although I question whether it has got the amounts right. Nevertheless, it is a move in the right direction.

Let us learn from the mistakes of the ERI contract and provide a reasonable number of parking spaces for the sick kids hospital, which will ensure that parents and visitors can visit children without having to pay ridiculous parking charges. I support Mike Pringle's basic premise that it would be reasonable for car parking charges at the new site not to be more expensive for parents than they are at the hospital's present site nearer the city centre. I hope that the Executive will take those concerns on board when it considers the business case for the new sick kids hospital.

17:34

The Deputy Minister for Health and Community Care (Lewis Macdonald): I, too, congratulate Mike Pringle on securing the debate

and providing the opportunity to discuss this important issue. I acknowledge the work that NHS Lothian has done to date, planning for a new children's hospital at the Edinburgh royal infirmary site. That follows the opening of the new children's hospital on the royal infirmary site in Aberdeen, and it is in line with the plans for a new children's hospital at the Southern general hospital site in Glasgow. It is all part of the modernisation of children's services throughout Scotland.

NHS Lothian believes that the sick kids hospital should relocate from Sciennes to Little France because of the clinical benefits that could bring. Taking the hospital to the same site as the Royal infirmary and the University of Edinburgh's medical school is very much in line with "Delivering for Health", our blueprint for the future of the national health service in Scotland. An outline business case for that project is in preparation and I understand that the board plans to submit it to ministers for approval at the end of this year.

It is also NHS Lothian's intention to locate new multi-storey car parks at the Little France site. I understand that the children's hospital business case will detail what the car parking charges at the new site will be. I do not want to pre-empt the proper approval process, but I expect that they will be comparable to the local authority parking charges that are currently paid by users of the existing hospital.

Just before the summer recess, the Health Committee had a round-table discussion on hospital car park charging. Following that discussion, my officials carried out a survey of local NHS policy and practice since the Health Department guidance was issued in 2004.

A number of members have mentioned the terms in which the guidance applies. I should make it clear that the introduction of car park charging, or the revision of existing car parking arrangements, will be for local determination by the board responsible for the site in question. It is not for ministers to dictate in detail how boards manage those matters, but we have issued guidance so that they know, in general, what is expected of them, in the interests of patients.

The overarching principle that is laid out in our guidance is that the charges should reflect a reasonable balance between the availability of car parking spaces, the perceived needs of staff, patients, carers and visitors, the cost of car parking in the area and the cost of maintaining car park facilities. As I said to Colin Fox, at present, only five of the 14 NHS boards in Scotland levy car parking charges. As members would expect, they cover the main urban centres, where there is the greatest pressure on car parking and where there is a need to prevent unauthorised people

from using parking spaces that should be available to those who have good reason to use them.

Colin Fox: I am happy to acknowledge the minister's earlier intervention. The SPICe briefing does indeed say that three quarters of UK hospitals charge patients for parking.

Given what the minister has just said, am I right in thinking that the Executive takes no view on whether there should be charges and that it is happy to leave it to the five boards to make up their own minds about whether they will continue as they are?

Lewis Macdonald: I certainly do not share the view that Colin Fox expressed earlier, which was that there are no circumstances in which there should be car parking charges at any health service facility. That would not be practical for city centre hospitals or hospitals in sites that are attractive to commuters. There is a need to protect the interests of those who have good reason to park at a hospital. Where charging for parking can help to do that and follows the other principles that are laid down, it is legitimate for an NHS board to do so.

Margaret Smith: When I spoke, I said that I have sympathy for the view that charging can ensure that hospital car parks are not used by commuters. However, I also spoke about parking in the evenings and at weekends, when, in the city centres of most cities, people would not be paying to park their cars. Is the minister sympathetic to the view that there should not be 24-hour car parking charges?

Lewis Macdonald: I expect any scheme that is proposed for the new children's hospital to conform with the general principles that we have laid down, which state that the charges should take into account the other provision in the area that is available to visitors and other motorists.

My department monitors how car park income is spent, to ensure it meets the guidance we have laid down. Of course, boards should consider the transport infrastructure, the availability and cost of public car parking and other factors that will affect the supply and demand of parking at each hospital.

There is limited visitor car parking at the current children's hospital site in Edinburgh, but there is significant local authority provision. That is one factor that will have to be taken into account. As I have said, we expect the board also to take account of local authority parking charges when it considers relocating the hospital.

As has been mentioned, NHS Lothian has moved to establish two standard scales of car parking charges for the sites for which it has direct responsibility in and outwith the city.

As part of our response to the Health Committee, we have examined best practice in areas where car parking charges apply and the categories of patients who are, for example, exempted, provided with free exit vouchers or given access to a car park fob or season ticket. There are a number of different models. In response to the Health Committee, we intend to ensure that we revise the guidance so that the best practice of individual boards is made the best practice of all boards. That will meet a number of the concerns that have been mentioned this evening.

I expect boards to follow the guidance when they provide new facilities and revise existing charges. I also expect boards to work with public transport providers and their own contractors to ensure that hospital sites of all kinds are accessible to all who need access to them.

Meeting closed at 17:41.

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